

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

**FORM S-1
REGISTRATION STATEMENT**

UNDER
THE SECURITIES ACT OF 1933

Mister Car Wash, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

7542
(Primary Standard Industrial
Classification Code Number)
222 E 5th Street
Tucson, Arizona 85705
(520) 615-4000

47-1393909
(I.R.S. Employer
Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Jedidiah Gold
Chief Financial Officer
222 E 5th Street
Tucson, Arizona 85705

(520) 615-4000 (Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Howard Sobel
Gregory P. Rodgers
Benjamin J. Cohen
Drew Capurro
Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Telephone: (212) 906-1200
Fax: (212) 751-4864

Lisa Bossard Funk
General Counsel
222 E 5th Street
Tucson, Arizona 85705
Telephone: (520) 615-4000
Fax: 866-728-7752

William B. Brentani
David W. Azarkh
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Telephone: (212) 455-2000
Fax: (212) 455-2100

Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

Large accelerated filer Accelerated filer
Non-accelerated filer Smaller reporting company
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Proposed maximum aggregate offering price(1)(2)	Amount of registration fee
Common stock, par value \$0.01 per share	\$100,000,000	\$10,910

- (1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended.
(2) Includes the offering price of shares of common stock that may be sold if the underwriters fully exercise their option to purchase additional shares of common stock.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. We and the selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities, and we and the selling stockholders are not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.



Subject to Completion, Dated June 1, 2021

Common Stock

Shares

This is an initial public offering of shares of common stock of Mister Car Wash, Inc. We are offering _____ shares of our common stock and the selling stockholders named in this prospectus are selling _____ shares of our common stock. We will not receive any proceeds from the sale of shares of our common stock to be offered by the selling stockholders.

Prior to this offering, there has been no public market for the common stock. The initial public offering price is expected to be between \$ _____ and \$ _____ per share. We have applied to list our common stock on The New York Stock Exchange under the symbol "MCW".

The underwriters have an option for a period of 30 days after the date of this prospectus to purchase from time to time, in whole or in part, up to a maximum of _____ additional shares of our common stock from us and _____ additional shares of our common stock from the selling stockholders identified in this prospectus.

After the consummation of this offering, we expect to be a "controlled company" within the meaning of the corporate governance standards of the New York Stock Exchange.

We are an "emerging growth company" under the federal securities laws and, as such, may elect to comply with certain reduced public reporting requirements. See "Prospectus Summary—Implications of Being an Emerging Growth Company."

Investing in our common stock involves risk. See "[Risk Factors](#)" beginning on page 17 to read about factors you should consider before buying shares of our common stock.

Neither the Securities and Exchange Commission, or the SEC, nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

	Per share	Total
Initial public offering price	\$	\$
Underwriting discounts and commissions (1)	\$	\$
Proceeds, before expenses, to Mister	\$	\$
Proceeds, before expenses, to selling stockholders	\$	\$

(1) See "Underwriting" for a description of the compensation payable to the underwriters.

Delivery of the shares of common stock will be made on or about _____, 2021.

BofA Securities **Morgan Stanley** **Goldman Sachs & Co. LLC** **Jefferies**
(in alphabetical order)

BMO Capital Markets **UBS Investment Bank**

Co-Managers

Nomura **Piper Sandler**

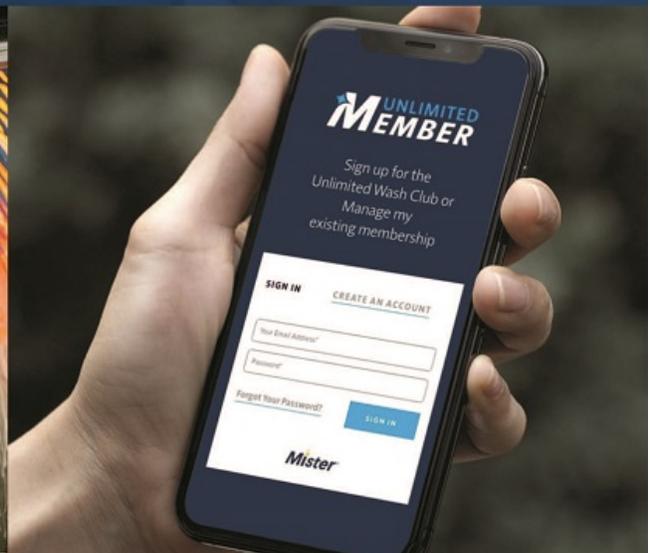
Guzman & Company **Loop Capital Markets** **Mischler Financial Group, Inc.** **R. Seelaus & Co., LLC**

The date of this prospectus is _____, 2021.





**A car wash is more
than just a car wash**





**It's an opportunity to
inspire people to shine**



344¹

LOCATIONS ACROSS 21 STATES

59.6 Million

CARS WASHED TWELVE MONTHS ENDED MARCH 31, 2021

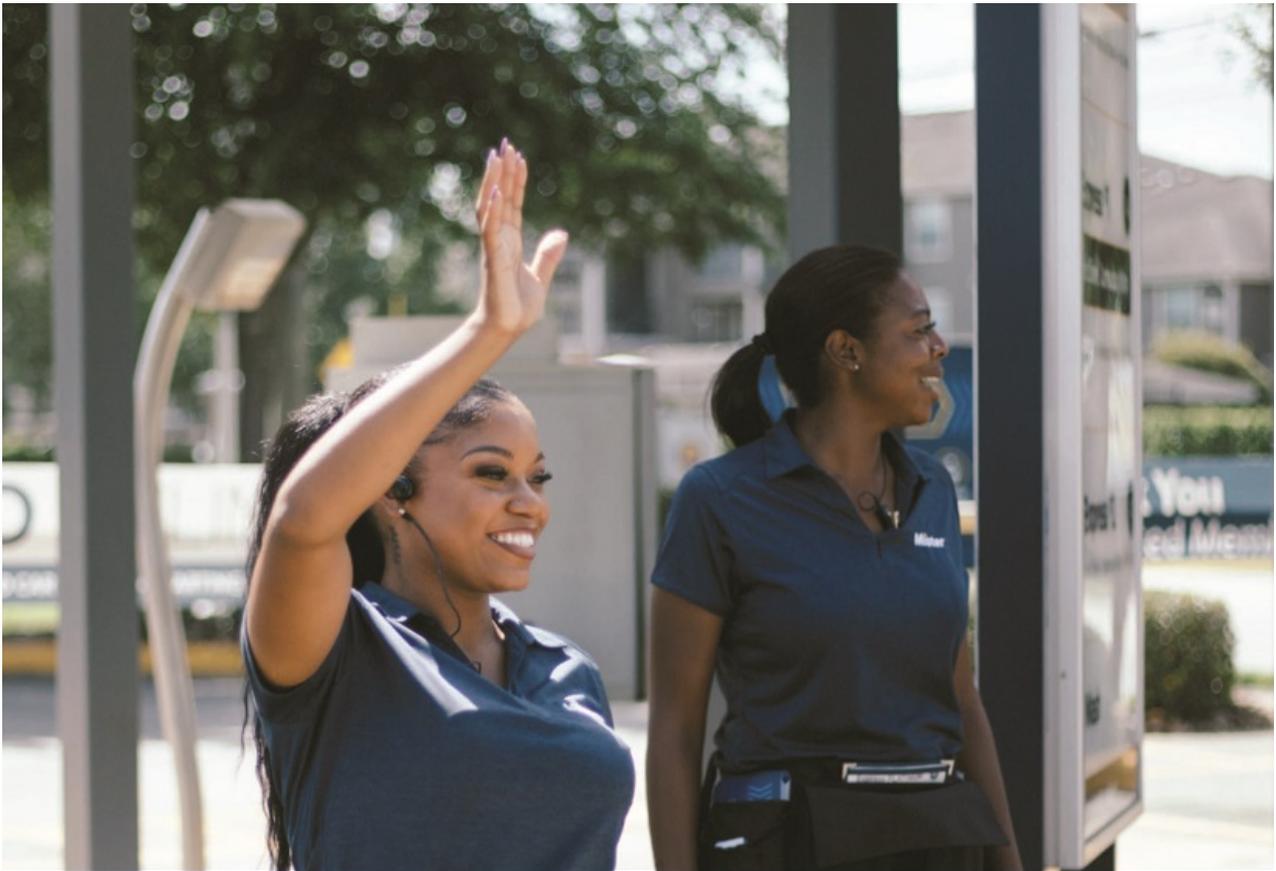
1.4 Million¹

UNLIMITED WASH CLUB MEMBERS

\$595 Million

NET REVENUE IN TWELVE MONTHS ENDED MARCH 31, 2021

¹ As of March 31, 2021



**We Care. We Work Hard.
We Have Fun.**

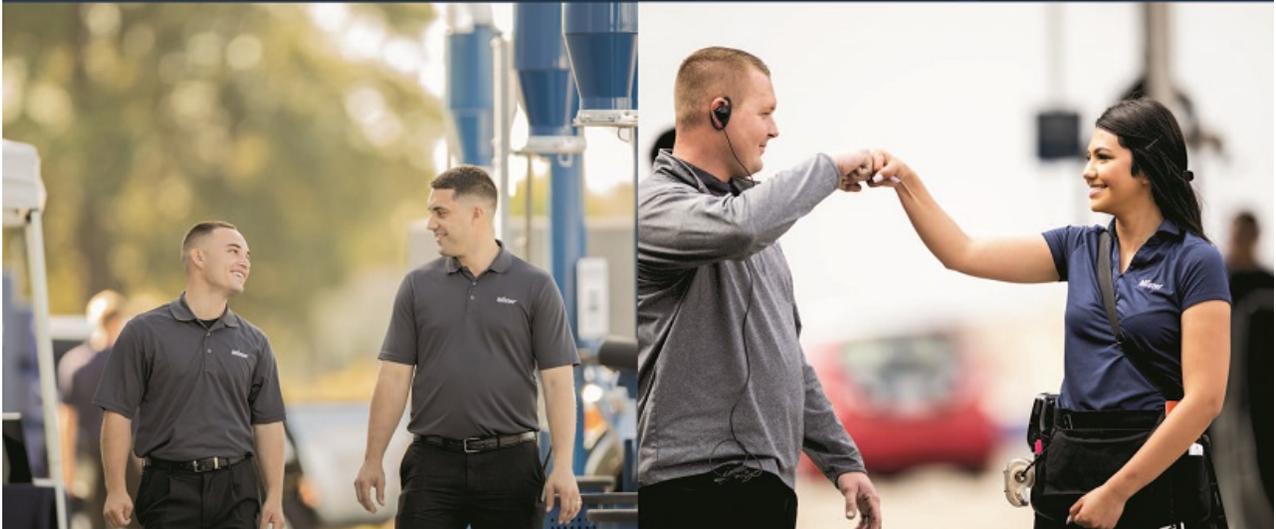


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ABOUT THIS PROSPECTUS

You should rely only on the information included elsewhere in this prospectus and any free writing prospectus prepared by or on behalf of us that we have referred to you. None of us, the selling stockholders or the underwriters have authorized anyone to provide you with additional information or information different from that included elsewhere in this prospectus or in any free writing prospectus prepared by or on behalf of us that we have referred to you. If anyone provides you with additional, different or inconsistent information, you should not rely on it. Offers to sell, and solicitations of offers to buy, shares of our common stock are being made only in jurisdictions where offers and sales are permitted.

No action is being taken in any jurisdiction outside the United States to permit a public offering of common stock or possession or distribution of this prospectus in that jurisdiction. Persons who come into possession of this prospectus in jurisdictions outside the United States are required to inform themselves about and to observe any restriction as to this offering and the distribution of this prospectus applicable to those jurisdictions.

MARKET AND INDUSTRY DATA

This prospectus includes estimates regarding market and industry data that we prepared based on our management's knowledge and experience in the markets in which we operate, together with information obtained from various sources, including publicly available information, industry reports and publications, surveys, our customers, distributors, suppliers, trade and business organizations and other contacts in the markets in which we operate. Management estimates are derived from publicly available information released by independent industry analysts and third-party sources, as well as data from our internal research, and are based on assumptions made by us upon reviewing such data and our knowledge of such industry and markets which we believe to be reasonable.

In presenting this information, we have made certain assumptions that we believe to be reasonable based on such data and other similar sources and on our knowledge of, and our experience to date in, the markets for the services we offer. Market share data is subject to change and may be limited by the availability of raw data, the voluntary nature of the data gathering process and other limitations inherent in any statistical survey of market shares. In addition, customer preferences are subject to change. Accordingly, you are cautioned not to place undue reliance on such market share data. References herein to the markets in which we conduct our business refer to the geographic metropolitan areas in which we operate our locations.

BASIS OF PRESENTATION

Certain monetary amounts, percentages, and other figures included elsewhere in this prospectus have been subject to rounding adjustments. Accordingly, figures shown as totals in certain tables or charts may not be the arithmetic aggregation of the figures that precede them, and figures expressed as percentages in the text may not total 100% or, as applicable, when aggregated may not be the arithmetic aggregation of the percentages that precede them.

As used in this prospectus, unless the context otherwise requires, references to:

- "CAGR" means compound annual growth rate;
- the "Company," "Mister Car Wash," "Mister," "we," "us" and "our" mean Mister Car Wash, Inc. (f.k.a. Hotshine Holdings, Inc.) and, unless the context otherwise requires, its consolidated subsidiaries;
- "Credit Facilities" means our First Lien Term Loan, our Second Lien Term Loan and our Revolving Credit Facility;

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- “Delayed Draw Facility” means our \$40.0 million delayed draw term loan facility, pursuant to an amended and restated first lien credit agreement entered into on May 14, 2019;
- “DGCL” means the Delaware General Corporation Law;
- “Exchange Act” means the Securities Exchange Act of 1934, as amended;
- “Express Exterior Location” means a car wash location that offers self-drive exterior cleaning services and includes free vacuums available for customer use;
- “First Lien Term Loan” means our amended and restated senior secured first lien term loan facility in an initial principal amount of \$800.0 million, pursuant to an amended and restated first lien credit agreement entered into on May 14, 2019;
- “Four-wall EBITDA” means the sales generated by a store less the labor, chemical, credit card and utility costs to generate those sales; store-level expenses such as repairs and maintenance, property taxes, rent and supplies; and an allocation of regional labor, and related payroll taxes and benefits;
- “GAAP” means U.S. generally accepted accounting principles;
- “Interior Cleaning Location” means a car wash location that offers exterior and interior cleaning services, including vacuuming by our team members;
- “LGP” means investment funds affiliated with or advised by Leonard Green & Partners, L.P., which own a controlling interest in us;
- “Revolving Credit Facility” means our \$75.0 million revolving credit facility, pursuant to an amended and restated first lien credit agreement entered into on May 14, 2019;
- “Second Lien Term Loan” means our senior secured second lien term loan facility in an initial principal amount of \$225.0 million pursuant to a second lien credit agreement entered into on May 14, 2019, as amended by the incremental term loan facility in an initial amount of \$5.6 million entered into on March 31, 2020; and
- “Stockholders Agreement” means the amended and restated stockholders agreement to be effective upon the consummation of this offering and to be entered by and among us, LGP, certain of our directors and executive officers and certain other existing stockholders.

CERTAIN TRADEMARKS

This prospectus includes trademarks and service marks owned by us, including Mister Car Wash®, Hotshine®, Mister Hotshine® and Unlimited Wash Club®. This prospectus also contains trademarks, trade names and service marks of other companies, which are the property of their respective owners. Solely for convenience, trademarks, trade names and service marks referred to in this prospectus may appear without the ®, ™ or SM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to these trademarks, trade names and service marks. We do not intend our use or display of other parties’ trademarks, trade names or service marks to imply, and such use or display should not be construed to imply, a relationship with, or endorsement or sponsorship of us by, these other parties.

KEY PERFORMANCE INDICATORS AND NON-GAAP FINANCIAL MEASURES

Throughout this prospectus, we use a number of key performance indicators used by management to evaluate our business. These key performance indicators are discussed in more detail in the section of the prospectus titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations— Key Performance Indicators.”

Location Count (end of period)

Our location count refers to the total number of car wash locations we had open at the end of a period.

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Comparable Store Sales Growth

A location is considered a comparable store on the first day of the 13th full calendar month following a location's first day of operations. A location converted from an Interior Cleaning Location to an Express Exterior Location format is excluded when the location did not offer interior cleaning services in the current period but did offer interior cleaning services in the prior year period. Comparable store sales growth is the percentage change in total wash sales of all comparable store car washes.

UWC Members

Members of our monthly subscription service are known as Unlimited Wash Club members ("UWC Members").

UWC Sales as a Percentage of Total Wash Sales

Total wash sales are defined as the net revenue generated from express exterior and interior cleaning services for both UWC Members and retail customers. UWC sales as a percentage of total wash sales is calculated as net revenue generated from UWC Members as a percentage of total wash sales.

Adjusted EBITDA and Adjusted EBITDA Margin

Adjusted EBITDA and Adjusted EBITDA margin are non-GAAP measures of our financial performance and should not be considered as an alternative to net income or net income margin as a measure of financial performance or any other performance measure derived in accordance with GAAP. Adjusted EBITDA is defined as net income before interest expense net, income tax expense (benefit), depreciation and amortization, (gain) loss on sale of assets, gain on sale of quick lube facilities, dividend recapitalization fees and payments, loss on early debt extinguishment, stock-based compensation expense, acquisition expenses, management fees, non-cash rent expense and other non-recurring charges. Adjusted EBITDA margin is defined as Adjusted EBITDA divided by total net revenue for a given period.

We present Adjusted EBITDA because we believe it assists investors and analysts in comparing our operating performance across reporting periods on a consistent basis by excluding items that we do not believe are indicative of our ongoing operating performance. You are encouraged to evaluate these adjustments and the reasons we consider them appropriate for supplemental analysis. In evaluating Adjusted EBITDA, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in our presentation of Adjusted EBITDA. Our presentation of Adjusted EBITDA should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. There can be no assurance that we will not modify the presentation of Adjusted EBITDA following this offering, and any such modification may be material. In addition, Adjusted EBITDA may not be comparable to similarly titled measures used by other companies in our industry or across different industries.

Our management believes Adjusted EBITDA is helpful in highlighting trends in our core operating performance compared to other measures, which can differ significantly depending on long-term strategic decisions regarding capital structure, the tax jurisdictions in which companies operate and capital investments. We also use Adjusted EBITDA in connection with establishing discretionary annual incentive compensation; to supplement GAAP measures of performance in the evaluation of the effectiveness of our business strategies; to make budgeting decisions; and because our Credit Facilities use measures similar to Adjusted EBITDA to measure our compliance with certain covenants.

Adjusted EBITDA has its limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations include:

- Adjusted EBITDA does not reflect our cash expenditure or future requirements for capital expenditures or contractual commitments;

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- Adjusted EBITDA does not reflect changes in our cash requirements for our working capital needs;
- Adjusted EBITDA does not reflect the interest expense and the cash requirements necessary to service interest or principal payments on our debt;
- Adjusted EBITDA does not reflect cash requirements for replacement of assets that are being depreciated and amortized;
- Adjusted EBITDA does not reflect non-cash compensation, which is a key element of our overall long-term compensation;
- Adjusted EBITDA does not reflect the impact of certain cash charges or cash receipts resulting from matters we do not find indicative of our ongoing operations; and
- other companies in our industry may calculate Adjusted EBITDA differently than we do.

LETTER FROM OUR CHIEF EXECUTIVE OFFICER

It is my pleasure to welcome you to Mister Car Wash. At the core, we are in the service business with a love and passion for washing cars, taking care of our customers, and delivering happiness. We are unified in our purpose of **inspiring people to shine** which conveys our dual objective of improving the lives of our people and helping our customers feel good about themselves.

It Starts With Culture

We are a company that celebrates individuality and are a diverse mosaic of talented team members who subscribe to the three simple core values: *We Care. We Work Hard. We Have Fun.* We embrace the principles of servant leadership and have learned that the best way to create a strong culture is to take care of your people. We do this by paying competitive wages, investing in their training, offering great benefits, and most importantly—treating them well. In turn, our team takes care of our customers. Customers often tell me that what impresses them the most about Mister Car Wash is our people, and we fundamentally believe that our people take care of our customers because we take care of them.

The Car Wash Experience

Getting your car washed is fun and the sensory experience within our tunnels creates a magic, feel-good moment. We often refer to our stores as the stage and our tunnels the show where all our people play a part in our interactive and dynamic experience. The daily interactions between our team members and our customers create a string of moments, each of which plays a small but significant role in our customers' love for our brand. Because we have changed the way that customers think about car washing—it's easy, fast, and affordable—we've turned something that used to be a chore into a part of their regular routine.

Fundamental Building Blocks

At Mister Car Wash, we have a deep passion for *Operational Excellence*. We have developed a reputation for quality, speed, and delivering an exceptional customer experience, while remaining committed to being excellent environmental stewards for the communities we serve. We have been able to execute consistently, at scale, because of our amazing operations team which has been built one person at a time over the last 25 years. The investment we've made into our regional support infrastructure provides a scalable model for future growth, giving us an incredible competitive advantage in the marketplace that is very difficult to replicate.

The X Factor

Our subscription business model called the Unlimited Wash Club (UWC) has changed the way people care for their vehicles and has fundamentally transformed every aspect of our business. UWC offers incredible value for our members who have become our biggest raving fans, and in turn has helped us grow the program through word of mouth. We're bullish about our future growth potential and are committed to developing ways to make the program even more attractive to more non-members.

The Sky's the Limit

Americans view their cars as a symbol of freedom, and we are proud that they trust us with one of their most prized assets. While we have grown to become the largest national car wash company, we're even more excited about the path in front of us. As we embark on this next chapter in our company's lifecycle, we see a long, wide-open road in front of us and are thrilled to have you join us on our journey.

Sincerely,

John Lai

PROSPECTUS SUMMARY

This summary highlights selected information contained elsewhere in this prospectus. Because this is only a summary, it does not contain all the information that may be important to you. You should read the entire prospectus carefully, especially “Risk Factors”, “Management’s Discussion and Analysis of Financial Condition and Results of Operations”, and our consolidated financial statements and related notes included elsewhere in this prospectus, before deciding to invest in our common stock.

Our Mission: Inspiring People to Shine

We believe that a car wash can be so much more than *just* a car wash.

By delivering a clean, dry and shiny car at the end of our car wash tunnels, we lift the spirits of our customers with an affordable, feel-good experience.

By relentlessly improving our processes to drive speed, consistency and quality, we provide reliable convenience that keeps our millions of customers coming back time and time again.

And by putting our team members first and empowering them to thrive, we have created a culture of passionate, engaged team members focused on delivering happiness to our customers.

At Mister Car Wash, we believe that a car wash is more than *just* a car wash: it is an opportunity to *Inspire People to Shine*.

Who We Are

Mister Car Wash is the largest national car wash brand, offering express exterior and interior cleaning services to customers across 344 car wash locations in 21 states, as of March 31, 2021. Founded in 1996, we employ an efficient, repeatable and scalable process, which we call the “Mister Experience,” to deliver a clean, dry and shiny car every time. The core pillars of the “Mister Experience” are providing elevated hospitality to our guests, delivering the highest quality car wash and ensuring the experience is quick and convenient. We offer a monthly subscription program, which we call Unlimited Wash Club (“UWC”), as a flexible, quick and convenient option for customers to keep their cars clean. As of March 31, 2021, we had 1.4 million UWC Members, and, in 2020 and the first quarter of 2021, UWC sales represented 62% and 62% of our total wash sales and 68% and 70% of our total wash volume, respectively. Our scale and 25 years of innovation allow us to drive operating efficiencies and invest in training, infrastructure and technology that improve speed of service, quality and sustainability and realize strong financial performance.

Our purpose is simple: deliver a memorable “Mister Experience” at a consistently high level, each and every time across all of our locations. This starts with our people. We attract and retain a strong pool of talent by investing in their training and development through our MisterLearn training platform and promoting them from entry-level positions to leadership roles. As a result, our team members are highly engaged and deliver memorable experiences to our customers. We have proven our people-first approach is scalable and this has enabled us to develop a world class team, comprised of both internally developed talent and external hires from top service organizations. We believe our purpose-driven culture is critical to our success.

UWC is our all-you-can-wash subscription program for a flat monthly fee. We employ a “member-centric” business model that is focused on providing easy, convenient and fast car washes. Over the last several years we have added dedicated member-only lanes and adopted radio-frequency identification (“RFID”) technology for our UWC Members to enable quick, contactless and convenient trips. In 2020, the average UWC Member washed their car over 30 times, which we believe is significantly more than the average car wash user. Increased UWC membership provides us consistent, visible and recurring revenue while improving customer loyalty. We

have grown the UWC program from representing 30% of our total wash sales in 2015 to 62% of our total wash sales in the first quarter of 2021, and despite the COVID-19 pandemic, we grew UWC membership by approximately 247,000 members in 2020.

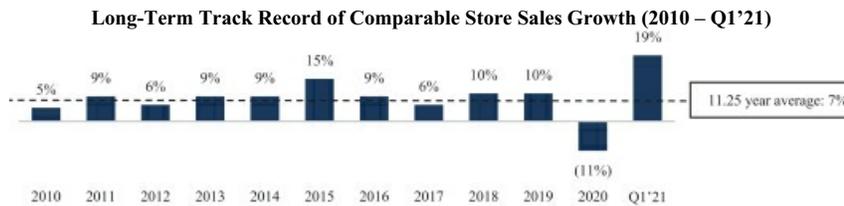
We have washed over 345 million cars during the last 20 years, and we are committed to being excellent environmental stewards for the communities we serve. We use proprietary cleaning products in our car wash process. Our wash process is also more efficient than a do-it-yourself (“DIY”) home wash, which we estimate uses more than three times the amount of water per wash on average, in part because we recycle an average of 33% of the water used during our wash process.

We are the largest national car wash brand based on number of locations, having grown from 65 locations in 2010 to 344 locations as of March 31, 2021. We operate two location formats: (i) Express Exterior Locations, which offer express exterior cleaning services, and (ii) Interior Cleaning Locations, which offer both express exterior and interior cleaning services. Our Express Exterior Locations comprise 263 of our current locations and represent all of our historical and projected greenfield growth. We have 81 Interior Cleaning Locations that serve as a fertile training ground for Mister operations and generate strong cash flows. In 2018, we launched our greenfield development strategy to expand the number of our Express Exterior Locations, opening our first location in Urbandale, Iowa. We have opened a total of 22 greenfield locations and have invested meaningfully in our greenfield development team, systems and capabilities. Our greenfield performance has been consistently strong over time. To date, we have been able to generate enough income from our existing greenfield locations to pay back our initial net capital investments in these locations within approximately three years of their operations. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide and have a strong development pipeline for future locations.

We believe Mister Car Wash offers an affordable, feel-good experience, enjoyed by all who value a clean, dry and shiny car. Our car wash experience has broad demographic appeal and the price of our typical base exterior car wash is approximately \$8. As we continue to grow and serve the approximately 273 million registered vehicles in the United States, as of the end of 2020, we are dedicated to putting our team members first and delivering a consistent, convenient and high quality car wash experience at scale.

The Mister Track Record of Consistent Growth

We have historically delivered consistent long-term growth across geographies and vintage cohorts. From 2017 through 2019, all regions and vintage cohorts delivered positive comparable store sales growth. Prior to 2020, we achieved 39 consecutive quarters of positive comparable store sales growth, averaging 9% annually from 2010 to 2019. In 2020, as discussed below, our financial results were impacted by the COVID-19 pandemic and our response. In the first quarter of 2021, we delivered comparable store sales growth of 18.6%.



Since 2010, we have grown the business significantly and:

- increased our total location count from 65 in 2010 to 342 in 2020 and to 344 as of March 31, 2021, a CAGR of 18% from 2010 to March 31, 2021;

- increased UWC Members from 36,350 as of December 31, 2010 to 1.2 million as of December 31, 2020 and to 1.4 million as of March 31, 2021, a CAGR of 43% from December 31, 2010 to March 31, 2021;
- grew UWC sales as a percentage of total wash sales from 15% in 2010 and to 62% in 2020 to 62% for the three months ended March 31, 2021;
- increased net revenue from \$124 million in 2010 to \$575 million in 2020 and to \$595 million for the last twelve months ended March 31, 2021 (“LTM March 31, 2021”), a CAGR of 17% from 2010 to LTM March 31, 2021;
- increased net income from \$4 million in 2010 to \$60 million in 2020 and to \$76 million for LTM March 31, 2021, a CAGR of 34% from 2010 to LTM March 31, 2021;
- grew net income margin from 3.0% in 2010 to 10.5% in 2020 and to 12.8% for LTM March 31, 2021;
- increased Adjusted EBITDA from \$17 million in 2010 to \$161 million in 2020 and to \$182 million for March 31, 2021, a CAGR of 26% from 2010 to LTM March 31, 2021; and
- expanded Adjusted EBITDA margin from 13.9% in 2010 to 28.0% in 2020 and to 30.7% for LTM March 31, 2021, an increase of 1,680 basis points from 2010 to LTM March 31, 2021.



(1) CAGR represents growth from 2010 to 3/31/21 or 2010 to LTM 3/31/21, as applicable

Please see “Selected Consolidated Financial and Other Data” for a reconciliation of Adjusted EBITDA to net income, the most comparable GAAP measure.

Resiliency in 2020

At the onset of the COVID-19 pandemic in March and April 2020, to ensure the safety of our team members and customers and in compliance with local regulations, we temporarily suspended operations at more than 300 of our locations and paused UWC membership billing. During this period, we upgraded our safety protocols and modified our operating model by temporarily removing all interior cleaning services from Interior Cleaning Locations. We also proactively augmented our liquidity by drawing on our Revolving Credit Facility, requesting rent deferrals, suspending all acquisition activity, and pausing all greenfield initiatives. Although these choices impacted our financial results, we believe that prioritizing our team member and customer safety engendered goodwill and loyalty among our team members and our customers, allowing Mister to develop into an even stronger business.

By the end of May 2020, all of our locations were safely reopened and offering express exterior cleaning services and we had surpassed all-time highs in UWC membership. As performance improved throughout the year, we also paid back 100% of our deferred rent and successfully resumed both greenfield initiatives and acquisition activity. By the fourth quarter of 2020, our business had rebounded significantly and we grew our net income for the quarter from \$(1.4) million to \$38.7 million year-over-year and our Adjusted EBITDA for the quarter by 38% year-over-year. Our business has continued to accelerate into the first quarter of 2021, as comparable store sales for the quarter increased 19%, net income for the quarter grew from \$8.9 million to \$24.6 million year-over-year and Adjusted EBITDA grew from \$40.1 million to \$61.5 million year-over-year, representing 53% growth. Please see “Selected Consolidated Financial and Other Data” for a reconciliation of Adjusted EBITDA to net income, the most comparable GAAP measure.

Introducing the Car Wash Industry

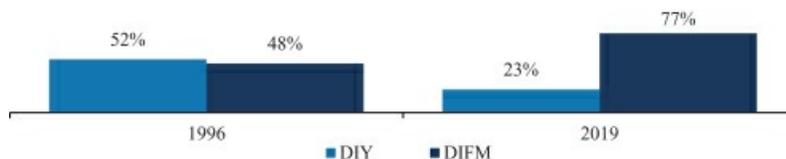
Large and Recession-Resilient Car Wash Industry

Mister Car Wash operates within the large, recession-resilient \$11 billion U.S. car wash industry. We operate in the automated segment of the car wash industry, which accounts for approximately 70% of the total car wash market. Automated car washing is less labor intensive relative to other forms of car washing and allows car wash operators to realize better throughput and operating margins per location.

Benefiting from Secular Trends

Every year, cars in North America are washed two billion times. The car wash industry enjoys strong market fundamentals and benefits from positive secular trends. First, the car wash industry is benefiting from a continued shift in demand away from DIY services towards the time-efficient convenience of do-it-for-me (“DIFM”) car washes, as consumers place more importance on speed, quality and convenience. Second, the number of registered vehicles in the United States continues to grow and has increased from approximately 250 million vehicles in 2010 to approximately 273 million as of 2020. Third, we believe consumers increasingly understand and appreciate the environmental benefits of automated car washes relative to hand washing through water recycling and safe chemical disposal.

Consumer Preferences Shifting from DIY to DIFM Car Washes
Percentage of consumers who chose a DIFM (or DIY) car wash most often



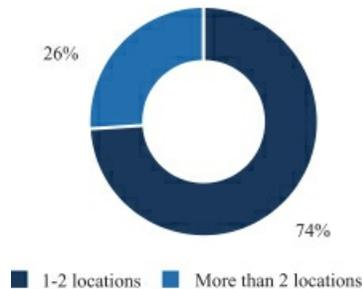
Source: International Car Wash Association

Please see “Management’s Discussion and Analysis of Financial Condition and Results of Operation—Impact of COVID-19” for a discussion on the impact COVID-19 had on our business in 2020, which we believe is representative of the U.S. car wash industry as a whole.

Highly Fragmented Market, Characterized by Many Independent Operators

The car wash industry is highly fragmented with the vast majority of the market comprised of independent operators that operate one or two locations. As the largest player in the industry, Mister Car Wash is able to make investments in training, technology and innovation that independent operators typically lack the resources to undertake. However, our 344 locations, as of March 31, 2021, represented less than 5% of the market by location count, and the top ten operators combined comprised less than 10% market share, underscoring the opportunity for us to continue to expand our footprint in a highly attractive and growing category.

U.S. Car Wash Market: Highly Fragmented Industry



Source: 2019 Industry Report of Professional Carwashing & Detailing

Our Competitive Strengths

Largest National Car Wash Brand with Significant Scale Advantages

We are the largest national car wash brand and have developed extensive resources and capabilities over our 25 year history. Our scale, consistency of operations at every location and culture of continuous improvement have allowed us to develop an efficient and high quality customer experience with every wash.

We believe our key differentiators include:

- *Unified National Brand.* We lead with a unified national brand and customer experience. We rebrand all acquisitions to “Mister” and undertake capital investment at each to deliver a consistent, high-quality experience. Recently, we completed a company-wide exterior and interior remodeling program to align branding across our footprint. We believe our unified national brand builds customer loyalty and is a catalyst for continued new customer acquisition and UWC membership growth. No matter which location they choose, our customers receive a consistent “Mister Experience.”
- *Robust Training & Development Programs and Talent Pipeline.* We have developed and scaled a strong talent pipeline beginning with our robust, proprietary training and development programs, such as MisterLearn and our 360 Service Model. As of March 31, 2021, our general managers had an average tenure of six years with the Company and 93% were promoted from within the organization. Over the last three years, we have also reduced team member turnover in the first 30 days of employment by approximately 50%. We believe our robust training and development process results in team members who are equipped to maintain the highest levels of operational excellence and consistently deliver the “Mister Experience” to our customers.

- **Dedicated Regional Support Infrastructure.** Our significant regional support infrastructure includes over 50 regional managers, over 60 regional training and development specialists and over 150 facility maintenance staff as of March 31, 2021. Our regional managers support six general managers on average, allowing them to focus on coaching, mentorship and delivering consistently high standards. We employ approximately one maintenance staff for every two locations, which has allowed us to achieve significant uptime. We believe the strength and depth of our regional support infrastructure supports our ability to efficiently and successfully integrate acquisitions and to open greenfield locations in existing and new markets.
- **Sophisticated Technology and Proprietary Products.** We employ sophisticated technology, proprietary chemical control systems, automatic scanning RFID tags for UWC Members, as well as proprietary cleaning and drying products, including our Unity Chemistry, Dynamic Dry and patented HotShine wax system. We believe our products and technology result in a superior clean, driving customer satisfaction.
- **Strategic Market Density “Network Effect.”** We generally have multiple locations in a specific market and take advantage of our local market density to generate a strong “network effect.” We believe our network offers incremental value to UWC Members by allowing them to utilize multiple locations at their convenience. It also enables us to better leverage marketing spend, build a local talent pipeline and optimize regional support infrastructure.

The Mister Experience: Delivering Consistent, Operational Excellence at Scale

The “Mister Experience” is anchored in quality, speed and a commitment to creating a memorable customer experience. The formula is simple: make people feel good by delivering a clean, dry and shiny car every time. We believe we consistently deliver:

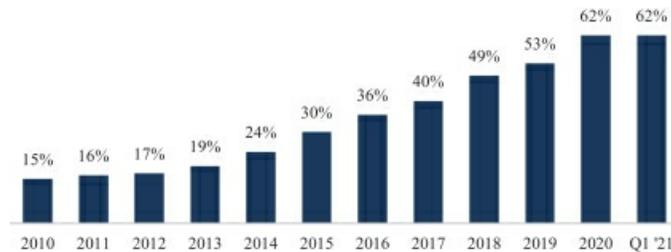
- **A High-Quality Wash.** We aim to deliver to customers the cleanest, driest and shiniest wash possible. We employ a team of in-house research & development specialists to assist our location-level team members in calibrating a balanced wash process that factors in conveyor length, line speed, water quality, mechanical equipment, ambient temperature and soil conditions. Each of our cleaning products is specifically formulated for each site’s unique characteristics to “perfect the clean.” Our commitment to quality extends outside the tunnel as well, as our team members are trained to always maintain curb appeal and site cleanliness.
- **Speed and Convenience.** We employ a labor optimization model that allows us to drive maximum volume through our locations, particularly during peak hours. We have increased throughput and capacity at our locations by growing our exterior, conveyor-based locations and by expanding drive-up lanes and dedicated UWC Member lanes. Additionally, we provide customers with convenient online and mobile app tools to manage their membership accounts or pre-purchase washes, respectively.
- **A Memorable Customer Experience.** We complement quality and speed with excellent customer service from our highly knowledgeable staff members. Our team members are friendly, professional and strategically placed throughout each location to ensure each customer is greeted and guided throughout the wash process. Our focus on developing a world class team is emphasized by our rigorous in-store training programs, supplemented by dedicated regional training centers. Our 360 Service Model trains team members to excel at all non-managerial positions at a location. Our MisterLearn learning management platform includes over 150 computer-based training courses, which are paired with hands-on learning in the field to enable skill mastery.

Unlimited Wash Club Drives Recurring Revenue

UWC is the largest car wash membership program in North America, representing 62% and 62% of our total wash sales in 2020 and for the first quarter of 2021, respectively. UWC drives significant customer loyalty and generates predictable, consistent and recurring revenue that is resilient to macroeconomic forces and weather

volatility. We employ a “member-centric” business model that is focused on providing easy, convenient and fast car washes. We also leverage key data insights from our 1.4 million UWC Members as of March 31, 2021 to enable efficient labor planning and process optimization.

UWC Sales as a Percentage of Total Wash Sales



We specifically train our team members to greet and educate customers about the benefits of our UWC offering. We introduced UWC Member-only lanes nationwide to drive speed and convenience for our members. We have also invested in technology to enhance our sign-up capabilities and optimize throughput. As a result of these initiatives, we have grown our UWC membership at a CAGR of 42% from 2010 to 2020. We view our UWC monthly subscription service as a distinct competitive advantage that helps build brand awareness and loyalty, resulting in resilient, consistent and predictable cash flow.

Attractive Unit Economics Support Greenfield Expansion Strategy

We believe our market leadership and operational excellence result in our attractive unit-level economics. Our Express Exterior Locations, which offer express exterior cleaning services, represented over 75% of our total units and generated average unit volumes of \$1.6 million in 2020. Express Exterior locations opened or acquired prior to 2020 generated average unit volumes of approximately \$1.6 million and average four-wall EBITDA margins of over 40% in 2020. Our Interior Cleaning Locations, which offer both exterior and interior cleaning services, generated average unit volumes of \$2.6 million in 2019 before the COVID-19 pandemic severely impacted our Interior Cleaning Locations.

In 2018, we launched our greenfield development strategy to expand the number of our Express Exterior Locations, with the opening of our first location in Urbandale, Iowa. Since then, we have invested in a dedicated real estate team and developed a proven process for launching new greenfield locations. We have experienced strong success with our greenfield strategy driven by highly compelling unit economics. We target average unit volumes of approximately \$1.2 million and four-wall EBITDA margins of 25% in the first year of operation, growing to \$1.7 million and over 40% by year three, respectively. Our average capital expenditures, net of sale-leaseback financing, are approximately \$1.8 million per location, resulting in approximately a three year pay-back. We believe that our greenfield strategy of focusing on expansion of Express Exterior Locations will drive improvements in our net income margins and Adjusted EBITDA margins as express exterior cleaning services are less labor intensive compared to interior cleaning services.

Leadership Team Inspiring People to Shine

We are rewriting the rules of the car wash industry by putting our team members first, investing in their development and helping them turn jobs into careers. During 2020, we underscored our commitment to our team members by raising average wages for non-managerial hourly workers by 5% and continued that commitment in the first quarter of 2021 with an average wage increase for these workers of 6%, to an average of \$14.34 per

hour, while reducing turnover. We offer attractive benefits, including paid parental leave, a 401(k) program with company match, progressive and affordable health benefits, paid time-off and tuition reimbursement. We also established the Mister Cares Foundation in April 2020, a 501(c)(3) non-profit organization, with the mission of providing financial assistance to members of our team that face unforeseen hardship. Since formation, the Mister Cares Foundation has granted over \$175,000 in aggregate to over 200 individuals.

We operate geographically diverse regional hubs with additional leadership in operations, human resources, safety, information technology and maintenance to assist our local location teams. Our extensive regional support infrastructure enables location team members to focus exclusively on providing excellent customer service. As of March 31, 2021, this included over 150 facilities maintenance staff, approximately one maintenance staff for every two locations, over 50 regional managers, approximately 60 regional training and development specialists that provide local training and human resources support and three regional safety managers. We believe the strength and depth of our regional support infrastructure enables our consistent operational excellence and provides the foundation for our greenfield expansion strategy.

Our strategic vision and culture are shaped by our senior leadership team. Our team has a shared passion for operational excellence, disrupting the status quo and being good stewards of capital for our shareholders. We pride ourselves on our diversity, with women representing approximately half of our senior management team as of March 31, 2021, and we believe we have among the most extensive depth and breadth of senior leadership in the industry across location development, training, operations and services, technology and marketing, respectively.

Our Growth Strategies

Acquire New Customers and Grow Comparable Store Sales

We have demonstrated an ability to drive attractive organic growth through consistent positive quarterly comparable store sales growth performance for nearly a decade, prior to the COVID-19 pandemic in 2020. While our comparable store sales decreased in 2020 due primarily to measures we took in the first two quarters of 2020 in response to the COVID-19 pandemic, including temporary suspension of operations at more than 300 of our locations between March 2020 and May 2020, our business rebounded significantly by the fourth quarter of 2020 and has continued that momentum into 2021. We believe that we are well-positioned to continue to acquire new customers, retain existing customers and drive positive comparable store sales growth by continuing to:

- *Focus on Operational Excellence.* We continue to evolve and optimize our training programs, labor staffing models, mentorship programs, and throughput optimization strategies to drive efficiencies and speed of service. We expect to grow our average unit volumes and throughput, allowing us to serve more customers each day, and drive strong, continued comparable store sales growth.
- *Innovate with New Products and Technology.* Mister Car Wash has a dedicated in-house research & development team that we believe provides a meaningful competitive advantage in our industry. This enables us to continually innovate our product formulations and service offerings to give customers what we believe to be the quickest, highest quality car wash in the industry, which keeps our customers coming back and helps attract new customers. We intend to continue investing in improving our member-centric experience through technology, including our digital ecosystem, mobile app and RFID capabilities. Additionally, we are focused on continuously innovating our proprietary cleaning products to deliver high quality, environmentally-friendly car washes.
- *Leverage Data Analytics Throughout The Organization* We collect customer data through our UWC membership program, mobile app and web tools and have only just begun to unlock the full value of utilizing this data across our business. We have made investments in an enterprise-wide, integrated point-of-sale (“POS”) system, mobile app and membership web portal to further unlock the value of data

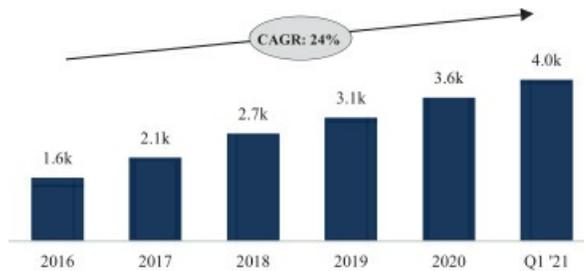
analytics and customer insights. Through our collected customer data, we believe there is a meaningful opportunity to drive targeted marketing, customer loyalty and new customer acquisition.

- *Benefit from Positive Industry Trends.* We believe that the industry continues to benefit from significant trends that will drive ongoing growth, including a broad shift to DIFM services, increasing awareness of the relative environmental benefits of professional car washing in combination with municipal water usage restrictions on at-home washing, and an increasing trend toward private vehicle usage versus mass transit post COVID-19.

Grow Our UWC Members to Drive Predictable Earnings Growth and Higher Annual Customer Spend

We believe there is a significant opportunity to grow UWC penetration further. For example, certain of our more mature markets are approaching 75% of total wash sales through our monthly subscription service relative to the overall UWC penetration of 62% and 62% of total wash sales in 2020 and for the first quarter of 2021, respectively. We estimate that the average UWC Member spends more than four times the traditional car wash consumer, providing us an opportunity to significantly increase our sales as penetration increases. At both new greenfield and acquired locations, we have developed proven processes for growing UWC membership per location. Since 2016, we have realized an average UWC membership per location CAGR of 24%.

Growth in Average UWC Membership per Location



In addition to enhancing the value proposition to our existing UWC Members through our ongoing focus on operational excellence, we intend to employ the following processes to convert additional retail customers to UWC Members and grow our UWC membership:

- *Expand Our Sales Channels.* We are focused on making it easier for our members to sign-up for and manage their UWC subscription membership, as we believe this will allow us to attract a broader membership base. In December 2020, we introduced our digital sign-up platform, which we believe will allow us to capture and convert new members.
- *Introduce New Membership Alternatives.* We are currently piloting an expanded membership plan for members to add multiple vehicles to their subscription. We believe this offering has the potential to efficiently increase household penetration.
- *Educate Customers on Value Proposition.* We believe that educating our customers as to the benefits of UWC membership is critical to retaining existing members and adding new members. This starts with specifically training our team members to educate existing and new members at our locations, as well as investing in technology to engage in targeted digital marketing communication with members.
- *Engage in B2B Partnerships.* We are actively exploring partnerships with other businesses to offer trial UWC memberships, which we believe will give us access to additional member leads.

Build Upon Our Established Success in Opening Greenfield Locations

We have successfully opened 22 greenfield locations since 2018 with the expectation of driving the majority of our location growth through greenfield locations on a go-forward basis. We have developed a proven process for opening new greenfield locations, from site selection to post-opening local marketing initiatives, which has driven our strong greenfield performance consistently over time. In order to identify, evaluate and target the most attractive locations, we employ a data-driven approach that utilizes a combination of predictive analytics produced by a multi-point, proprietary site selection matrix by trade area, with on-the-ground insights from our experienced operations team.

Based on an extensive internal analysis, we believe we have significant national whitespace compared to the 344 locations we operate as of March 31, 2021. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide and have a strong development pipeline for future locations.

Pursue Opportunistic Acquisitions in Highly Fragmented Industry

We will continue to employ a disciplined approach to acquisitions, carefully selecting high quality locations that meet the specific criteria of a potential Mister Car Wash site. We have a proven track record of location growth through acquisitions, having successfully integrated over 100 acquisitions during our history.

Once a location is acquired, we make investments in both physical assets and human capital to upgrade and integrate the location into the Mister brand. Our post acquisition integration process involves significant investments to improve each acquired site, including the installation of our proprietary Unity Chemistry System, process flow optimization and adding UWC Member lanes. We rebrand the look and feel of acquired locations, integrate POS systems and standardize operating procedures to create one unified brand experience for our customers at all our locations. We also elevate our team-member experience at acquired locations by offering rewarding benefits and compensation packages, labor training initiatives and growth opportunities. The combination of these investments in throughput, the customer experience and people have enabled us to drive material performance improvement and EBITDA growth within two years of acquisition.

Drive Scale Efficiencies and Robust Free Cash Flow Generation

We will continue to utilize our scale to drive operating leverage as our business grows. As we open new locations and maximize throughput at our existing locations through our ongoing focus on operational excellence, we will have an opportunity to generate meaningful efficiencies of scale. These efficiencies include leveraging our research & development and technology infrastructure across our growing network, leveraging our training and marketing programs over an increasing revenue base, optimizing our regional support infrastructure and overhead costs, and leveraging insights and analytics from our growing consumer database to drive targeted marketing and customer acquisition. As a result of our attractive four-wall EBITDA margins and relatively low maintenance capital expenditures per location, we expect to generate robust free cash flow that we intend to use to fund our greenfield expansion strategy and opportunistic acquisitions.

Summary Risk Factors

We are subject to a number of risks, including risks that may prevent us from achieving our business objectives or that may adversely affect our business, financial condition and results of operations. You should carefully consider the risks discussed in the section titled “Risk Factors,” including the following risks, before investing in our common stock:

- Increased competition in the car wash industry may impact our future growth.
- We may be unable to sustain or increase demand for our UWC subscription program, which could adversely affect our business, financial condition and results of operations and rate of growth.

- We may not be able to successfully implement our growth strategies on a timely basis or at all.
- We are subject to a number of risks and regulations related to credit card and debit card payments we accept.
- An overall decline in the health of the economy and other factors impacting consumer spending, such as natural disasters and fluctuations in inflation may affect consumer purchases, reduce demand for our services and materially and adversely affect our business, results of operations and financial condition.
- If we are not able to maintain and enhance our reputation and brand recognition, our business and results of operations may be harmed.
- If we fail to open and operate new locations in a timely and cost-effective manner or fail to successfully enter new markets, our financial performance could be materially and adversely affected.
- If we are unable to identify attractive acquisition targets and acquire them at attractive prices, we may be unsuccessful in growing our business.
- Changes in labor and chemical costs, other operating costs, interest rates and inflation could materially and adversely affect our results of operations.
- Our indebtedness could adversely affect our financial health and competitive position.
- The terms of our Credit Facilities impose certain operating and financial restrictions on us that may impair our ability to adapt to changing competitive or economic conditions.
- Our business is subject to various laws and regulations, and changes in such laws and regulations, or failure to comply with existing or future laws or regulations, could adversely affect our business.
- Our locations are subject to certain environmental laws and regulations.
- We are subject to data security and privacy risks that could negatively impact our results of operations or reputation.
- Because LGP owns a significant percentage of our common stock, it may control all major corporate decisions and its interests may conflict with your interests as an owner of our common stock and our interests.
- We are a controlled company within the meaning of New York Stock Exchange rules and as a result will qualify for, and may rely on, exemptions from certain corporate governance requirements.

Our business also faces a number of other challenges and risks discussed throughout this prospectus. You should read the entire prospectus carefully, including “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and our consolidated financial statements and related notes included elsewhere in this prospectus, before deciding to invest in our common stock.

Our Corporate Information

Mister Car Wash, Inc. was initially incorporated in Delaware in July 2014. Upon consummation of this offering, LGP will collectively own approximately % of our shares of common stock (or %, if the underwriters exercise their option to purchase additional shares in full). See “Principal and Selling Stockholders.”

Our principal executive office is located at 222 East 5th Street, Tucson, Arizona 85705 and our telephone number at that address is (520) 615-4000. We maintain a website on the Internet at www.mistercarwash.com. We have included our website address in this prospectus as an inactive textual reference only. The information contained on, or that can be accessed through, our website is not a part of, and should not be considered as being incorporated by reference into, this prospectus.

Implications of Being an Emerging Growth Company

We qualify as an “emerging growth company” as defined in Section 2(a) of the Securities Act of 1933, as amended (the “Securities Act”), as modified by the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”). As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable, in general, to public companies that are not emerging growth companies. These provisions include:

- the option to present only two years of audited financial statements and only two years of related Management’s Discussion and Analysis of Financial Condition and Results of Operations in this prospectus;
- not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002;
- reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements; and
- exemptions from the requirements of holding nonbinding, advisory stockholder votes on executive compensation or on any golden parachute payments not previously approved.

We will remain an emerging growth company until the earliest to occur of: (i) the last day of the first fiscal year in which our annual gross revenue exceeds \$1.07 billion; (ii) the date that we become a “large accelerated filer,” with at least \$700 million of equity securities held by non-affiliates as of the end of the second quarter of that fiscal year; (iii) the date on which we have issued, in any three-year period, more than \$1.0 billion in non-convertible debt securities; and (iv) the last day of the fiscal year ending after the fifth anniversary of the completion of this offering.

We have elected to take advantage of certain of the reduced disclosure obligations in the registration statement of which this prospectus is a part and may elect to take advantage of other reduced reporting requirements in future filings. As a result, the information that we provide may be different than the information you receive from other public companies in which you hold stock.

As an emerging growth company, we elected to take advantage of the extended transition period provided in Section 13(a) of the Exchange Act, for complying with new or revised accounting standards. In other words, as an emerging growth company, we can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. As a result of these elections, some investors may find our common stock less attractive than they would have otherwise. The result may be a less active trading market for our common stock, and the price of our common stock may become more volatile. See “Risk Factors— Risks Related to this Offering and Ownership of Our Common Stock— We are an “emerging growth company” and our compliance with the reduced reporting and disclosure requirements applicable to “emerging growth companies” may make our common stock less attractive to investors.”

The Offering	
Common stock offered by us	shares.
Common stock offered by the selling stockholders	shares (including shares to be issued upon exercise of options by certain selling stockholders in connection with the sale of such shares in this offering).
Common stock to be outstanding after this offering	shares (including shares to be issued upon exercise of options by certain selling stockholders in connection with the sale of such shares in this offering), or shares if the underwriters exercise their option to purchase additional shares in full.
Option to purchase additional shares	The underwriters have an option to purchase up to an aggregate of additional shares of common stock from us and additional shares of common stock from the selling stockholders identified in this prospectus. The underwriters can exercise this option at any time within 30 days from the date of this prospectus.
Use of proceeds	<p>We estimate that the net proceeds to us from the sale of shares of our common stock in this offering will be approximately \$ million.</p> <p>We intend to use the net proceeds we receive in this offering, together with cash on hand, to repay all outstanding borrowings on the Second Lien Term Loan and related fees and accrued interest, to pay down \$ in outstanding borrowings on the First Lien Term Loan and the remainder, if any, for general corporate purposes to support the growth of our business. We will not receive any proceeds from the sale of shares of our common stock by the selling stockholders. See “Use of Proceeds.”</p>
Dividend policy	We do not expect to pay any dividends on our common stock for the foreseeable future. See “Dividend Policy.”
Proposed New York Stock Exchange symbol	“MCW”
Controlled company	Following this offering, we will be a “controlled company” within the meaning of the corporate governance rules of the New York Stock Exchange. See “Management—Director Independence and Controlled Company Exception.”
Risk factors	Investing in our common stock involves a high degree of risk. See “Risk Factors” beginning on page 17 of this prospectus for a discussion of factors you should carefully consider before investing in our common stock.
Reserved share program	At our request, the underwriters have reserved for sale, at the initial public offering price, up to 5% of the shares offered by this

prospectus for sale to some of our directors, officers, employees, business associates and related persons. If these persons purchase reserved shares, this will reduce the number of shares available for sale to the general public. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same terms as the other shares offered by this prospectus.

Unless otherwise indicated, the number of shares of common stock to be outstanding after this offering is based on _____ shares of common stock outstanding as of March 31, 2021, which includes _____ shares of common stock to be issued upon the exercise of options by certain selling stockholders in connection with the sale of shares in this offering, and excludes:

- (1) _____ shares of common stock issuable upon the exercise of options outstanding under our equity incentive plans as of March 31, 2021 at a weighted average exercise price of \$ _____ per share (excluding the options to be exercised by selling stockholders in connection with this offering) and (2) _____ shares of common stock underlying options granted to certain employees with an exercise price equal to the initial public offering price of this offering under our 2021 Plan (as defined herein);
- _____ shares of common stock issuable as restricted stock units to be granted under our 2021 Plan immediately following the effectiveness of the applicable Form S-8 registration statement;
- _____ additional shares of common stock reserved for future issuance under our 2021 Plan; and
- _____ additional shares of common stock reserved for future issuance under our ESPP (as defined herein), as well as any shares of common stock that become available pursuant to provisions in the ESPP that automatically increase the share reserve under the ESPP.

Unless otherwise indicated, all information contained in this prospectus:

- assumes an initial public offering price of \$ _____ per share, which is the midpoint of the price range set forth on the cover page of this prospectus;
- assumes the underwriters' option to purchase additional shares will not be exercised;
- gives effect to our amended and restated certificate of incorporation and our amended and restated bylaws in connection with the consummation of this offering; and
- gives effect to a _____ -for- _____ stock split effected on _____, 2021.

Summary Consolidated Financial and Operating Data

The following tables summarize our consolidated financial and operating data for the periods and as of the dates indicated. We derived our summary consolidated statement of operations and cash flow data for the years ended December 31, 2019 and 2020 from our audited consolidated financial statements included elsewhere in this prospectus. The summary consolidated statement of operations for the three months ended March 31, 2020 and 2021 and the summary consolidated balance sheet data as of March 31, 2021 have been derived from our unaudited interim consolidated financial statements that are included elsewhere in this prospectus. We have prepared the unaudited interim consolidated financial statements on the same basis consistent with the presentation of our audited consolidated financial statements that are included elsewhere in this prospectus. We have included in our opinion, all adjustments necessary to state fairly our results of operations for these periods. Our historical results are not necessarily indicative of the results to be expected in the future and our results of operations for the three months ended March 31, 2021 are not necessarily indicative of the results that may be expected for the year ended December 31, 2021 or any other interim periods or any future year or period. You should read the following information in conjunction with the sections titled “Selected Consolidated Financial and Other Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements, the accompanying notes and other financial information included elsewhere in this prospectus.

	Year Ended December 31,		Three Months Ended March 31,	
	2019	2020	2020	2021
(in thousands, except share and per share numbers)				
Statements of Operations and Other Comprehensive Data				
Revenues, net	\$ 629,528	\$ 574,941	\$ 155,252	\$ 175,508
Cost of labor and chemicals	243,912	193,971	57,570	51,749
Other store operating expenses	224,402	224,419	58,473	61,083
General and administrative	84,806	51,341	12,959	14,961
Loss (gain) on sale of assets	1,345	(37,888)	343	790
Total costs and expenses	554,465	431,843	129,345	128,583
Operating income	75,063	143,098	25,907	46,925
Other (expense) income:				
Interest expense, net	(67,610)	(64,009)	(17,195)	(13,959)
Loss on extinguishment of debt	(9,169)	(1,918)	(1,918)	—
Total other expense	(76,779)	(65,927)	(19,113)	(13,959)
(Loss) income before taxes	(1,716)	77,171	6,794	32,966
Income tax (benefit) provision	(2,636)	16,768	(2,066)	8,382
Net income	\$ 920	\$ 60,403	\$ 8,860	\$ 24,584
Other comprehensive loss, net of tax:				
(Loss) gain on interest rate swap	—	(1,117)	—	319
Total comprehensive income	\$ 920	\$ 59,286	\$ 8,860	\$ 24,903
Net income per share:				
Basic	\$ 0.34	\$ 22.15	\$ 3.25	\$ 9.00
Diluted	\$ 0.32	\$ 21.02	\$ 3.11	\$ 8.48
Weighted average common shares outstanding:				
Basic	2,713,327	2,726,806	2,726,535	2,730,741
Diluted	2,838,062	2,874,172	2,853,390	2,899,527

	<u>Year Ended December 31,</u>		<u>Three Months Ended</u>	
	<u>2019</u>	<u>2020</u>	<u>March 31,</u>	
			<u>2020</u>	<u>2021</u>
(in thousands)				
Consolidated Statement of Cash Flows Data				
Net cash provided by operating activities	\$ 70,072	\$ 101,846	\$ 17,721	\$ 51,589
Net cash used in investing activities	(113,821)	(13,353)	(22,774)	(28,710)
Net cash provided by (used in) financing activities	45,399	22,676	103,702	(2,332)
				<u>As of March 31,</u>
				<u>2021</u>
				(in thousands)
Consolidated Balance Sheet Data				
Cash and cash equivalents				\$ 135,263
Total current assets				157,114
Goodwill				737,034
Total assets				1,977,573
Total current liabilities				121,903
Total long-term portion of debt, net				1,053,043
Total liabilities				1,935,977
Total stockholders' equity				41,596

	<u>December 31,</u>		<u>Three Months Ended</u>	
	<u>2019</u>	<u>2020</u>	<u>March 31,</u>	
			<u>2020</u>	<u>2021</u>
Financial and Operating Data				
Location count (end of period) ⁽¹⁾	322	342	327	344
Comparable store sales growth ⁽¹⁾	10%	(11)%	(2)%	19%
UWC Members (in thousands) ⁽¹⁾	986	1,233	1,033	1,391
UWC sales as percentage of total wash sales ⁽¹⁾	53%	62%	57%	62%
Net income margin	0.1%	10.5%	5.7%	14.0%
Adjusted EBITDA (in thousands) ⁽²⁾	\$ 163,217	\$ 161,084	\$ 40,070	\$ 61,472
Adjusted EBITDA margin ⁽²⁾	25.9%	28.0%	25.8%	35.0%

- (1) See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Key Performance Indicators" for a description of location count, comparable store sales growth, UWC Members and UWC sales as a percentage of total wash sales.
- (2) Adjusted EBITDA and Adjusted EBITDA margin are non-GAAP financial measures. For a reconciliation of each of Adjusted EBITDA and Adjusted EBITDA margin to the most directly comparable U.S. GAAP financial measure, information about why we consider such measure useful and a discussion of the material risks and limitations of such measure, please see "Key Performance Indicators and Non-GAAP Financial Measures" and "Selected Consolidated Financial and Other Data." Adjusted EBITDA margin is defined as Adjusted EBITDA divided by net revenue for a given period.

RISK FACTORS

You should carefully consider the risks described below, together with all of the other information included in this prospectus, including our consolidated financial statements and related notes included elsewhere in this prospectus, before making an investment decision. Our business, financial condition and results of operations could be materially and adversely affected by any of these risks or uncertainties. In that case, the trading price of our common stock could decline, and you may lose all or part of your investment. Furthermore, the potential impact of the COVID-19 pandemic on our business operations and financial results and on the world economy as a whole may heighten the risks described below.

Risks Related to Our Business

Increased competition in the car wash industry may impact our future growth.

The car wash industry has recently attracted increased levels of investment by private equity firms and other capital providers. The ongoing competition for acquisitions may result in higher purchase prices for desirable car wash acquisitions. Construction by competitors of express car washes near our existing car wash locations may negatively impact our business, comparable sales and our net revenues. While we have active programs to identify both acquisition targets and future locations for greenfield expansion, there can be no assurance that we will continue to be successful in acquiring targets at reasonable purchase prices or constructing new car washes in existing or new markets.

We may be unable to sustain or increase demand for our UWC subscription program, which could adversely affect our business, financial condition and results of operations and rate of growth.

As of March 31, 2021, we had approximately 1.4 million UWC Members. This subscription program accounted for approximately 62% and 62% of our total wash sales in 2020 and for the first quarter of 2021, respectively. Our continued business and revenue growth is dependent on our ability to continue to attract and retain UWC Members. We view the number of UWC Members and the growth in the number of UWC Members on a net basis from period to period as key indicators of our revenue growth. However, we may not be successful in continuing to grow the number of UWC Members on a net basis from period to period and our membership levels may decline, which decline may be material.

UWC Members are able to cancel their membership at any time and may decide to cancel or forego memberships due to any number of reasons, including increased prices for membership in our UWC or for our services, quality issues with our services, harm to our reputation or brand, seasonal usage, or individuals' personal economic pressures. Increasing governmental regulation of automatically renewing subscription programs may negatively impact our marketing of this program. A decline in the number of UWC Members could materially and adversely affect our business, results of operations and financial condition.

If we fail to open and operate new locations in a timely and cost-effective manner or fail to successfully enter new markets, our financial performance could be materially and adversely affected.

Our growth strategy depends on growing our location base, both through greenfield expansion and acquisitions, and expanding our operations in existing and new geographic regions and operating our new locations successfully. We cannot assure you that our contemplated expansion will be successful, or that such expansion will be completed in the time frames or at the costs we estimate.

Our ability to successfully open and operate new locations depends on many factors, including, among others, our ability to:

- identify suitable locations;
- negotiate acceptable purchase price or lease terms, including the ability to renew or extend upon favorable terms;
- address regulatory, competitive, marketing, distribution and other challenges encountered in connection with expansion into new markets;

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- hire, train and retain an expanded workforce of managers and other personnel;
- maintain an adequate distribution footprint, information systems and other operational capabilities;
- successfully integrate new locations into our existing management structure and operations, including information system integration;
- source sufficient levels of inventory, supplies and equipment at acceptable costs;
- obtain necessary permits and licenses;
- construct and open our locations on a timely basis;
- generate sufficient levels of cash or obtain financing on acceptable terms to support our expansion;
- achieve and maintain brand awareness in new and existing markets; and
- identify and satisfy the merchandise and other preferences of our consumers.

Our failure to effectively address challenges such as these could materially and adversely affect our ability to successfully open and operate new locations in a timely and cost-effective manner. Further, we will have pre-operating costs and we may have initial losses while new locations commence operations.

In addition, there can be no assurance that newly opened locations will achieve sales or profitability levels comparable to those of our existing locations in the time periods estimated by us, or at all. In instances where new locations are geographically proximate to existing locations, new locations may also adversely impact the comparable store sales growth of our existing car wash locations. If our locations fail to achieve, or are unable to sustain, acceptable total sales and profitability levels, our business may be materially and adversely affected and we may incur significant costs associated with the early closure of such locations. Our plans to accelerate the growth of our location base may increase this risk.

We may not be able to successfully implement our growth strategies on a timely basis or at all.

Our future success depends, in large part, on our ability to implement our growth strategies, including acquiring new customers, growing our UWC membership base, opening greenfield locations and pursuing opportunistic and disciplined acquisitions. Our ability to implement these growth strategies depends, among other things, on our ability to:

- increase our brand awareness by effectively implementing our digital-first marketing strategy;
- leverage data analytics throughout the organization;
- increase customer engagement with our digital platform;
- educate UWC Members on value propositions to drive retention and add new members;
- leverage our investments to drive traffic and customer acquisition;
- drive scale efficiencies and generate free cash flow; and
- selectively grow our location base.

We may not be able to successfully implement our growth strategies and may need to change them. If we fail to implement our growth strategies or if we invest resources in a growth strategy that ultimately proves unsuccessful, our business, results of operations and financial condition may be materially and adversely affected.

If we are unable to identify attractive acquisition targets and acquire them at attractive prices, we may be unsuccessful in growing our business.

A significant portion of the growth of our number of locations has been as a result of our acquisition of additional car wash locations and subsequent adaptation of those locations to operate consistently with other

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Mister Car Wash locations. There can be no assurance, however, that we will find suitable acquisition targets in the future, that we will acquire them at attractive prices or that we will succeed at effectively managing the integration of the acquired location into our existing operations and the “Mister” brand. We could also encounter unforeseen transaction- and integration-related costs or delays or other circumstances such as challenges or delays in adapting these locations to operate similarly to other Mister Car Wash locations or unforeseen or higher-than-expected inherited liabilities. Many of these potential circumstances are outside of our control and any of them could result in increased costs, decreased revenue or the diversion of management time and attention.

In order for us to continue to grow our business through acquisitions we will need to identify appropriate acquisition opportunities and acquire them at attractive prices. We may choose to pay cash, incur debt or issue equity securities to pay for any such acquisition. The incurrence of indebtedness would result in increased fixed obligations and could also include covenants or other restrictions that would impede our ability to manage our operations. The sale of equity to finance any such acquisition could result in dilution to our stockholders.

We are subject to a number of risks and regulations related to credit card and debit card payments we accept.

We accept payments through credit card and debit card transactions. For credit card and debit card payments, we pay interchange and other fees, which may increase over time. An increase in those fees would require us to either increase the prices we charge for our memberships, which could cause us to lose UWC Members or suffer an increase in our operating expenses, either of which could harm our operating results.

If we or any of our processing vendors have problems with our billing software, or the billing software malfunctions, it could have an adverse effect on our member satisfaction and could cause one or more of the major credit card companies to disallow our continued use of their payment products. In addition, if our billing software fails to work properly and, as a result, we do not automatically charge our UWC Members’ credit cards or debit cards on a timely basis or at all, we could lose membership revenue, which would materially and adversely affect our operating results.

If we fail to adequately control fraudulent credit card and debit card transactions, we may face civil liability, diminished public perception of our security measures and significantly higher credit card and debit card related costs, each of which could adversely affect our business, financial condition and results of operations. We may also face legal liability or reputational harm for any failure to comply, or any allegation that we have failed to comply, with consumer protection laws relating to consumer credit transactions. See “Business—Government Regulation—Consumer Protection.”

An overall decline in the health of the economy and other factors impacting consumer spending, such as natural disasters and fluctuations in inflation may affect consumer purchases, reduce demand for our services and materially and adversely affect our business, results of operations and financial condition.

Our business depends on consumer demand for our services and, consequently, is sensitive to a number of factors that influence consumer confidence and spending, such as general current and future economic and political conditions, consumer disposable income, energy and fuel prices, shifts in consumer transportation preferences leading to a reduction in car ownership, technological advances in autonomous vehicle technology reducing the number of vehicles on the road, recession and fears of recession, unemployment, minimum wages, availability of consumer credit, consumer debt levels, conditions in the housing market, interest rates, tax rates and policies, inflation, war and fears of war, inclement weather, natural disasters, terrorism, active shooter situations, outbreak of viruses or widespread illness and consumer perceptions of personal well-being and security.

Consumer purchases of car washes decline during periods when economic or market conditions are unstable or weak. Reduced consumer confidence and spending cutbacks may result in reduced demand for our services, which could result in lost sales. Reduced demand also may require increased selling and promotional expenses,

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impacting our profitability. Changes in areas around our locations that result in reductions in car traffic or otherwise render the locations unsuitable could cause our sales to be less than expected. Prolonged or pervasive economic downturns could slow the pace of new greenfield openings, reduce comparable sales or cause us to close certain locations, which could have a material negative impact on our financial performance.

If we are not able to maintain and enhance our reputation and brand recognition, our business and results of operations may be harmed.

We believe that maintaining and enhancing our reputation and brand recognition are critical to our relationships with existing customers and our ability to attract new customers. The promotion of our brand may require us to make substantial investments and we anticipate that, as our market becomes increasingly competitive, these marketing initiatives may become increasingly difficult and expensive. Our marketing activities may not be successful or yield increased revenue, and to the extent that these activities yield increased revenue, the increased revenue may not offset the expenses we incur and our results of operations could be materially and adversely affected.

In addition, any factor that diminishes our reputation or that of our management, including failing to meet the expectations of our customers, could make it substantially more difficult for us to attract new customers. Also, there has been a marked increase in the use of social media platforms that provide individuals with access to a broad audience of consumers and other interested persons. The availability of information on social media platforms is virtually immediate as is its impact. Many social media platforms immediately publish the content their subscribers and participants can post, often without filters or checks on accuracy of the content posted. The opportunity for dissemination of information, including inaccurate information, is seemingly limitless and readily available. Information concerning us may be posted on such platforms at any time. Information posted may be adverse to our interests or may be inaccurate, each of which may harm our performance, prospects or business. The harm may be immediate without affording us an opportunity for redress or correction.

If we do not successfully maintain and enhance our reputation and brand recognition with our customers, our business may not grow and we could lose our relationships with customers, which would materially and adversely affect our business, results of operations and financial condition.

Changes in labor and chemical costs, other operating costs, interest rates and inflation could materially and adversely affect our results of operations.

Increases in employee wages, benefits, and insurance and other operating costs such as commodity costs, legal claims, insurance costs and costs of borrowing could adversely affect operating costs and administrative expenses at our locations. Operating costs are susceptible to increases as a result of factors beyond our control, such as minimum wage legislation, weather conditions, natural disasters, disease outbreaks, global demand inflation, civil unrest, tariffs and government regulations. Any increase in costs for our locations could reduce our sales and profit margins if we choose not, or are unable, to pass the increased costs to our customers. In addition, increases in interest rates may impact land and construction costs and the cost and availability of borrowed funds and leasing locations, and thereby adversely affect our ability to finance the development of additional locations and maintenance of existing locations. Inflation can also cause increased commodity, labor and benefits costs, which could reduce the profitability of our locations. Any of the foregoing increases could materially and adversely affect our business, results of operations and financial condition.

Our work force may expose us to claims that could materially and adversely affect our business, results of operations and financial condition, and our insurance coverage may not cover all of our potential liability.

Our work force may claim that our actions or workplace conditions violate applicable law. As a result of such claims, we may incur fines and other losses, as well as negative publicity. In addition, some or all of these claims may rise to litigation, which could be costly and time-consuming to our management team, and could

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have a negative impact on our business. Additionally, actions by our team members such as damage to customers' cars may subject us to financial claims and harm our reputation. We cannot assure you that we will not experience these problems in the future, that our insurance will cover all claims or that our insurance coverage will continue to be available at economically feasible rates.

Our locations may experience difficulty hiring and retaining qualified personnel, resulting in higher labor costs.

The operation of our locations requires both entry-level and skilled team members, and trained personnel may continue to be in high demand and short supply at competitive compensation levels in some areas, which may result in increased labor costs. From time to time, we may experience difficulty hiring and maintaining such qualified personnel. In addition, the formation of unions may increase the operating expenses of our locations. Any such future difficulties could result in a decline in customer service negatively impacting sales at our locations, which could in turn materially and adversely affect our business, results of operations, business, and financial condition.

Many of our key personnel have worked for us for a significant amount of time or were recruited by us specifically due to their experience. Our success depends in part upon the reputation and influence within the industry of our senior managers. Each of our executive officers and other key employees may terminate his or her relationship with us at any time and the loss of the services of one or a combination of our senior executives or members of our senior management team may significantly delay or prevent the achievement of our business or development objectives and could materially harm our business. Further, contractual obligations related to confidentiality and noncompetition may be ineffective or unenforceable, and departing employees may share our proprietary information with competitors in ways that could adversely impact us.

In addition, certain senior management personnel are substantially vested in their stock option grants or other equity compensation. We intend to grant additional equity awards to management personnel prior to the offering to provide additional incentives to remain employed by us as team members may be more likely to leave us if a significant portion of their equity compensation is fully vested.

If our car wash equipment is not maintained, our car washes will not be operable.

Our car washes have equipment that requires frequent repair or replacement. Although we undertake to keep our car washing equipment in adequate operating condition, the car wash operating environment results in frequent mechanical problems. If we fail to properly maintain the equipment, a car wash could become inoperable or malfunction resulting in a loss of revenue, damage to vehicles and poorly washed vehicles.

We rely on a limited number of suppliers for certain of our car wash equipment and supplies and may not be able to immediately transition to alternative suppliers.

We currently leverage a diversified supply base to supply most of the car wash equipment and certain other supplies we use in our operations. While we believe we could secure such equipment and supplies from alternative sources, doing so may be time-consuming or expensive or may cause a temporary disruption in our supply chain. Additionally, we do not have a supplier contract with our main supplier of car wash tunnel equipment and our orders are based on purchase orders. We also do not carry a significant inventory of such equipment. As such, we are subject to the risk that such supplier will not continue to provide us with required car wash tunnel equipment. Shortages or interruptions in the supply of car wash equipment and other supplies could occur for reasons within or beyond the control of us and the supplier. Any shortage or interruption to our supply chain could reduce our sales and profit margins, which in turn may materially and adversely affect our business and results of operations.

We lease or sublease the land and buildings where a number of our locations are situated, which could expose us to possible liabilities and losses.

We lease the land and buildings where a significant number of our locations are located. The terms of the leases and subleases vary in length, with primary terms (i.e., before consideration of option periods) expiring on

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various dates. In addition, we may not be able to terminate a particular lease if or when we would like to do so, which could prevent us from closing or relocating certain underperforming locations. Our obligations to pay rent are generally non-cancelable, even if the location operated at the leased or subleased location is closed. Thus, if we decide to close locations, we generally are required to continue paying rent and operating expenses for the balance of the lease term. The performance of any of these obligations may be expensive. We may not assign or sublet the leased locations without consent of the landlord. When we assign or sublease vacated locations, we may remain liable on the lease obligations if the assignee or sub-lessee does not perform. Accordingly, we are subject to the risks associated with leasing locations which can have a material adverse effect on us.

As leases expire, we may be unable to negotiate renewals on commercially acceptable terms or at all, which could cause us to close locations in desirable locations or otherwise negatively affect profits, which in turn could materially and adversely affect our business and results of operations.

We are required to make significant lease payments for our leases, which may strain our cash flow.

We depend on net cash provided by operating activities to pay our rent and other lease expenses and to fulfill our other cash needs. If our business does not generate sufficient cash provided by operating activities, and sufficient funds are not otherwise available to us from borrowings under our Credit Facilities or from other sources, we may not be able to service our lease expenses, grow our business, respond to competitive challenges or fund our other liquidity and capital needs, which would harm our business.

We may experience significant quarterly and annual fluctuations in our operating results due to a number of factors, which makes our future operating results difficult to predict.

Our quarterly and annual operating results may fluctuate significantly due to a variety of factors, many of which are outside of our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful. Our past results may not be a predictor of our future performance.

Factors that may affect our operating results include:

- the impact of a recession, pandemic or any other adverse global economic conditions on our business;
- the timing of, and the ability to execute on, opening new greenfield locations and acquiring car washes through acquisitions;
- our ability to sustain and grow the number of UWC Members;
- changes in our pricing policies or those of our competitors;
- periodic fluctuations in demand for our services;
- volatility in the cost of utilities;
- volatility in the sales of our services;
- the success or failure of our acquisition strategy;
- our ability to develop and implement in a timely manner new products and services and enhancements that meet customer requirements;
- any significant changes in the competitive dynamics of our market, including new entrants or substantial discounting of car wash services;
- our ability to control costs;
- any significant change in our facilities-related costs;
- the timing of hiring personnel;

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- general economic conditions; and
- our ability to appropriately resolve any disputes.

We have in the past experienced, and we may experience in the future, significant variations in our level of sales. Such variations in our sales have led and may lead to significant fluctuations in our cash flows, revenue and deferred revenue on a quarterly and annual basis. Failure to achieve our quarterly goals will decrease the value of the Company and accordingly the Company's securities.

Our comparable store sales may fluctuate significantly.

Our comparable store sales may be adversely affected for many reasons, including new location openings by our competitors and the opening of our own new car wash locations that may cannibalize our existing store sales. Other factors that may affect comparable store sales include cycling against strong sales in the prior year, new car wash locations entering into our comparable store base and price reductions in response to competition.

The ongoing COVID-19 pandemic has materially and adversely affected our business, financial condition and results of operations and may continue to do so.

The public health crisis caused by the COVID-19 pandemic and the measures taken by governments, businesses, including us and our suppliers, and the public at large to limit COVID-19's spread had certain negative impacts on our business including:

- we temporarily suspended operations at more than 300 of our locations in March and April 2020;
- we temporarily suspended interior cleaning services at our Interior Cleaning Locations in March 2020 and fully resumed operations at those locations by August 2020;
- we temporarily suspended a majority of our acquisition activity and paused greenfield initiatives from March 2020 to July 2020;
- we requested and received temporary rent deferrals, which have since been repaid; and
- we amended our Second Lien Term Loan credit agreement to cause the interest payment due March 31 to be paid in-kind by adding the full amount of interest payment to the then outstanding principal amount, rather than paying the interest payment in cash; subsequent interest payments have been paid in cash.

Our net revenues were adversely impacted in the first and second quarters of 2020 as a result of the pandemic and actions taken to control its spread. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" for further discussion. We continue to implement extensive measures in response to COVID-19 throughout our business operations, but actions we have taken or may take, or decisions we have made or may make, as a consequence of the pandemic may result in legal claims or litigation against us. There can be no assurances that our business, suppliers or third-party service providers will not be adversely impacted or disrupted in the future by the COVID-19 pandemic. Developments related to the pandemic have also caused volatility in the capital markets, which could adversely affect our ability to access additional capital on commercially reasonable terms or at all.

Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations.

As of December 31, 2020, we had U.S. federal and state net operating loss carryforwards ("NOLs") of approximately \$66 million and \$11 million, respectively, available to offset future taxable income. Certain of our state NOLs will begin to expire in 2034. Under Section 382 of the Internal Revenue Code of 1986, as amended (the "Code"), a corporation that undergoes an "ownership change," generally defined as a greater than 50% change by value in its equity ownership by certain stockholders over a three year period, is subject to limitations on its ability to utilize NOLs which arose prior to the ownership change to offset future taxable income. Similar

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rules may apply under state tax laws. If it is determined that we have in the past experienced ownership changes, or if we undergo one or more ownership changes as a result of this offering or future transactions in our stock, some of which may be outside our control, then our ability to utilize NOLs could be limited by Section 382 of the Code, and certain of our NOLs may expire unused. In addition, under the Tax Cuts and Jobs Act (the “Tax Act”), as modified by the Coronavirus Aid, Relief, and Economic Security Act, NOLs arising in taxable years beginning after December 31, 2017 may be carried forward indefinitely, but the deductibility of such NOLs in taxable years beginning after December 31, 2020, will be limited to 80% of our taxable income in such year. For these reasons, we may not be able to realize, in whole or in part, a tax benefit from the use of our NOLs.

Adverse developments in applicable tax laws could have a material and adverse effect on our business, financial condition and results of operations. Our effective tax rate could also change materially as a result of various evolving factors, including changes in income tax law resulting from the most recent U.S. presidential and congressional elections or changes in the scope of our operations.

We are subject to income taxation at the federal level and by certain states and municipalities because of the scope of our operations. In determining our income tax liability for these jurisdictions, we must monitor changes to the applicable tax laws and related regulations. While our existing operations have been implemented in a manner we believe is in compliance with current prevailing laws, one or more taxing jurisdictions could seek to impose incremental or new taxes on us. In addition, as a result of the most recent presidential and congressional elections in the United States, there could be significant changes in tax law and regulations that could result in additional federal income taxes being imposed on us. Any adverse developments in these laws or regulations, including legislative changes, judicial holdings or administrative interpretations, could have a material and adverse effect on our business, financial condition and results of operations. Finally, changes in the scope of our operations, including expansion to new geographies, could increase the amount of taxes to which we are subject, and could increase our effective tax rate.

Risks Related to Our Indebtedness and Capital Requirements

Our indebtedness could adversely affect our financial health and competitive position.

As of March 31, 2021, we had \$1,061.4 million of indebtedness outstanding under our Credit Facilities, net of unamortized debt issuance costs. To service this debt and any additional debt we may incur in the future, we need to generate cash. Our ability to generate cash is subject, to a certain extent, to our ability to successfully execute our business strategy, including acquisition activity, as well as general economic, financial, competitive, regulatory and other factors beyond our control. There can be no assurance that our business will be able to generate sufficient cash flow from operations or that future borrowings or other financing will be available to us in an amount sufficient to enable us to service our debt and fund our other liquidity needs. To the extent we are required to use our cash flow from operations or the proceeds of any future financing to service our debt instead of funding working capital, capital expenditures, acquisition activity or other general corporate purposes, we will be less able to plan for, or react to, changes in our business, industry and in the economy generally. This will place us at a competitive disadvantage compared to our competitors that have less debt. There can be no assurance that we will be able to refinance any of our debt on commercially reasonable terms or at all, or that the terms of that debt will allow any of the above alternative measures or that these measures would satisfy our scheduled debt service obligations. If we are unable to generate sufficient cash flow to repay or refinance our debt on favorable terms, it could significantly adversely affect our financial condition and the value of our outstanding debt. Our ability to restructure or refinance our debt will depend on the condition of the capital markets and our financial condition. Any refinancing of our debt could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations.

In addition, the United Kingdom’s Financial Conduct Authority, which regulates the London Inter-bank Offered Rate (“LIBOR”), has announced that it intends to stop encouraging or requiring banks to submit LIBOR rates after 2021 and in some cases, by mid-2023, and it is unclear if LIBOR will cease to exist or if new methods of calculating LIBOR will evolve. We currently have the option to determine our interest rate for our First Lien

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Term Loan using a formula that includes the LIBOR rate. When LIBOR ceases to exist or the methods of calculating LIBOR change from their current form, we may no longer have the ability to elect the LIBOR rate under our First Lien Term Loan or our future indebtedness may be adversely affected. This could impact our interest costs and our ability to borrow additional funds.

The terms of our Credit Facilities impose certain operating and financial restrictions on us that may impair our ability to adapt to changing competitive or economic conditions.

The credit agreements governing our Credit Facilities contain, and any agreements evidencing or governing other future debt may contain, certain restrictive covenants that limit our ability, among other things, to engage in certain activities that are in our long-term best interests, including our ability to:

- incur liens;
- incur or assume additional debt or amend our debt and other material agreements;
- issue certain disqualified stock;
- declare or make dividends or distributions and redeem, repurchase or retire equity interests;
- prepay, redeem or repurchase debt;
- make investments, loans, advances, guarantees and acquisitions;
- enter into agreements restricting the ability to pay dividends or grant liens securing the obligations under the credit agreements;
- amend or modify governing documents;
- enter into transactions with affiliates;
- engage in certain business activities or alter the business conducted by us and our restricted subsidiaries; and
- engage in certain mergers, consolidations and asset sales.

In addition, the First Lien Term Loan contains a springing maximum first lien net leverage ratio financial covenant. See “Description of Certain Indebtedness”. Our ability to meet this requirement can be affected by events beyond our control, and we may not be able to satisfy such financial covenants. Our ability to comply with these covenants and restrictions may be affected by events and factors beyond our control. Our failure to comply with any of these covenants or restrictions could result in an event of default under our Credit Facilities. An event of default would permit the lending banks under the facility to take certain actions, including terminating all outstanding commitments and declaring all amounts outstanding under our credit facility to be immediately due and payable, including all outstanding borrowings, accrued and unpaid interest thereon, and all other amounts owing or payable with respect to such borrowings and any terminated commitments. In addition, the lenders would have the right to proceed against the collateral we granted to them, which includes substantially all of our assets.

In order to support the growth of our business, we may need to incur additional indebtedness or seek capital through new equity or debt financings, which sources of additional capital may not be available to us on acceptable terms or at all.

We intend to continue to make significant investments to support our business growth, respond to business challenges or opportunities, develop new services, enhance our existing services and operating infrastructure and potentially acquire complementary businesses and assets. For the year ended December 31, 2020, our net cash provided by operating activities was \$101.8 million. As of December 31, 2020, we had \$114.6 million of cash and cash equivalents, which were held for working capital purposes. For the three months ended March 31, 2021, our net cash provided by operating activities was \$51.6 million. As of March 31, 2021, we had \$135.3 million of cash and cash equivalents, which were held for working capital purposes.

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Our future capital requirements may be significantly different from our current estimates and will depend on many factors, including the need to:

- finance unanticipated working capital requirements;
- develop or enhance our infrastructure and our existing services;
- acquire complementary businesses, assets or services;
- the availability of sale-leaseback arrangements when we engage in an acquisition;
- fund strategic relationships, including joint ventures and co-investments;
- fund additional implementation engagements; and
- respond to competitive pressures.

Accordingly, we may need to engage in equity or debt financings or other arrangements to secure additional funds. Additional financing may not be available on terms favorable to us, or at all. If we raise additional funds through further issuances of equity or convertible debt securities, our existing stockholders could suffer significant dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our ordinary shares. Any debt financing secured by us in the future could involve additional restrictive covenants relating to our capital-raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. In addition, during times of economic instability, it has been difficult for many companies to obtain financing in the public markets or to obtain debt financing, and we may not be able to obtain additional financing on commercially reasonable terms, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us, it could have a material and adverse effect on our business, results of operations and financial condition.

We are a holding company and depend on our subsidiaries for cash to fund operations and expenses, including future dividend payments, if any.

We are a holding company that does not conduct any business operations of our own. As a result, we are largely dependent upon cash distributions and other transfers from our subsidiaries to meet our obligations and to make future dividend payments, if any. We do not currently expect to declare or pay dividends on our common stock for the foreseeable future; however, the agreements governing the indebtedness of our subsidiaries impose restrictions on our subsidiaries' ability to pay dividends or other distributions to us. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources." The deterioration of the earnings from, or other available assets of, our subsidiaries for any reason could impair their ability to make distributions to us.

Risks Related to Government Regulation

Our business is subject to various laws and regulations and changes in such laws and regulations, or failure to comply with existing or future laws and regulations, could adversely affect our business.

Our business is subject to numerous and frequently changing federal, state and local laws and regulations. We routinely incur significant costs in complying with these regulations. The complexity of the regulatory environment in which we operate and the related cost of compliance are increasing due to additional legal and regulatory requirements, our expanding operation and increased enforcement efforts. Further, uncertainties exist regarding the future application of certain of these legal requirements to our business. New or existing laws, regulations and policies, liabilities arising thereunder and the related interpretations and enforcement practices, particularly those dealing with environmental protection and compliance, taxation, zoning and land use, workplace safety, public health, recurring debit and credit card charges, information security, consumer protection, and privacy and labor and employment, among others, or changes in existing laws, regulations,

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policies and the related interpretations and enforcement practices, particularly those governing the sale of products and consumer protection, may result in significant added expenses or may require extensive system and operating changes that may be difficult to implement and/or could materially increase our cost of doing business. For example, we have had to comply with recent new laws in some of the states in which we operate regarding recycling, waste, minimum wages, and sick time. In addition, we are subject to environmental laws pursuant to which we could be strictly liable for any contamination at our current or former locations, or at third-party waste disposal sites, regardless of our knowledge of or responsibility for such contamination.

Our locations are subject to certain environmental laws and regulations.

Our current and former car wash operations, motor fuel dispensing, and quick lube businesses are governed by federal, state and local laws and regulations, including environmental regulations. Certain business activities involve the handling, storage, transportation, import/export, recycling, or disposing of various new and used products and generate solid and hazardous wastes. These business activities are subject to stringent federal, regional, state and local laws, by-laws and regulations governing the storage and disposal of these products and wastes, the release of materials into the environment or otherwise relating to environmental protection. These laws and regulations may impose numerous obligations upon our locations' operations, including the acquisition of permits to conduct regulated activities, the imposition of restrictions on where or how to store and how to handle new products and to manage or dispose of used products and wastes, the incurrence of capital expenditures to limit or prevent releases of such material, the imposition of substantial liabilities for pollution resulting from our locations' operations, and costs associated with workers' compensation and similar health claims from employees.

Environmental laws and regulations have generally imposed further restrictions on our operations over time, which may result in significant additional costs to our business. Failure to comply with these laws, regulations, and permits may result in the assessment of administrative, civil, and criminal penalties, the imposition of remedial and corrective action obligations, and the issuance of injunctions limiting or preventing operation of our locations. Any adverse environmental impact on our locations, including, without limitation, the imposition of a penalty or injunction, or increased claims from employees, could materially and adversely affect our business and the results of our operations.

Environmental laws also impose liability for damages from and the costs of investigating and cleaning up sites of spills, disposals or other releases of hazardous materials. Such liability may be imposed, jointly and severally, on the current or former owners or operators of properties or parties that sent wastes to third-party disposal facilities, in each case without regard to fault or whether such persons knew of or caused the release. Moreover, neighboring landowners and other third parties may file claims for nuisance (including complaints involving noise and light), personal injury and property or natural resource damage allegedly caused by our operations and the release of petroleum hydrocarbons, hazardous substances or wastes into the environment. Although we are not presently aware of any such material liability related to our current or former locations or business operations, such liability could arise in the future and could materially and adversely affect our business and the results of our operations.

The transportation, distribution and storage of motor fuels (diesel fuel and gasoline) and other chemicals are subject to environmental protection and operational safety laws and regulations that may expose us to significant costs and liabilities, which could have a material and adverse effect on our business.

The transportation of motor fuels such as gasoline and diesel by third-party transporters, the transportation of other chemicals by the Company, as well as the associated storage of motor fuels and other chemicals at our current and past locations is subject to various federal, state and local environmental laws and regulations, including those relating to ownership and operation of underground storage tanks, the release or discharge of regulated materials into the air, water and soil, the generation, storage, handling, use, transportation and disposal of hazardous materials, the exposure of persons to regulated materials, and the health and safety of employees

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dedicated to these transportation and storage activities. These laws and regulations may impose numerous obligations that are applicable to the transportation and storage of motor fuels and other chemicals and other related activities, including acquisition of, or applications for, permits, licenses, or other approvals before conducting regulated activities; restrictions on the types, quantities and concentration of materials that may be released into the environment; requiring capital expenditures to comply with pollution control requirements; and imposition of substantial liabilities for pollution or non-compliance resulting from these activities.

Numerous governmental authorities, such as the U.S. Environmental Protection Agency (the “EPA”), and analogous state agencies, have the power to enforce compliance with these laws and regulations and the permits, licenses and approvals issued under them, which can often require difficult and costly actions. Failure to comply with these existing laws and regulations or any newly adopted laws or regulations may trigger a variety of administrative, civil and criminal enforcement measures, including the assessment of monetary penalties or other sanctions, the imposition of investigative, remedial or corrective action obligations and the issuance of orders enjoining future operations in particular areas or imposing additional compliance requirements on such operations. Moreover, environmental regulations are becoming more restrictive with limitations on activities that may adversely affect the environment and which may result in increased costs of compliance.

Where releases of motor fuels, chemicals or other substances or wastes have occurred, federal and state laws and regulations require that contamination caused by such releases be assessed and remediated to meet applicable clean-up standards. Certain environmental laws impose strict, joint and several liability for costs required to clean-up and restore sites where motor fuels, chemicals or other waste products have been disposed or otherwise released. The costs associated with the investigation and remediation of contamination, as well as any associated third-party claims for damages or to impose corrective action obligations, could be substantial and could have a material adverse effect on us. We could also be held liable for the costs and other liabilities of clean-up and restoration of contamination as well as possible third-party claims at our locations, which could have a material adverse effect.

For more information on potential risks arising from environmental and occupational safety and health laws and regulations, please see “Business—Environmental and Occupational Safety and Health Matters.”

Government regulations, weather conditions and natural hazards may affect the availability of water supplies for use at our car wash centers.

Our ability to meet the existing and future water demands at our car wash centers depends on adequate supplies of water. Generally our car wash centers use water from local public and/or private water agencies and in some instances through onsite groundwater wells. Our sources of water generally include rivers, lakes, streams and groundwater aquifers. As such, we typically do not own the water that we use in our operations.

Climate change, drought, overuse of sources of water, the protection of threatened species or habitats or other factors may limit the availability of ground and surface water. Climate change and seasonal drought conditions may impact our access to water supplies, and drought conditions currently exist in several areas of the United States. Governmental restrictions on water use may also result in decreased access to water supplies, which may adversely affect our financial condition and results of operations. Water service interruptions due to severe weather events are also possible. These include winter storms and freezing conditions in colder climate locations, high wind conditions in areas known to experience tornados, earthquakes in areas known to experience seismic activity, high water conditions in areas located in or near designated flood plains, hurricanes and severe electrical storms also have the potential to impact our access to water.

Any interruption in our ability to access water could materially and adversely affect our financial condition and results of operations. Furthermore, losses from business interruptions or damage to our facilities might not be covered by our insurance policies and such losses may make it difficult for us to secure insurance in the future at acceptable rates.

Risks Related to Intellectual Property, Information Technology and Data Privacy

We are subject to data security and privacy risks that could negatively impact our results of operations or reputation.

We collect, process, transmit and store personal, sensitive and confidential information, including our proprietary business information and that of consumers (including users of our locations) and team members and suppliers. The secure processing, maintenance and transmission of this information is critical to our operations. Consumers, team members and suppliers have a high expectation that we will adequately protect their information, including personal information, from cyber-attack or other security breaches, and may have claims against us if we are unable to do so. We may also have exposure to regulatory investigation and other compliance risks in the event of a cyber-attack or other security breach.

Our systems and those of our third-party service providers and business partners may be vulnerable to security breaches, attacks by hackers, acts of vandalism, computer viruses, misplaced or lost data, human errors or other similar events. We have been subject to cyber-attacks and attempts in the past and may continue to be subject to such attacks in the future. Though no such incident to date has had a material impact on our business, we cannot guarantee that we will not experience material or adverse effects from any future incident. If unauthorized parties gain access to our networks or databases, or those of our third-party service providers or business partners, they may be able to access, publish, delete, use inappropriately or modify our own or third-party personal, sensitive or confidential information, including credit card information and personal identification information. In addition, employees may intentionally or inadvertently cause data or security breaches that result in the unauthorized release of personal, sensitive or confidential information. Because the techniques used to circumvent security systems can be highly sophisticated, change frequently, are often not recognized until launched against a target and may originate from less regulated and remote areas around the world, we may be unable to proactively address all possible techniques or implement adequate preventive measures for all situations. Any such breach, attack, virus or other event could result in costly investigations and litigation exceeding applicable insurance coverage or contractual rights available to us, government enforcement actions, civil or criminal penalties, fines, operational changes or other response measures, loss of consumer confidence in our security measures, and negative publicity that could materially and adversely affect our brand, business, results of operations and financial condition. These losses may not be adequately covered by insurance or other contractual rights available to us.

In addition, we must comply with increasingly complex and rigorous regulatory standards enacted to protect business and personal data in the United States. The regulatory environment surrounding information security and privacy is demanding, with the frequent imposition of new and changing requirements across our business. Various federal, state and foreign legislative and regulatory bodies, or self-regulatory organizations, may expand current laws or regulations, enact new laws or regulations or issue revised rules or guidance regarding privacy, data protection, information security and consumer protection. For example, in June 2018, California enacted the California Consumer Privacy Act (the “CCPA”), which, among other things, requires additional disclosures to California consumers, affords such consumers additional abilities to opt out of certain sales of personal information and creates a potentially severe statutory damages framework for violations, which took effect on January 1, 2020. Further, in November 2020, California voters passed the California Privacy Rights and Enforcement Act of 2020, or the CPRA, which amends and expands the CCPA with additional data privacy compliance requirements that may adversely impact our business, and establishes a regulatory agency dedicated to enforcing those requirements. The effects, and penalties for violations, of the CCPA and the CPRA are potentially significant, and may require us to further modify our data processing practices and policies and to incur substantial costs and expenses in an effort to comply. Further, our operations are subject to the Telephone Consumer Protection Act (the “TCPA”), and we have received in the past, and may receive in the future, claims alleging violations by us of the same. The interplay of federal and state laws may be subject to varying interpretations by courts and government agencies, creating complex compliance issues for us and potentially exposing us to additional expense, adverse publicity and liability. As privacy and information security laws and regulations change, we may incur additional compliance costs.

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Further, because we accept debit and credit cards for payment, we are subject to the Payment Card Industry Data Security Standard, or the PCI Standard, issued by the Payment Card Industry Security Standards Council, with respect to payment card information. The PCI Standard contains compliance guidelines with regard to our security surrounding the physical and electronic storage, processing and transmission of cardholder data. Compliance with the PCI Standard and implementing related procedures, technology and information security measures requires significant resources and ongoing attention. Costs and potential problems and interruptions associated with the implementation of new or upgraded systems and technology, such as those necessary to achieve compliance with the PCI Standard or with maintenance or adequate support of existing systems could also disrupt or reduce the efficiency of our operations. Any material interruptions or failures in our payment related systems could have a material adverse effect on our business, results of operations and financial condition. If there are amendments to the PCI Standard, the cost of recompliance could also be substantial and we may suffer loss of critical data and interruptions or delays in our operations as a result. If we are unable to comply with the security standards established by banks and the payment card industry, we may be subject to fines, restrictions and expulsion from card acceptance programs, which could materially and adversely affect our retail operations.

As a general matter, compliance with laws, regulations and any applicable rules or guidance from self-regulatory organizations relating to privacy, data protection, information security and consumer protection may result in substantial costs and may necessitate changes to our business practices, which may compromise our growth strategy, materially and adversely affect our ability to acquire customers and otherwise materially and adversely affect our business, results of operations and financial condition.

We may be unable to adequately protect, and we may incur significant costs in enforcing or defending, our intellectual property and other proprietary rights.

Our success depends in part on our brand image and our ability to enforce and defend our intellectual property and other proprietary rights and differentiate ourselves from our competitors. We rely upon a combination of trademark, patent, trade secret, copyright, and unfair competition laws, other contractual provisions, to protect our intellectual property and other proprietary rights. In addition, we attempt to protect our intellectual property and proprietary information by requiring our management-level employees and consultants to enter into confidentiality and assignment of inventions agreements. We cannot assure you that the steps we take to protect our intellectual property and other proprietary rights will be adequate to prevent the infringement or other violation of such rights by others, including the imitation and misappropriation of our brand, which could damage our brand identity and the goodwill we have created, causing sales to decline. To the extent that our intellectual property and other proprietary rights are not adequately protected, third parties may challenge, invalidate, circumvent, infringe or misappropriate our intellectual property or the intellectual property of our third-party licensors, or such intellectual property may not be sufficient to permit us to take advantage of current market trends or otherwise to provide competitive advantages, which could result in costly redesign efforts, discontinuance of certain service offerings or other competitive harm. We may have to litigate to enforce or determine the scope and enforceability of our intellectual property rights, which is expensive (and could exceed applicable insurance coverage), could cause a diversion of resources and may not prove successful. The loss of intellectual property protection or the inability to obtain sufficient rights to use third-party intellectual property could harm our business and ability to compete.

We may be subject to infringement claims.

Although we believe that our services and operations do not infringe upon or otherwise violate the proprietary rights of third parties, we cannot guarantee that we do not, and will not in the future, infringe or otherwise violate the proprietary rights of third parties. Third parties have in the past, and may in the future, assert infringement or other intellectual property violation claims against us with respect to future products, services or operations. Any claim from a third party may result in a limitation on our ability to use our intellectual property. Even if we believe that intellectual property related claims are without merit, defending

against such claims is time consuming and expensive and could result in the diversion of the time and attention of our management and employees. Claims of intellectual property infringement are inherently uncertain, and might require us to redesign affected services, enter into costly settlement or license agreements, pay costly damage awards for which we may not have insurance, or face a temporary or permanent injunction prohibiting us from marketing or selling certain of our services. Even if we have an agreement for indemnification against such costs, the indemnifying party, if any in such circumstances, may be unable to uphold its contractual obligations. If we cannot or do not license the infringed technology on reasonable terms or substitute similar technology from another source, our revenue and earnings could be materially and adversely affected.

Risks Related to this Offering and Ownership of Our Common Stock

Prior to this offering, there has been no prior market for our common stock. An active market may not develop or be sustainable, and investors may be unable to resell their shares at or above the initial public offering price.

There has been no public market for our common stock prior to this offering. The initial public offering price for our common stock will be determined through negotiations between the representatives of the underwriters and us and may vary from the market price of our common stock following the completion of this offering. An active or liquid market in our common stock may not develop upon completion of this offering or, if it does develop, it may not be sustainable. In the absence of an active trading market for our common stock, you may not be able to resell those shares at or above the initial public offering price or at all. We cannot predict the prices at which our common stock will trade.

Because LGP owns a significant percentage of our common stock, it may control all major corporate decisions and its interests may conflict with your interests as an owner of our common stock and our interests.

We are controlled by LGP, which currently owns approximately _____% of our common stock and will own approximately _____% after the consummation of this offering or _____% if the underwriters exercise in full their option to purchase additional shares. Accordingly, LGP currently controls the election of our directors and could exercise a controlling interest over our business, affairs and policies, including the appointment of our management and the entering into of business combinations or dispositions and other corporate transactions. Pursuant to the Stockholders Agreement, LGP will be entitled to designate individuals to be included in the slate of nominees recommended by our board of directors for election to our board of directors. So long as LGP owns, in the aggregate, (i) at least 40% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), LGP will be entitled to nominate four directors, (ii) less than 40% but at least 30% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will be entitled to nominate three directors, (iii) less than 30%, but at least 20% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will be entitled to nominate two directors, (iv) less than 20%, but at least 10% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will be entitled to nominate one director and (v) less than 10% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will not be entitled to nominate a director. See "Certain Relationships and Related Party Transactions—Stockholders Agreement." The directors LGP elects have the authority to incur additional debt, issue or repurchase stock, declare dividends and make other decisions that could be detrimental to shareholders. Even if LGP were to own or control less than a majority of our total outstanding shares of common stock, it will be able to influence the outcome of corporate actions so long as it owns a significant portion of our total outstanding shares of common stock.

LGP may have interests that are different from yours and may vote in a way with which you disagree and that may be adverse to your interests. In addition, LGP's concentration of ownership could have the effect of

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delaying or preventing a change in control or otherwise discouraging a potential acquirer from attempting to obtain control of us, which could cause the market price of our common stock to decline or prevent our stockholders from realizing a premium over the market price for their common stock.

Additionally, LGP is in the business of making investments in companies and may from time to time acquire and hold interests in businesses that compete directly or indirectly with us or supply us with goods and services. LGP may also pursue acquisition opportunities that may be complementary to our business and, as a result, those acquisition opportunities may not be available to us. Stockholders should consider that the interests of LGP may differ from their interests in material respects.

Our amended and restated certificate of incorporation could prevent us from benefiting from corporate opportunities that might otherwise have been available to us.

Our amended and restated certificate of incorporation will, to the maximum extent permitted from time to time by Delaware law, renounce any interest or expectancy that we have in, or right to be offered an opportunity to participate in, specified business opportunities that are from time to time presented to our officers, directors or shareholders or their respective affiliates, other than those officers, directors, shareholders or affiliates who are our or our subsidiaries' employees. Our amended and restated certificate of incorporation will provide that, to the fullest extent permitted by law, none of LGP or any of their affiliates or any director who is not employed by us (including any non-employee director who serves as one of our officers in both his director and officer capacities) or his or her affiliates will have any duty to refrain from (i) engaging in a corporate opportunity in the same or similar lines of business in which we or our affiliates now engage or propose to engage or (ii) otherwise competing with us or our affiliates. In addition, to the fullest extent permitted by law, in the event that LGP or any non-employee director acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself or himself or its or his affiliates or for us or our affiliates, such person will have no duty to communicate or offer such transaction or business opportunity to us or any of our affiliates and they may take any such opportunity for themselves or offer it to another person or entity. Our amended and restated certificate of incorporation will not renounce our interest in any business opportunity that is expressly offered to a non-employee director solely in his or her capacity as a director or officer of the Company. To the fullest extent permitted by law, no business opportunity will be deemed to be a potential corporate opportunity for us unless we would be permitted to undertake the opportunity under our amended and restated certificate of incorporation, we have sufficient financial resources to undertake the opportunity and the opportunity would be in line with our business.

As a result of these provisions in our amended and restated certificate of incorporation, we may not receive the benefit from certain corporate opportunities, such as an acquisition target or other extraordinary transaction, that might have otherwise been available to us and potentially beneficial to our business.

Sales of a substantial number of shares of our common stock in the public market by our existing stockholders could cause our stock price to fall.

Sales of a substantial number of shares of our common stock in the public market or the perception that these sales might occur, could depress the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. Substantially all of our existing stockholders are subject to lock-up agreements with the underwriters of this offering that restrict the stockholders' ability to transfer shares of our common stock for _____ days from the date of this prospectus, subject to certain exceptions. See "Underwriting." The lock-up agreements limit the number of shares of common stock that may be sold immediately following the public offering. After this offering, we will have _____ outstanding shares of common stock based on the number of shares outstanding as of _____, 2021. Subject to limitations, _____ shares will become eligible for sale upon expiration of the lock-up period, as calculated and described in more detail in the section titled "Shares Eligible for Future Sale." In addition, shares issued or issuable upon exercise of options vested as of the expiration of the lock-up period will be eligible for sale at that time. Further, the representatives of the underwriters may, in their sole discretion, release all or some portion of the shares subject to the lock-up agreements at any time and for any reason. See "Shares Eligible for Future Sale" for more information. Sales of a substantial number of such shares

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upon expiration of the lock-up agreements, the perception that such sales may occur, or early release of these agreements, could have a material and adverse effect on the trading price of our common stock.

Moreover, after this offering, holders of approximately % of our outstanding common stock will have rights, subject to certain conditions such as the -day lock-up arrangement described above, to require us to file registration statements for the public sale of their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. Registration of these shares under the Securities Act, except for shares held by our affiliates as defined in Rule 144 under the Securities Act. Any sales of securities by these shareholders could have a material and adverse effect on the trading price of our common stock.

We will be a “controlled company” within the meaning of New York Stock Exchange rules following this offering and, as a result, will qualify for, and may rely on, exemptions from certain corporate governance requirements.

Following the consummation of this offering, LGP will continue to control a majority of our outstanding common stock. As a result, we expect to be a “controlled company” within the meaning of New York Stock Exchange corporate governance standards. A company of which more than 50% of the voting power is held by an individual, a group or another company is a “controlled company” within the meaning of New York Stock Exchange rules and may elect not to comply with certain corporate governance requirements of the New York Stock Exchange, including:

- the requirement that a majority of our board of directors consist of independent directors;
- the requirement that we have a nominating and corporate governance committee that is comprised entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities;
- the requirement that we have a compensation committee that is comprised entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities; and
- the requirement for an annual performance evaluation of the nominating and corporate governance and compensation committees.

Following this offering, we intend to rely on all of the exemptions listed above. As a result, we will not have a majority of independent directors and our nominating and corporate governance and compensation committees will not consist entirely of independent directors. Our board of directors and those committees may have more directors who do not meet New York Stock Exchange independence standards than they would if those standards were to apply. The independence standards are intended to ensure that directors who meet those standards are free of any conflicting interest that could influence their actions as directors. Accordingly, you will not have the same protections afforded to stockholders of companies that are subject to all of the corporate governance requirements of the New York Stock Exchange.

We are an “emerging growth company” and our compliance with the reduced reporting and disclosure requirements applicable to “emerging growth companies” may make our common stock less attractive to investors.

We are an “emerging growth company,” as defined in the JOBS Act, and we have elected to take advantage of certain exemptions and relief from various reporting requirements that are applicable to other public companies that are not “emerging growth companies.” These provisions include being permitted to have only two years of audited financial statements and management’s discussion and analysis of financial condition and results of operations disclosures in this prospectus; being exempt from compliance with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act; being exempt from any rules that could be adopted by the Public Company Accounting Oversight Board requiring mandatory audit firm rotations or a supplement to the auditor’s report on financial statements; being subject to reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements; and not being required to hold nonbinding advisory votes on executive compensation or on any golden parachute payments not previously approved.

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We may remain an “emerging growth company” until as late as December 31, 2026, the fiscal year-end following the fifth anniversary of the completion of this offering, though we may cease to be an “emerging growth company” earlier under certain circumstances, including if (i) we have more than \$1.07 billion in annual revenue in any fiscal year, (ii) we become a “large accelerated filer,” with at least \$700 million of equity securities held by non-affiliates as of the end of the second quarter of that fiscal year or (iii) we issue more than \$1.0 billion of non-convertible debt securities over a three-year period. If some investors find our common stock less attractive as a result of us utilizing some or all of these exemptions or forms of relief, there may be a less active trading market for our common stock and our stock price may decline or become more volatile.

Purchasers in this offering will experience immediate and substantial dilution in the book value of their investment.

The assumed initial public offering price of \$ _____ per share is substantially higher than the as adjusted net tangible book value per share of our outstanding common stock immediately after this offering. Therefore, if you purchase our common stock in this offering, you will incur immediate dilution of \$ _____ in the as adjusted net tangible book value per share from the price you paid assuming that stock price. In addition, following this offering, purchasers who bought shares from us in the offering will have contributed _____ % of the total consideration paid to us by our stockholders to purchase _____ shares of common stock to be sold by us in this offering, in exchange for acquiring approximately _____ % of our total outstanding shares as of March 31, 2021 after giving effect to this offering. If the underwriters exercise their option to purchase additional shares, if we issue any additional stock options or any outstanding stock options are exercised, or if we issue any other securities or convertible debt in the future, investors will experience further dilution.

Some provisions of our charter documents and Delaware law may have anti-takeover effects that could discourage an acquisition of us by others, even if an acquisition would be beneficial to our shareholders, and may prevent attempts by our shareholders to replace or remove our current management.

Provisions in our amended and restated certificate of incorporation and our amended and restated bylaws, as well as provisions of the DGCL, could make it more difficult for a third party to acquire us or increase the cost of acquiring us, even if doing so would benefit our stockholders, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions include:

- establishing a classified board of directors such that not all members of the board are elected at one time;
- allowing the total number of directors to be determined exclusively (subject to the rights of holders of any series of preferred stock to elect additional directors) by resolution of our board of directors and granting to our board the sole power (subject to the rights of holders of any series of preferred stock or rights granted pursuant to the Stockholders’ Agreement) to fill any vacancy on the board;
- providing that our stockholders may remove members of our board of directors only for cause and only by the affirmative vote of the holders of at least two-thirds of the voting power of our then-outstanding stock, following such time as LGP ceases to beneficially own, in the aggregate, at least 50% of the voting power of our common stock;
- authorizing the issuance of “blank check” preferred stock by our board of directors, without further stockholder approval, to thwart a takeover attempt;
- prohibiting stockholder action by written consent (and, thus, requiring that all stockholder actions be taken at a meeting of our stockholders), if LGP ceases to beneficially own, in the aggregate, at least 50% of the voting power of our common stock;
- eliminating the ability of stockholders to call a special meeting of stockholders, except for LGP for so long as LGP beneficially owns, in the aggregate, at least 50% of the voting power of our common stock;
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon at annual stockholder meetings; and

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- requiring the approval of the holders of at least two-thirds of the voting power of all outstanding stock entitled to vote thereon, voting together as a single class, to amend or repeal our certificate of incorporation or bylaws if LGP ceases to beneficially own, in the aggregate, at least 50% of the voting power of our common stock.

These provisions could discourage, delay or prevent a transaction involving a change in control. They could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing and cause us to take corporate actions other than those you desire.

Our amended and restated certificate of incorporation will provide that the Court of Chancery of the State of Delaware or federal district courts of the United States will be the sole and exclusive forum for certain types of lawsuits, which could limit our shareholders' abilities to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

Our amended and restated certificate of incorporation and amended and restated bylaws will require, to the fullest extent permitted by law, that (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers, or other employees to us or our shareholders, (iii) any action asserting a claim against us arising pursuant to any provision of the DGCL or the amended and restated certificate of incorporation or the proposed bylaws, or (iv) any action asserting a claim against us governed by the internal affairs doctrine will have to be brought only in the Court of Chancery in the State of Delaware (or the federal district court for the District of Delaware or other state courts of the State of Delaware if the Court of Chancery in the State of Delaware does not have jurisdiction). The amended and restated certificate of incorporation and amended and restated bylaws will also require that the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act; however, there is uncertainty as to whether a court would enforce such provision, and investors cannot waive compliance with federal securities laws and the rules and regulations thereunder. Although we believe these provisions benefit us by providing increased consistency in the application of applicable law in the types of lawsuits to which they apply, the provisions may have the effect of discouraging lawsuits against our directors and officers. These provisions would not apply to any suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts of the United States have exclusive jurisdiction.

We do not intend to pay dividends for the foreseeable future.

We currently intend to retain any future earnings to finance the operation and expansion of our business and we do not expect to declare or pay any dividends in the foreseeable future. Moreover, the terms of our existing Credit Facilities restrict our ability to pay dividends, and any additional debt we may incur in the future may include similar restrictions. In addition, Delaware law may impose requirements that may restrict our ability to pay dividends to holders of our common stock. As a result, stockholders must rely on sales of their common stock after price appreciation as the only way to realize any future gains on their investment.

General Risks

Changes in accounting rules, assumptions and/or judgments could materially and adversely affect us.

Accounting rules and interpretations for certain aspects of our operations are highly complex and involve significant assumptions and judgment. These complexities could lead to a delay in the preparation and dissemination of our financial statements. Furthermore, changes in accounting rules and interpretations or in our accounting assumptions and/or judgments could significantly impact our financial statements. In some cases, we could be required to apply a new or revised standard retroactively, resulting in restating prior period financial statements. Any of these circumstances could have a material and adverse effect on our business, prospects, liquidity, financial condition and results of operations.

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Our stock price may be volatile or may decline regardless of our operating performance, resulting in substantial losses for investors purchasing shares in this offering.

The market price of our common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- actual or anticipated fluctuations in our financial conditions and results of operations;
- failure of securities analysts to initiate or maintain coverage of our company, changes in financial estimates or ratings by any securities analysts who follow our company or our failure to meet these estimates or the expectations of investors;
- announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures, or capital commitments;
- price and volume fluctuations in the overall stock market, including as a result of trends in the economy as a whole;
- changes in our board of directors or management;
- sales of large blocks of our common stock, including sales by our affiliates;
- lawsuits threatened or filed against us;
- anticipated or actual changes in laws, regulations or government policies applicable to our business;
- changes in our capital structure, such as future issuances of debt or equity securities;
- short sales, hedging and other derivative transactions involving our capital stock;
- general economic conditions in the United States;
- other events or factors, including those resulting from war, pandemics (including COVID-19), incidents of terrorism or responses to these events; and
- the other factors described in the sections of this prospectus titled “Risk Factors” and “Cautionary Note Regarding Forward-Looking Statements.”

The stock market has recently experienced extreme price and volume fluctuations. The market prices of securities of companies have experienced fluctuations that often have been unrelated or disproportionate to their results of operations. Market fluctuations could result in extreme volatility in the price of shares of our common stock, which could cause a decline in the value of your investment. Price volatility may be greater if the public float and trading volume of shares of our common stock is low. Furthermore, in the past, stockholders have sometimes instituted securities class action litigation against companies following periods of volatility in the market price of their securities. Any similar litigation against us could result in substantial costs, divert management’s attention and resources, and harm our business, financial condition and results of operations.

If securities analysts do not publish research or reports about our company, or if they issue unfavorable commentary about us or our industry or downgrade our common stock, the price of our common stock could decline.

The trading market for our common stock will depend in part on the research and reports that third-party securities analysts publish about our company and our industry. We may be unable or slow to attract research coverage and if one or more analysts cease coverage of our company, we could lose visibility in the market. In addition, one or more of these analysts could downgrade our common stock or issue other negative commentary about our company or our industry. As a result of one or more of these factors, the trading price of our common stock could decline.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. You can generally identify forward-looking statements by our use of forward-looking terminology such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “might,” “plan,” “potential,” “predict,” “seek,” “vision,” or “should,” or the negative thereof or other variations thereon or comparable terminology. Forward-looking statements include those we make regarding the following matters:

- developments involving our competitors and our industry;
- our ability to attract new customers, retain existing customers and maintain or grow our number of UWC Members;
- potential future impacts of the COVID-19 pandemic;
- expectations regarding our industry;
- our ability to maintain comparable store sales growth;
- our ability to continue to identify and open greenfield locations;
- our estimates of greenfield location expansions and our whitespace opportunity;
- our ability to continue to identify suitable acquisition targets and consummate such acquisitions on attractive terms;
- our ability to attract and retain a qualified management team and other team members while controlling our labor costs;
- the impact of our debt and lease obligations on our ability to raise additional capital to fund our operations and maintain flexibility in operating our business;
- our reliance on and relationships with third-party suppliers;
- our ability to maintain security and prevent unauthorized access to electronic and other confidential information;
- our ability to respond to risks associated with existing and future payment options;
- our ability to maintain and enhance a strong brand image;
- our ability to maintain adequate insurance coverage;
- our status as a “controlled company” and LGP’s control of us as a public company;
- the impact of evolving governmental laws and regulations and the outcomes of legal proceedings; and
- the effects of potential changes to U.S. regulations and policies on our business.

The preceding list is not intended to be an exhaustive list of all of our forward-looking statements. We have based these forward-looking statements on our current expectations, assumptions, estimates and projections. While we believe these expectations, assumptions, estimates and projections are reasonable, such forward-looking statements are only predictions and involve known and unknown risks and uncertainties, many of which are beyond our control. These and other important factors, including those discussed in this prospectus under the headings “Prospectus Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Business,” may cause our actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements. Furthermore, the potential impact of the COVID-19 pandemic on our business operations and financial results and on the world economy as a whole may heighten the risks and uncertainties that affect our forward-looking statements described above. Given these risks and uncertainties, you are cautioned not to place undue reliance on such forward-looking statements. The forward-looking statements

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included elsewhere in this prospectus are not guarantees of future performance and our actual results of operations, financial condition and liquidity, and the development of the industry in which we operate, may differ materially from the forward-looking statements included elsewhere in this prospectus. In addition, even if our results of operations, financial condition and liquidity, and events in the industry in which we operate, are consistent with the forward-looking statements included elsewhere in this prospectus, they may not be predictive of results or developments in future periods.

Any forward-looking statement that we make in this prospectus speaks only as of the date of such statement. Except as required by law, we do not undertake any obligation to update or revise, or to publicly announce any update or revision to, any of the forward-looking statements, whether as a result of new information, future events or otherwise, after the date of this prospectus.

USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of shares of our common stock in this offering will be approximately \$ _____ million, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us.

Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) the net proceeds to us from this offering by approximately \$ _____ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us. Each increase (decrease) of 100,000 shares in the number of shares sold in this offering by us, as set forth on the cover page of this prospectus, would increase (decrease) the net proceeds to us from this offering by approximately \$ _____ million, assuming an initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us. The information discussed above is illustrative only and will adjust based on the actual initial public offering price and other terms of this offering determined at pricing.

We intend to use the net proceeds we receive in this offering, together with cash on hand, as follows:

- \$ _____ to repay all outstanding borrowings on the Second Lien Term Loan and related fees and accrued interest;
- \$ _____ to pay down outstanding borrowings on the First Lien Term Loan; and
- the remainder, if any, for general corporate purposes to support the growth of our business.

The Second Lien Term Loan bears interest at a rate of 10.0% per annum and is scheduled to mature on May 14, 2027. The First Lien Term Loan bears interest at a rate of, at our discretion and subject to certain exceptions, either (i) an adjusted LIBOR + 3.25% or (ii) 2.25% plus the higher of (x) federal funds rate plus 1/2 of 1%, (y) the rate of interest reported by the Wall Street Journal, and (z) an adjusted LIBOR plus 1% base rate plus applicable rate, and is scheduled to mature on May 14, 2026. See “Description of Certain Indebtedness” for more information about our Credit Facilities. Certain of the underwriters and/or their respective affiliates are lenders of the First Lien Term Loan and the Second Lien Term Loan and, as a result, will receive approximately \$ _____, which represents a portion of the net proceeds from this offering that we intend to allocate to the repayment of such borrowings, on a pro rata basis across all applicable lenders thereunder. See “Underwriting.”

We will not receive any proceeds from the sale of shares of our common stock by selling stockholders. We will, however, bear the costs, other than the underwriting discounts and commissions, associated with the sale of these shares.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and our consolidated capitalization as of March 31, 2021:

- on an actual basis; and
- on an as adjusted basis, to give effect to: (i) the filing and effectiveness of our amended and restated certificate of incorporation and amended and restated bylaws, (ii) the sale and issuance by us of _____ shares of our common stock in this offering at the initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, and after deducting the underwriting discounts and commissions and estimated offering expenses payable by us, net of amounts recorded in accrued expenses and other current liabilities and other assets at March 31, 2021, and the application of the proceeds therefrom as described in “Use of Proceeds,” and (iii) the issuance of shares of our common stock upon the exercise of options by certain selling stockholders in connection with the sale of such shares in this offering.

The information below is illustrative only and our capitalization following the closing of this offering will be adjusted based on the actual initial public offering price and other terms of this offering determined at the pricing of this offering. You should read this information in conjunction with the sections titled “Use of Proceeds,” “Selected Consolidated Financial and Other Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and the accompanying notes thereto included elsewhere in this prospectus.

	As of March 31, 2021	
	Actual	As Adjusted(2)
	(dollars in thousands, except per share data)	
Cash and cash equivalents(1)	\$ _____	\$ _____
Long-term debt, including current maturities:		
Total debt, net		
Stockholders’ equity:		
Common stock; \$0.01 par value; 3,250,000 shares authorized, 2,733,494 shares issued and outstanding, actual; _____ shares authorized, shares issued and outstanding as adjusted		
Additional paid-in capital		
Accumulated deficit		
Accumulated other comprehensive loss		
Treasury stock at cost; 31,466 shares actual, _____ shares as adjusted		
Total stockholders’ equity		
Total capitalization	\$ _____	\$ _____

(1) Excludes \$ _____ in restricted cash set aside for maintenance expenses.

The table above assumes the underwriters’ option to purchase additional shares will not be exercised and excludes:

- (1) _____ shares of common stock issuable upon the exercise of options outstanding under our equity incentive plans as of _____ at a weighted average exercise price of \$ _____ per share (excluding the options to be exercised by selling stockholders in connection with this offering) and (2)

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shares of common stock underlying options granted to certain employees with an exercise price equal to the initial public offering price of this offering under our 2021 Plan;

- shares of common stock issuable as restricted stock units to be granted under our 2021 Plan immediately following the effectiveness of the applicable Form S-8 registration statement;
- additional shares of common stock reserved for future issuance under our 2021 Plan; and
- additional shares of common stock reserved for future issuance under our ESPP, as well as any shares of common stock that become available pursuant to provisions in the ESPP that automatically increase the share reserve under the ESPP.

DIVIDEND POLICY

We currently intend to retain any future earnings to fund the development and expansion of our business, and, therefore, we do not anticipate paying cash dividends on our share capital in the foreseeable future. Any future determination to pay dividends will be at the discretion of our board of directors and will depend on our results of operations, financial condition, capital requirements, contractual restrictions, restrictions under our Credit Facilities and any other agreements governing our indebtedness and other factors deemed relevant by our board of directors. See “Description of Certain Indebtedness,” See “Description of Certain Indebtedness,” “Risk Factors—Risks Relating to Our Indebtedness and Capital Requirements—We are a holding company and depend on our subsidiaries for cash to fund operations and expenses, including future dividend payments, if any” and “Risk Factors—Risks Relating to this Offering and Ownership of Our Common Stock—We do not intend to pay dividends for the foreseeable future.”

DILUTION

If you invest in our common stock in this offering, your interest will be diluted to the extent of the difference between the amount per share paid by purchasers of shares of our common stock in this initial public offering and the as adjusted net tangible book value per share of our common stock immediately after this offering.

As of March 31, 2021, our historical net tangible book value (deficit) was \$ _____ million, or \$ _____ per share of common stock. Historical net tangible book value (deficit) per share represents our total tangible assets less total liabilities, divided by the number of shares of common stock outstanding as of March 31, 2021.

After giving effect to (i) our sale of _____ shares of our common stock in this offering at an assumed initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us and (ii) the issuance of _____ shares of our common stock upon the exercise of options by certain selling stockholders in connection with the sale of such shares in this offering, our as adjusted net tangible book value as of March 31, 2021 would have been approximately \$ _____ million, or \$ _____ per share. This represents an immediate increase in as adjusted net tangible book value of \$ _____ per share to our existing stockholders and an immediate dilution in as adjusted net tangible book value of approximately \$ _____ per share to new investors purchasing shares of our common stock in this offering. Dilution in as adjusted net tangible book value (deficit) represents the difference between the price per share paid by investors in this offering and our net tangible book value per share of immediately after the offering.

The following table illustrates this dilution on a per share basis to new investors:

Assumed initial public offering price per share of common stock	\$ _____
Historical net tangible book value (deficit) per share as of March 31, 2021	\$ _____
As adjusted increase in net tangible book value (deficit) per share	_____
As adjusted net tangible book value (deficit) per share as of March 31, 2021	_____
Increase in as adjusted net tangible book value per share attributable to new investors purchasing common stock in this offering	_____
As adjusted net tangible book value per share	_____
Dilution in as adjusted net tangible book value per share to new investors in this offering	\$ _____

Each \$1.00 increase (decrease) in the assumed initial offering price of \$ _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) our as adjusted net tangible book value by \$ _____, or \$ _____ per share, and the dilution per common share to new investors in this offering by \$ _____ per share, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us. An increase of 1.0 million shares in the number of shares of common stock offered by us, as set forth on the cover page of this prospectus, would increase the as adjusted net tangible book value per share by \$ _____ and decrease the dilution per share to new investors by \$ _____, assuming no change in the assumed initial public offering price and after deducting estimated underwriting discounts and estimated offering expenses payable by us. A decrease of 1.0 million shares in the number of shares of common stock offered by us, as set forth on the cover page of this prospectus, would decrease the as adjusted net tangible book value per share by \$ _____ and increase the dilution per share to new investors by \$ _____, assuming no change in the assumed initial public offering price and after deducting underwriting discounts and estimated offering expenses payable by us.

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The following table summarizes, on an as adjusted basis as of March 31, 2021, after giving effect to the as adjusted adjustments described above, the difference among existing stockholders and new investors purchasing shares of our common stock in this offering with respect to the number of shares purchased from us, the total consideration paid to us and the average price per share paid by our existing stockholders or to be paid by investors purchasing shares in this offering at the initial public offering price of \$ _____ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, before deducting the underwriting discounts and commissions and estimated offering expenses payable by us.

	Shares Purchased		Total Consideration		Average Price
	Number	Percent	Amount	Percent	Per Share
Existing stockholders		%	\$	%	\$
New investors					
Total		100%	\$	100%	

Each \$1.00 increase (decrease) in the assumed initial public offering price of \$ _____ per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) total consideration paid by new investors by \$ _____ million and total consideration paid by all stockholders and average price per share paid by all stockholders by \$ _____ million and \$ _____ per share, respectively, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us. An increase (decrease) of 1.0 million shares in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase (decrease) total consideration paid by new investors by \$ _____ million and total consideration paid by all stockholders and average price per share paid by all stockholders by \$ _____ million and \$ _____ per share, respectively, assuming the assumed initial public offering price remains the same, and after deducting underwriting discounts and estimated offering expenses payable by us.

Sales of shares of our common stock by the selling stockholders in this offering will reduce the total number of shares of common stock held by existing stockholders to _____ or approximately _____ % of the total shares of common stock outstanding after the completion of this offering, and will increase the number of shares held by investors to _____, or approximately _____ % of the total shares of common stock outstanding after the completion of this offering (or to _____, or approximately _____ % of the total shares of common stock outstanding).

The table above assumes the underwriters do not exercise their option to purchase additional shares in this offering. If the underwriters fully exercise their option to purchase _____ additional shares of our common stock in this offering from us and _____ additional shares of our common stock in this offering from the selling stockholders, the as adjusted net tangible book value per share would be \$ _____ per share and the dilution to new investors in this offering would be \$ _____ per share. If the underwriters fully exercise their option, the number of shares held by new investors will increase to _____ shares of our common stock, or approximately _____ % of the total number of shares of our common stock outstanding after this offering.

The information presented in the tables and discussions above excludes:

- _____ shares of common stock issuable upon the exercise of options outstanding under our equity incentive plans as of March 31, 2021 at a weighted average exercise price of \$ _____ per share;
- _____ of common stock issuable as restricted stock units to be granted under our 2021 Plan immediately following the effectiveness of the applicable Form S-8 registration statement;
- _____ additional shares of common stock reserved for future issuance under our 2021 Plan; and
- _____ additional shares of common stock reserved for future issuance under our ESPP, as well as any shares of common stock that become available pursuant to provisions in the ESPP that automatically increase the share reserve under the ESPP.

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To the extent any options are granted and exercised in the future, there may be additional economic dilution to new investors.

In addition, we may choose to raise additional capital due to market conditions or strategic considerations, even if we believe we have sufficient funds for our current or future operating plans. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the issuance of these securities could result in further dilution to our stockholders.

SELECTED CONSOLIDATED FINANCIAL AND OTHER DATA

You should read the following selected consolidated financial data together with the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and the related notes included elsewhere in this prospectus. The selected consolidated financial data included in this section are not intended to replace the consolidated financial statements and are qualified in their entirety by the consolidated financial statements and the related notes included elsewhere in this prospectus.

We have derived the following selected consolidated statements of operations and cash flow data for the years ended December 31, 2019 and 2020 and the consolidated balance sheet data as of December 31, 2019 and 2020 from our audited consolidated financial statements included elsewhere in this prospectus. We have derived the following selected consolidated statements of operations and cash flow data for the years ended December 31, 2016, 2017 and 2018 and the consolidated balance sheet data as of December 31, 2016, 2017 and 2018 from our audited consolidated financial statements not included in this prospectus. The selected consolidated statement of operations for the three months ended March 31, 2020 and 2021 and the consolidated balance sheet data as of March 31, 2021 have been derived from our unaudited interim consolidated financial statements that are included elsewhere in this prospectus. We have included in our opinion, all adjustments necessary to state fairly our results of operations for these periods. Our historical results are not necessarily indicative of the results that may be expected for any future period and our results of operations for the three months ended March 31, 2021 are not necessarily indicative of the results that may be expected for the year ended December 31, 2021 or any other interim periods or any future year or period. You should read the following information in conjunction with the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and the accompanying notes thereto included elsewhere in this prospectus.

	Year Ended December 31,					Three Months Ended	
	2016	2017	2018	2019	2020	March 31,	2021
	(in thousands)						
Statements of Operations and Other Comprehensive Income Data							
Revenues, net	\$364,081	\$453,104	\$524,400	\$629,528	\$574,941	\$155,252	\$175,508
Cost of labor and chemicals	167,120	196,635	216,998	243,912	193,971	57,570	51,749
Other store operating costs	120,049	161,558	187,736	224,402	224,419	58,473	61,083
General and administrative	43,090	41,171	48,585	84,806	51,341	12,959	14,961
Loss (gain) on sale of assets	2,302	2,509	2,975	1,345	(37,888)	343	790
Total expenses, net	332,561	401,873	456,294	554,465	431,843	129,345	128,583
Operating income	31,520	51,231	68,106	75,063	143,098	25,907	46,925
Other (expense) income:							
Interest expense, net	(21,630)	(42,434)	(46,669)	(67,610)	(64,009)	(17,195)	(13,959)
Loss on extinguishment of debt	—	—	—	(9,169)	(1,918)	(1,918)	—
Total other expense	(21,630)	(42,434)	(46,669)	(76,779)	(65,927)	(19,113)	(13,959)
Income (loss) before taxes	9,890	8,797	21,437	(1,716)	77,171	6,794	32,966
Income tax (benefit) provision	4,078	(14,083)	7,089	(2,636)	16,768	(2,066)	8,382
Net income	5,812	22,880	14,348	920	60,403	8,860	24,584
(Loss) gain on interest rate swap	—	—	—	—	(1,117)	—	319
Total comprehensive income	\$ 5,812	\$ 22,880	\$ 14,348	\$ 920	\$ 59,286	\$ 8,860	\$ 24,903

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	Year Ended December 31,					Three Months Ended	
						March 31,	
	2016	2017	2018	2019	2020	2020	2021
(in thousands)							
Consolidated Statements of Cash Flow Data							
Net cash provided by operating activities	\$ 35,922	\$ 43,526	\$ 79,822	\$ 70,072	\$ 101,846	\$ 17,721	\$ 51,589
Net cash used in investing activities	(92,350)	(146,561)	(225,209)	(113,821)	(13,353)	(22,774)	(28,710)
Net cash provided by (used in) financing activities	65,808	95,230	147,277	45,399	22,676	103,702	(2,332)

	As of December 31,					As of
						March 31,
	2016	2017	2018	2019	2020	2021
(in thousands)						
Consolidated Balance Sheet Data						
Cash and cash equivalents	\$ 10,970	\$ 3,165	\$ 5,055	\$ 6,405	\$ 114,647	\$ 135,263
Total current assets	29,885	33,409	28,837	33,101	134,970	157,114
Goodwill	452,184	541,854	690,394	731,989	737,415	737,034
Total assets	737,270	861,366	1,052,441	1,150,074	1,948,453	1,977,573
Total current liabilities	48,441	56,661	96,448	85,569	122,947	121,903
Total long-term portion of debt, net	520,763	616,012	737,552	1,016,890	1,054,820	1,053,043
Total liabilities	652,127	749,557	924,694	1,213,676	1,931,803	1,935,977
Total stockholders' equity	85,143	111,809	127,747	(63,602)	16,650	41,596

	Year Ended December 31,					Three Months Ended	
						March 31,	
	2016	2017	2018	2019	2020	2020	2021
Financial and Other Data							
Location count (end of period)(1)	202	251	287	322	342	327	344
Comparable store sales growth(1)	9%	6%	10%	10%	(11)%	(2)%	19%
UWC Members (in thousands)(1)	331	519	766	986	1,233	1,033	1,391
UWC sales as a percentage of total wash sales(1)	36%	40%	49%	53%	62%	57%	62%
Net income margin	16.0%	27.1%	2.7%	0.1%	10.5%	5.7%	14.0%
Adjusted EBITDA (in thousands)(2)	\$79,021	\$105,113	\$126,975	\$163,217	\$161,084	\$40,070	\$61,472
Adjusted EBITDA margin(2)	21.7%	23.2%	24.2%	25.9%	28.0%	25.8%	35.0%

- (1) See “Management’s Discussion and Analysis and Results of Operations—Key Performance Indicators” for a description of location count, comparable store sales growth, UWC Members and UWC sales as a percentage of total wash sales.
- (2) Adjusted EBITDA and Adjusted EBITDA margin are non-GAAP financial measures. For a discussion about why we consider such measures useful and a discussion of the material risks and limitations of such measures, please see “Key Performance Indicators and Non-GAAP Financial Measures.”

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The following is a reconciliation of our net income (loss) to Adjusted EBITDA for the periods presented here and elsewhere in the prospectus. Adjusted EBITDA margin is defined as Adjusted EBITDA divided by net revenue for a given period.

	2010	Year Ended December 31,					Three Months Ended March 31,	
		2016	2017	2018	2019	2020	2020	2021
		(in thousands)						
Net income	\$ 3,684	\$ 5,812	\$ 22,880	\$ 14,348	\$ 920	\$ 60,403	\$ 8,860	\$ 24,584
Interest expense, net	5,104	21,630	42,434	46,669	67,610	64,009	17,195	13,959
Income tax expense (benefit)	2,284	4,079	(14,082)	7,089	(2,636)	16,768	(2,066)	8,382
Depreciation and amortization	5,189	20,489	30,732	33,516	39,468	45,289	10,957	11,650
(Gain) loss on sale of assets (a)	(95)	2,302	2,509	2,975	1,345	(8,115)	343	790
Gain on sale of quick lube facilities (b)	—	—	—	—	—	(29,773)	—	—
Dividend recapitalization fees and payments (c)	—	7,718	1,895	1,348	29,346	650	772	—
Loss on early debt extinguishment (d)	—	—	—	—	9,169	1,918	1,918	—
Stock-based compensation expense (e)	75	3,139	1,832	1,553	2,365	1,493	387	310
Acquisition expenses (f)	173	4,274	6,466	9,037	4,887	2,163	664	454
Management fees (g)	344	1,000	1,000	1,000	1,000	250	250	250
Non-cash rent expense (h)	1,353	4,175	5,684	4,888	4,217	3,695	317	378
Other (i)	(927)	4,404	3,763	4,551	5,527	2,334	473	715
Adjusted EBITDA	<u>\$17,183</u>	<u>\$79,021</u>	<u>\$105,113</u>	<u>\$126,975</u>	<u>\$163,217</u>	<u>\$161,084</u>	<u>\$40,070</u>	<u>\$61,472</u>

- (a) Consists of gain or (loss) on disposition of assets associated with store closures or the sale of property and equipment.
- (b) Consists of the gain on sale of the 27 quick lube facilities in December 2020.
- (c) Represents payments to holders of our stock options made pursuant to anti-dilution provisions in connection with dividends paid to holders of our common stock and legal fees related to dividend recapitalizations.
- (d) Represents expensing of previously unamortized deferred financing fees at time of debt amendments.
- (e) Represents non-cash charges related to stock-based compensation.
- (f) Represents professional fees and expenses associated with strategic acquisitions.
- (g) Represents management fees paid to LGP in accordance with our management services agreement, which will terminate on the consummation of this offering.
- (h) Represents the difference between cash paid for rent and GAAP rent expense (per ASC 840 for 2010-2019 and per ASC 842 in 2020).
- (i) Consists of other non-recurring or discrete items as determined by management not to be reflective of our ongoing operating performance, such as transaction costs; personnel-related costs such as severance costs; legal settlements and legal fees related to contract terminations; and non-recurring strategic project costs.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with "Selected Consolidated Financial and Other Data" and our consolidated financial statements and related notes and unaudited condensed consolidated financial statements and related notes included elsewhere in this prospectus. This discussion contains forward-looking statements based upon current plans, expectations and beliefs involving risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Risk Factors" and in other parts of this prospectus.

Who We Are

Mister Car Wash is the largest national car wash brand, offering express exterior and interior cleaning services to customers across 344 car wash locations in 21 states, as of March 31, 2021. Founded in 1996, we employ an efficient, repeatable and scalable process, which we call the "Mister Experience," to deliver a clean, dry and shiny car every time. The core pillars of the "Mister Experience" are greeting every customer with a wave and smile, providing them the highest quality car wash and delivering the experience quickly and conveniently. We offer a monthly subscription program, which we call Unlimited Wash Club ("UWC"), as a flexible, quick and convenient option for customers to keep their cars clean. As of March 31, 2021, we had 1.4 million UWC Members, and, in 2020 and the first quarter of 2021, UWC sales represented 62% and 62% of our total wash sales and 68% and 70% of our total wash volume, respectively. Our scale and 25 years of innovation allow us to drive operating efficiencies and invest in training, infrastructure and technology that improve speed of service, quality and sustainability and realize strong financial performance.

UWC is our all-you-can-wash subscription program for a flat monthly fee. We employ a "member-centric" business model that is focused on providing easy, convenient and fast car washes. Over the last several years we have added dedicated member-only lanes and adopted radio-frequency identification ("RFID") technology for our UWC Members to enable quick, contactless and convenient trips. In 2020, the average UWC Member washed their car over 30 times, which we believe is significantly more than the average car wash user. Increased UWC membership provides us consistent, visible and recurring revenue while improving customer loyalty. We have grown the UWC program from representing 30% of our total wash sales in 2015 to 62% of our total wash sales in the first quarter of 2021, and despite the COVID-19 pandemic, we grew UWC membership by approximately 247,000 members in 2020.

We are the largest national car wash brand based on number of locations, having grown from 65 locations in 2010 to 344 locations as of March 31, 2021. We operate two location formats: (i) Express Exterior Locations, which offer express exterior cleaning services, and (ii) Interior Cleaning Locations, which offer both express exterior and interior cleaning services. Our Express Exterior Locations comprise 263 of our current locations and represent all of our historical and projected greenfield growth. We have 81 Interior Cleaning Locations that serve as a fertile training ground for our operations and generate strong cash flows. In 2018, we launched our greenfield development strategy to expand the number of our Express Exterior Locations, opening our first location in Urbandale, Iowa. We have opened a total of 22 greenfield locations and have invested meaningfully in our greenfield development team, systems and capabilities. Our greenfield performance has been consistently strong over time. To date, we have been able to generate enough income from our existing greenfield locations to pay back our initial net capital investments in these locations within approximately three years of their operations. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide and have a strong development pipeline for future locations.

We believe Mister Car Wash offers an affordable, feel-good experience, enjoyed by all who value a clean, dry and shiny car. Our car wash experience has broad demographic appeal and the price of our typical base exterior car wash is approximately \$8. As we continue to grow and serve more of the approximately 273 million

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registered vehicles in the United States, as of year end 2020, we are dedicated to putting our team members first and delivering a consistent, convenient and high quality car wash experience at scale.

Factors Affecting Our Business and Trends

We believe that our business and growth depend on a number of factors that present significant opportunities for us and may pose risks and challenges, including those discussed below and in the section of the prospectus titled “Risk Factors.”

- *Growth in comparable store sales.* Comparable store sales have been a strong driver of our net revenue growth and we expect it to continue to play a key role in our future growth and profitability. We will seek to continue to grow our comparable store sales by increasing the number of UWC Members, increasing efficiency and throughput of our car wash locations, increasing marketing spend to add new customers and increasing customer visitation frequency.
- *Number and loyalty of UWC Members.* The UWC subscription program is a critical element of our business. UWC Members contribute a significant portion of our net revenue and provide recurring revenue through their monthly membership fees. Our subscription business model is a key driver of our growth and allows us to capture a significant amount of data about our members, which we utilize to optimize our service offerings and user engagement.
- *Labor management.* Hiring and retaining skilled team members and experienced management represents one of our largest costs. We believe people are the key to our success and we have been able to successfully attract and retain engaged, high-quality team members by paying them competitive wages, offering them attractive benefit packages and providing robust training and development opportunities. While the competition for skilled labor is intense and subject to high turnover, we believe our approach to wages and benefits will continue to allow us to attract suitable team members and management to support our growth.
- *Macroeconomic trends.* Macroeconomic factors may affect consumer spending patterns and thereby our results of operations. These factors include general economic conditions, consumer confidence, employment rates, business conditions, changes in the housing and new vehicle markets, the availability of credit, interest rates, tax rates and fuel and energy costs.

Factors Affecting the Comparability of Our Results of Operations

Our results have been affected by, and may in the future be affected by, the following factors, which must be understood in order to assess the comparability of our period-to-period financial performance and condition.

Impact of COVID-19

At the onset of the COVID-19 pandemic in March and April 2020, to ensure the safety of our team members and customers and in compliance with local regulations, we made the decision to temporarily suspend operations at more than 300 of our locations and pause UWC membership billing. During this period, we upgraded our safety protocols and modified our operating model by temporarily suspending all interior cleaning services from locations offering those services. While our operations were suspended, we furloughed approximately 5,500 of our hourly car wash team members. Furloughed team members were not paid by us unless they elected to use accrued paid time off; however, we did continue to provide benefits coverage to any team member who was enrolled at the time of furlough. The suspension of our operations negatively impacted our net revenues, but improved our net income margin and Adjusted EBITDA margin as express exterior cleaning services are less labor intensive compared to interior cleaning services. We also proactively undertook several measures to augment our liquidity, such as drawing on our Revolving Credit Facility, requesting rent deferrals, suspending all acquisition activity, and pausing all greenfield initiatives.

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By the end of May 2020, all of our locations were safely reopened and offering express exterior cleaning services, including exterior only services at Interior Cleaning Locations, and we had surpassed all-time highs in UWC membership. By the end of 2020, we also paid back 100% of our deferred rent and successfully resumed both greenfield initiatives and acquisition activity. Although our actions at the beginning of the COVID-19 pandemic impacted our financial results in 2020, we believe that our people-first approach engendered goodwill and loyalty among our team members and our customers, and allowed us to emerge an even stronger business.

Keeping our customers and team members safe has always been the highest priority for Mister Car Wash. We have been closely monitoring the national and local government health guidelines in each of our communities, and we have proactively implemented extensive measures in response to COVID-19 throughout our business operations, including:

- requiring team members to wear additional protective gear, including gloves, face shields and safety glasses;
- regular cleaning and sanitizing of high touch areas;
- requiring all team members to practice safe social distancing at our kiosks and in our interior cleaning lanes;
- updates to our lobby configurations at our Interior Cleaning Locations to allow customers to keep a safe distance;
- transitioning to completely cashless transactions;
- cleaning kiosks and tablets after each credit card transaction; and
- eliminating all remaining hand towel drying at the end of the tunnel.

Given the unpredictable nature of this situation, we cannot estimate with certainty the long-term impacts of the COVID-19 pandemic on our business, financial condition, results of operations, and cash flows. Although the future economic environment is uncertain, we are confident in our ability to continue to provide car wash services to our customers, and we remain committed to serving our customers as we continue to navigate the public health challenge of COVID-19.

We are closely monitoring the impact of COVID-19 on all aspects of our business and in all of our locations. See “Risk Factors—Risks Relating to Our Business— The ongoing COVID-19 pandemic has materially and adversely affected our business, financial condition and results of operations and may continue to do so.”

Greenfield Location Development

Our primary historical growth strategy has involved acquiring local and regional car wash operators, upgrading the facilities and equipment, training the team to provide the “Mister Experience,” and converting the site to the “Mister” brand. More recently, we have also grown through greenfield development of Mister Car Wash locations and anticipate pursuing this strategy more in the future. We have successfully opened 22 greenfield locations, with the expectation of driving the majority of our location growth through greenfield locations on a go-forward basis. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide. Developing new locations may impact our operations going forward as we enter new markets and build out existing markets. Additionally, we expect to focus our greenfield development efforts on opening Express Exterior Locations. We believe such strategy will drive improvements in our net income margins and Adjusted EBITDA margins as express exterior cleaning services are less labor intensive compared to interior cleaning services.

The comparability of our results may be impacted by the inclusion of financial performance of greenfield locations that have not delivered a full fiscal year of financial results nor ramped to more mature average unit volumes, which we typically expect after approximately three full years of operation.

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Business Acquisitions

In 2020, we made four acquisitions for a total of \$33.6 million, including the acquisition of Bush Car Wash, a chain of seven locations in Washington, doubling our footprint in the state. We also added two locations in Orlando, Florida and one location in Austin, Texas. The number of acquisitions we pursue may vary from period to period.

In the three months ended March 31, 2021, we completed one acquisition including four properties that operated previously as car washes. Two were conveyor car washes and two were self-serve washes. Once renovated and converted to the Mister brand, we will reopen the conveyor car washes and they will be included in our store count. The real property and any improvements to the self-serve locations will be subsequently sold.

Upon acquisition, we implement a variety of operational improvements to unify branding and enhance profitability. We fully integrate and transition acquired locations to the “Mister” brand and make investments to improve site flow, upgrade tunnel equipment and technology, and install our proprietary Unity Chemical system, which is a unique blend of our signature products utilizing the newest technology and services to make our customers car wash experience better for their vehicle and the environment. We also establish member-only lanes, optimize service offerings and implement training initiatives that we have successfully utilized to improve team member engagement and drive UWC growth post-acquisition. The costs associated with these onboarding initiatives, which vary by each site, can impact the comparability of our results.

The comparability of our results may also be impacted by the inclusion of financial performance of our acquisitions that have not delivered a full fiscal year of financial results under Mister Car Wash’s ownership.

Divestitures

In December 2020, we completed the divestment of 27 quick lube facilities to Valvoline LLC. Our approximately 250 quick lube facility team members also transitioned to Valvoline after completion of the transaction. Concurrent with this divestiture, we also permanently closed four quick lube facilities that were co-located with our car washes. As a result, we closed or sold all of our quick lube facilities as of December 31, 2020. This divestment did not meet the criteria to be reported as a discontinued operation and accordingly its results of operations have not been reclassified. We recognized a gain of \$29.8 million for the year ended December 31, 2020. See *Note 16. Dispositions* in the notes to our audited consolidated financial statements included elsewhere in this prospectus.

Total revenues for our quick lube facilities were \$32.2 million and \$23.8 million for the years ended December 31, 2019 and 2020, respectively, representing a decrease of \$8.5 million, or 26.4%. Operating income for our quick lube facilities was \$4.3 million and \$1.0 million for the years ended December 31, 2019 and 2020, respectively.

	Year Ended December 31,	
	2019	2020
	(in thousands)	
Revenues, net	\$ 32,231	\$ 23,757
Cost of labor and chemicals	19,683	14,774
Other store operating expenses	7,533	6,569
General and administrative	—	—
Loss on sale of assets	749	1,380
Total costs and expenses	27,966	22,723
Operating income	<u>\$ 4,265</u>	<u>\$ 1,033</u>

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In the three months ended March 31, 2021, we did not consummate any significant divestitures.

Key Performance Indicators

We prepare and analyze various operating and financial data to assess the performance of our business and allocate our resources. The key operating performance and financial metrics and indicators we use are set forth below, as of and for the years ended December 31, 2019 and 2020 and as of and for the three months ended March 31, 2020 and 2021.

	Year Ended December 31,		Three Months Ended	
	2019	2020	2020	March 31, 2021
Financial and Operating Data				
Location count (end of period)	322	342	327	344
Comparable store sales growth	10%	(11)%	(2)%	19%
UWC Members (in thousands)	986	1,233	1,033	1,391
UWC sales as percentage of total wash sales	53%	62%	57%	62%
Net income	\$ 920	\$ 60,403	\$ 8,860	\$ 24,584
Net income margin	0.1%	10.5%	5.7%	14.0%
Adjusted EBITDA (in thousands)	\$ 163,217	\$ 161,084	\$ 40,070	\$ 61,472
Adjusted EBITDA margin	25.9%	28.0%	25.8%	35.0%

For a reconciliation of Adjusted EBITDA to net income, the most directly comparable GAAP measure, see “Selected Consolidated and Other Financial Data.”

Location Count (end of period)

Our location count refers to the total number of car wash locations at the end of a period, inclusive of new greenfield locations, acquired locations and closed locations. The total number of locations that we operate, as well as the timing of location openings, acquisitions and closings, have, and will continue to have, an impact on our performance. In fiscal year 2019, we increased our location count by 35 locations, including four greenfield locations and 32 acquired locations, offset by one closed location. In fiscal year 2020, despite the challenging COVID-19 environment, we increased our location count by 20 locations, including 12 greenfield locations and 10 acquired locations, offset by two closed locations. In the three months ended March 31, 2021, we increased our location count by two locations, both of which were greenfield locations.

Comparable Store Sales Growth

A location is considered a comparable store on the first day of the 13th full calendar month following a location’s first day of operations. A location converted from an Interior Cleaning Location to an Express Exterior Location format is excluded when the location did not offer interior cleaning services in the current period but did offer interior cleaning services in the prior year period. Comparable store sales growth is the percentage change in total wash sales of all comparable store car washes.

Opening new locations is a primary component of our growth strategy and as we continue to execute on our growth strategy, we expect that a significant portion of our sales growth will be attributable to non-comparable store sales. Accordingly, comparable store sales are only one measure we use to assess the success of our growth strategy.

We have historically delivered consistent long-term growth across geographies and vintage cohorts. From 2017 through 2019, all regions and vintage cohorts delivered positive comparable store sales growth. Prior to 2020, we achieved 39 consecutive quarters of positive comparable store sales growth, averaging 9% annually from 2010 to 2019.

In 2020, at the onset of the COVID-19 pandemic in March and April 2020, we temporarily suspended operations at more than 300 of our locations. By the end of May 2020, all of our locations were safely reopened and

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offering express exterior cleaning services and we had surpassed all-time highs in UWC membership, although our comparable store sales performance remained impacted by the ongoing suspension of interior cleaning services, which carry higher average revenue per car, through August 2020 when interior cleaning services were reintroduced. Overall, due to the temporary store closures and the decline in interior cleaning services, our 2020 comparable store sales declined (11)%. Excluding the period of temporary suspension of operations, our Express Exterior Locations averaged high single-digit positive comparable store sales growth for the year ended December 31, 2020, while comparable store sales declined at our Interior Cleaning Locations largely due to a mix shift toward lower revenue per car exterior cleaning services.

UWC Members

Members of our monthly subscription service are known as Unlimited Wash Club members, or UWC Members. We view the number of UWC Members and the growth in the number of UWC Members on a net basis from period to period as key indicators of our revenue growth. The number of members has grown over time as we acquired new customers and retained previously acquired customers. There were approximately 1.0 million and 1.2 million UWC Members as of December 31, 2019 and December 31, 2020, respectively. There were approximately 1.4 million UWC Members as of March 31, 2021. Our UWC program grew by approximately 247,000 UWC Members, or approximately 25.0%, from 2019 to 2020. Our UWC program grew by approximately 158,000 UWC Members, or approximately 13%, from December 31, 2020 through March 31, 2021.

UWC Sales as a Percentage of Total Wash Sales

UWC sales as a percentage of total wash sales represents the penetration of our subscription membership program as a percentage of our overall wash sales. Total wash sales are defined as the net revenue generated from express exterior and interior cleaning services for both UWC Members and retail customers. UWC sales as a percentage of total wash sales is calculated as net revenue generated from UWC Members as a percentage of total wash sales. We have consistently grown this measure over time as we educate customers as to the value of our subscription offering. UWC sales were 53% and 62% of our total wash sales in 2019 and 2020, respectively, and 62% of our total wash sales for the three months ended March 31, 2021.

Adjusted EBITDA and Adjusted EBITDA Margin

Adjusted EBITDA is a non-GAAP measure of our financial performance and should not be considered as an alternative to net income as a measure of financial performance or any other performance measure derived in accordance with GAAP and should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Adjusted EBITDA is defined as net income before interest expense net, income tax expense (benefit), depreciation and amortization, (gain) loss on sale of assets, gain on sale of quick lube facilities, dividend recapitalization fees and payments, loss on early debt extinguishment, stock-based compensation expense, acquisition expenses, management fees, non-cash rent expense and other non-recurring charges. Adjusted EBITDA margin is defined as Adjusted EBITDA divided by net revenue for a given period.

Our Adjusted EBITDA was approximately \$163 million and \$161 million in 2019 and 2020 and approximately \$40 million and \$62 million in the three months ended March 31, 2020 and 2021, respectively. Our Adjusted EBITDA margin was 25.9% and 28.0% in 2019 and 2020 and 25.8% and 35.0% in the three months ended March 31, 2020 and 2021, respectively. The Adjusted EBITDA and Adjusted EBITDA margin results in 2020 are attributable to the impacts of COVID-19, the mix shift to exterior cleaning services, changes to our labor staffing model, other improvements in store operating costs and the divestiture of our quick lube facilities. The increases experienced in the three months ended March 31, 2021 compared to the prior year period are primarily attributable to our car wash locations remaining open and operating for the entirety of the three months ended March 31, 2021 and the increase in the number of UWC Members participating in our UWC program. For a reconciliation of Adjusted EBITDA to net income and of Adjusted EBITDA margin to net income margin, the most directly comparable GAAP measures, see "Selected Consolidated and Other Financial Data."

Components of Our Results of Operations

Revenues, net

We recognize revenue in two main streams: (i) an Unlimited Wash Club program that entitles the customer to unlimited washes for a monthly subscription fee, cancellable at any time and (ii) retail car wash and other services. In the UWC program, we enter into a contract with the customer that falls under the definition of a customer contract under ASC 606, *Revenue from contracts with customers*. Customers are automatically charged on a credit or debit card on the same date of the month that they originally signed up. Our performance obligations are to provide unlimited car wash services for a monthly fee. The UWC revenue is recognized ratably over the month in which it is earned and amounts unearned are recorded as deferred revenue on the consolidated balance sheets. All amounts recorded as deferred revenue at year end are recognized as revenue in the following year. Revenue from car wash and quick lube services is recognized at the point in time services are rendered and the customer pays with cash or credit. Revenues are net of sales tax, refunds and discounts applied as a reduction of revenue at the time of payment.

Store Operating Costs

Store operating costs consist of cost of labor and chemicals and other car wash store operating expenses.

Cost of Labor and Chemicals

Cost of labor and chemicals include labor costs associated with car wash employees, maintenance employees, warehouse employees, and chemicals and associated supplies. The related employee benefits for the aforementioned employees, such as taxes, insurance and workers compensation, are also included in the cost of labor and chemicals.

Other Store Operating Expenses

Other store operating expenses includes all other costs related to the operations of car wash and warehouse locations such as credit card fees, car damages, office and lobby supplies, information technology costs associated with the locations, telecommunications, advertising, non-healthcare related insurance, rent, repairs and maintenance related to held-for-use assets, utilities, property taxes, and depreciation on held-for-use assets at the car wash and warehouse locations.

General and Administrative

General and administrative expenses include salaries and related benefits of headquarter employees, information technology expenses, administrative office expenses, professional services and other related expenses, depreciation on held-for-use assets used at our headquarters, and amortization of our intangible assets.

Following our initial public offering, we expect to incur significant expenses on an ongoing basis that we did not incur as a private company. Those costs include additional director and officer liability insurance expenses, as well as third-party and internal resources related to accounting, auditing, Sarbanes-Oxley Act compliance, legal, and investor and public relations expenses. We expect such expenses to further increase after we are no longer an emerging growth company. These costs will generally be expensed under general and administrative in the consolidated statement of operations included elsewhere in this prospectus.

Upon the completion of this offering, we will recognize stock-based compensation expense of \$ million in connection with the vesting of stock-based compensation awards with performance-based vesting conditions. The remaining stock-based compensation expense of \$ million for stock-based compensation awards with unvested service-based vesting conditions at the time of initial public offering will be expensed upon vesting.

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Loss (Gain) on Sale of Assets

Loss (gain) on sale of assets includes gains or losses on the sale-leaseback of our locations, sale of property and equipment, and the gain on our sale of the quick lube facilities in December 2020.

Interest Expense, net

Interest expense, net consists primarily of cash and non-cash interest on borrowings, partially offset by interest earned on our cash.

Loss on Extinguishment of Debt

Loss on extinguishment of debt includes net loss related to various changes in our existing term loans. Analysis is performed to determine the portion of the change that is a modification or extinguishment of creditor holdings.

Income Tax (Benefit) Provision

We recognize deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized differently in the financial statements or tax returns. Under this method, deferred tax liabilities and assets are determined based on the difference between the financial statement carrying amounts and tax basis of assets and liabilities using enacted tax rates.

We have adopted a more-likely-than-not threshold for financial statement recognition and measurement of an uncertain tax position taken or expected to be taken in a tax return. We recognize interest and penalties related to uncertain tax (benefit) positions in income tax provision and general and administrative, respectively, in our consolidated statement of operations and comprehensive income.

Results of Operations for the Three Months Ended March 31, 2020 and 2021 (Unaudited)

The unaudited results of operations data for the three months ended March 31, 2020 and 2021 have been derived from the unaudited condensed consolidated financial statements included elsewhere in this prospectus.

	Three Months Ended March 31,			
	2020		2021	
	Amount	% of Revenue	Amount	% of Revenue
	(dollars in thousands)			
Revenues, net	\$155,252	100%	\$175,508	100%
Store operating costs:				
Cost of labor and chemicals	57,570	37%	51,749	29%
Other store operating expenses	58,473	38%	61,083	35%
General and administrative	12,959	8%	14,961	9%
Loss on sale of assets	343	0%	790	0%
Total costs and expenses	129,345	83%	128,583	73%
Operating income	25,907	17%	46,925	27%
Other expense:				
Interest expense, net	17,195	11%	13,959	8%
Loss on extinguishment of debt	1,918	1%	—	0%
Total other expense	19,113	12%	13,959	8%
Income before taxes	6,794	4%	32,966	19%
Income tax (benefit) provision	(2,066)	(1)%	8,382	5%
Net income	8,860	6%	24,584	14%

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Revenues, net

	Three Months Ended March 31,		\$	% Change
	2020	2021		
	(dollars in thousands)			
Revenues, net	\$ 155,252	\$ 175,508	\$20,256	13%

Revenues were \$155.3 million for the three months ended March 31, 2020 compared to \$175.5 million for the three months ended March 31, 2021, an increase of \$20.3 million, or 13%. The increase in revenues was primarily attributable to an increase of \$27.2 million in car wash revenue and offset by a \$7.0 million decrease in oil change revenue as a result of our disposition of our quick lube facilities in December 2020. The increase in car wash revenue was largely attributable to volume increases, which is demonstrated by increases in comparable store sales growth from (2)% in the three months ended March 31, 2020 to 19% in the three months ended March 31, 2021, as well as the increase in UWC Members from approximately 1,033,000 to approximately 1,391,000. We estimate that the temporary suspension of our services beginning in March 2020 in response to the rapid onset of the COVID-19 pandemic produced a downward impact on revenue for the three months ended March 31, 2020 of approximately \$20.5 million.

Store Operating Costs

Cost of Labor and Chemicals

	Three Months Ended March 31,		\$ Change	% Change
	2020	2021		
	(dollars in thousands)			
Cost of labor and chemicals	\$ 57,570	\$ 51,749	\$ (5,821)	(10)%
Percentage of revenues, net	37%	29%		

Cost of labor and chemicals was \$57.6 million for the three months ended March 31, 2020 compared to \$51.7 million for the three months ended March 31, 2021. The cost of labor and chemicals as a percentage of total revenue decreased from 37% for the three months ended March 31, 2020 to 29% for the three months ended March 31, 2021. The decrease of \$5.8 million, or 10%, was primarily driven by a decrease in labor and benefits of \$4.7 million due to optimizing the wash labor model and the sale of the quick lube locations partially offset by the increase in wash volume. Chemicals (oil) also decreased \$1.1 million due to the sale of the quick lube locations, partially offset by chemical cost associated with the increase in wash volume.

Other Store Operating Expenses

	Three Months Ended March 31,		\$ Change	% Change
	2020	2021		
	(dollars in thousands)			
Other store operating expenses	\$ 58,473	\$ 61,083	\$ 2,610	4%
Percentage of revenues, net	38%	35%		

Other store operating expenses were \$58.5 million for the three months ended March 31, 2020 compared to \$61.1 million for the three months ended March 31, 2021. The increase of \$2.6 million, or 4%, was primarily attributed to an increase of \$2.4 million in 2021 in expense due to increased volumes combined with an increase in occupancy cost of \$1.5 million primarily related to the net addition of 19 new leases, offset by a \$1.3 million decrease due to the disposition of the quick lube locations.

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General and Administrative

	Three Months Ended March 31,		\$ Change	% Change
	2020	2021		
	(dollars in thousands)			
General and administrative	\$ 12,959	\$ 14,961	\$ 2,002	15%
Percentage of revenues, net	8%	9%		

General and administrative expenses were \$13.0 million for the three months ended March 31, 2020 compared to \$15.0 million for the three months ended March 31, 2021. The increase of \$2.0 million, or 15%, was primarily attributable to an increase in 2021 expenses due to the 2020 impacts of the pandemic related to the furlough of corporate employees, temporary reduction in pay, temporary closure of corporate offices and overall reduction in expenses.

Loss on Sale of Assets

	Three Months Ended March 31,		\$ Change	% Change
	2020	2021		
	(dollars in thousands)			
Loss on sale of assets	\$ 343	\$ 790	\$ 447	130%
Percentage of revenues, net	0%	0%		

Loss on sale of assets was \$0.3 million for the three months ended March 31, 2020 compared to \$0.8 million for the three months ended March 31, 2021. The increase of \$0.5 million, or 130%, resulted from increases in losses associated with our sale-leaseback transactions and disposals of held-for-use assets.

Other Expense

	Three Months Ended March 31,		\$ Change	% Change
	2020	2021		
	(dollars in thousands)			
Other Expense Income	\$ (19,113)	\$ (13,959)	\$ 5,154	27%
Percentage of revenues, net	12%	8%		

Other expense was \$19.1 million for the three months ended March 31, 2020 compared to \$14.0 million for the three months ended March 31, 2021. The decrease of \$5.1 million, or 27%, was driven by a \$1.9 million loss on extinguishment of debt during the three months ended March 31, 2020 in connection with the February 2020 amendment to our First Lien Credit Agreement and a decrease of \$3.2 million in interest expense, net associated with a decrease in interest rates on our First Lien Term Loan and Second Lien Term Loan, as well as a reduction in our outstanding borrowings under the Revolving Credit Facility.

Income Tax (Benefit) Provision

	Three Months Ended March 31,		\$ Change	% Change
	2020	2021		
	(dollars in thousands)			
Income tax (benefit) provision	\$ (2,066)	\$ 8,382	\$ 10,448	(506)%
Percentage of revenues, net	(1)%	5%		

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Income tax (benefit) provision reflected a benefit of (\$2.0) million for the three months ended March 31, 2020 compared to a provision of \$8.4 million for the three months ended March 31, 2021. The increase of \$10.4 million was driven by the increase in income before taxes and offset by tax benefits associated with the CARES Act.

Results of Operations for the Years Ended December 31, 2019 and 2020

The results of operations data for the years ended December 31, 2019 and 2020 have been derived from the audited consolidated financial statements included elsewhere in this prospectus.

	Year Ended December 31,			
	2019	% of	2020	% of
	Amount	Revenue	Amount	Revenue
	(dollars in thousands)			
Revenues, net	\$629,528	100%	\$574,941	100%
Store operating costs:				
Cost of labor and chemicals	243,912	39%	193,971	34%
Other store operating expenses	224,402	36%	224,419	39%
General and administrative	84,806	13%	51,341	9%
Loss (gain) on sale of assets	1,345	0%	(37,888)	(7)%
Total costs and expenses	554,465	88%	431,843	75%
Operating income	75,063	12%	143,098	25%
Other (expense) income, net:				
Interest expense, net	(67,610)	(11)%	(64,009)	(11)%
Loss on extinguishment of debt	(9,169)	(1)%	(1,918)	0%
Total other (expense) income, net	(76,779)	(12)%	(65,927)	(11)%
(Loss) income before taxes	(1,716)	0%	77,171	13%
Income tax (benefit) provision	(2,636)	0%	16,768	3%
Net income	\$ 920	0%	\$ 60,403	11%

Revenues, net

	Year Ended December 31,		\$ Change	% Change
	2019	2020		
	(dollars in thousands)			
Revenues, net	\$629,528	\$574,941	\$(54,587)	(9)%

Revenues were \$629.5 million for the year ended December 31, 2019, compared to \$574.9 million for the year ended December 31, 2020, a decrease of \$54.6 million, or 9%. The decline in revenues in 2020 was primarily attributable to actions taken in response to the COVID-19 pandemic, including our temporary suspension of operations at more than 300 car wash locations late in the first quarter of 2020 and the first half of the second quarter of 2020 as well as the temporary removal of all interior cleaning services through August 2020. Revenues were also impacted by the divestiture of our quick lube facilities. Our comparable store sales growth for the year ended December 31, 2019 was 10%, compared to (11)% for the year ended December 31, 2020. Excluding the period of temporary suspension of operations, our Express Exterior Locations averaged high single-digit positive comparable store sales growth for the year ended December 31, 2020, while our Interior Cleaning Locations declined largely due to a mix shift toward lower revenue per car exterior cleaning services.

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Store Operating Costs

Cost of Labor and Chemicals

	Year Ended December 31,		\$ Change	% Change
	2019	2020		
	(dollars in thousands)			
Cost of labor and chemicals	\$ 243,912	\$ 193,971	\$(49,941)	(20)%
Percentage of revenues, net	39%	34%		

The cost of labor and chemicals was \$243.9 million for the year ended December 31, 2019 compared to \$194.0 million for the year ended December 31, 2020. The decrease of \$49.9 million, or 20%, was mainly driven by the decrease in volume due to the COVID-19 pandemic. The cost of labor and chemicals as a percentage of total revenue decreased from 39% in 2019 to 34% in 2020. This decrease was due to the permanent redesign of our labor model and the shift from interior cleaning services to express exterior cleaning services.

During the COVID-19 pandemic, we redesigned our labor staffing model to be based on location-level demand metrics, such as wash volumes, wait times, and peak hour needs. This adaptability enabled us to recalibrate our headcount without compromising our high standards of operational excellence. Our car wash labor, payroll taxes, and benefits decreased \$40.0 million from 2019 to 2020.

Other Store Operating Expenses

	Year Ended December 31,		\$ Change	% Change
	2019	2020		
	(dollars in thousands)			
Other store operating expenses	\$ 224,402	\$ 224,419	\$ 17	0%
Percentage of revenues, net	36%	39%		

Other store operating expenses were \$224.4 million for the year ended December 31, 2019, compared to \$224.4 million for the year ended December 31, 2020. The results were driven by a decrease in expenses due to the impacts of the pandemic of \$5.1 million on variable operating expenses. This was partially offset by an increase in occupancy cost of \$5.7 million with the addition of 20 net new locations.

General and Administrative

	Year Ended December 31,		\$ Change	% Change
	2019	2020		
	(dollars in thousands)			
General and administrative	\$ 84,806	\$ 51,341	\$(33,465)	(39)%
Percentage of revenues, net	13%	9%		

General and administrative expenses were \$84.8 million for the year ended December 31, 2019 compared to \$51.3 million for the year ended December 31, 2020. The decrease of \$33.5 million, or 39%, was primarily driven by \$29.3 million one-time payments made to option holders, including related fees and expenses, in connection with the dividend recapitalization transaction in May 2019.

Loss (Gain) on Sale of Assets

	Year Ended December 31,		\$ Change
	2019	2020	
	(dollars in thousands)		
Loss (gain) on sale of assets	\$ 1,345	\$ (37,888)	\$(39,233)
Percentage of revenues, net	0%	(7)%	

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Loss (gain) on sale of assets reflected a loss of \$1.3 million for the year ended December 31, 2019 compared to a gain of \$37.9 million for the year ended December 31, 2020. The gain on sale of assets in 2020 was attributable to the sale of our quick lube facilities and upon adoption of ASC 842 in January 2020, gains from sale-leaseback transactions are recognized rather than deferred and amortized under previous lease guidance.

Other (Expense) Income, Net

	Year Ended December 31,		\$ Change	% Change
	2019	2020		
	(dollars in thousands)			
Other expense, net	\$ (76,779)	\$ (65,927)	\$ 10,852	(14)%
Percentage of revenues, net	(12)%	(11)%		

Other expense, net reflected an expense of \$76.8 million for the year ended December 31, 2019 compared to an expense of \$65.9 million for the year ended December 31, 2020. The decrease of \$10.9 million, or 14%, was driven by a \$9.2 million loss on debt extinguishment in the year ended December 31, 2019 because of the dividend recapitalization in 2019, compared to a \$1.9 million loss on debt extinguishment for the year ended December 31, 2020.

Income Tax Provision (Benefit)

	Year Ended December 31,		\$ Change
	2019	2020	
	(dollars in thousands)		
Income tax (benefit) provision	\$ (2,636)	\$ 16,768	\$ 19,404
Percentage of revenues, net	0%	3%	

Income tax (benefit) provision reflected a benefit of \$2.6 million for the year ended December 31, 2019 compared to a provision of \$16.8 million for the year ended December 31, 2020. The increase of \$19.4 million was driven by the increase in income before taxes and offset by benefits associated with the CARES Act.

Liquidity and Capital Resources

Funding Requirements

Our primary requirements for liquidity and capital are to fund our investments in our core business, pursue greenfield expansion and acquisitions and to service our indebtedness. Historically, these cash requirements have been met through funds raised by the sale of common equity, utilization of our Revolving Credit Facility, First Lien Term Loan, Second Lien Term Loan, sale-leaseback transactions and cash provided by operations. As of December 31, 2019 and December 31, 2020, we had cash and cash equivalents of \$6.4 million and \$114.6 million, respectively, and \$60.5 million and \$75.0 million, respectively, of available borrowing capacity under our Revolving Credit Facility. As of March 31, 2021, we had cash and cash equivalents of \$135.3 million and \$75.0 million of available borrowing capacity under our Revolving Credit Facility. For a description of our Credit Facilities, please see the section of this prospectus titled "Description of Certain Indebtedness." As of March 31, 2021, we were in compliance with the covenants under our Credit Facilities and we expect to comply with our covenants in the next 12 months from the issuance date of the financial statements.

We believe that our sources of liquidity and capital, including proceeds from this offering, will be sufficient to finance our growth strategy and resulting operations, planned capital expenditures and the additional expenses we expect to incur as a public company for at least the next twelve months. However, we cannot assure you that cash provided by operating activities or cash and cash equivalents will be sufficient to meet our future needs. If we are unable to generate sufficient cash flows from operations in the future, we may have to obtain additional

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financing. If we obtain additional capital by issuing equity, the interests of our existing stockholders will be diluted. If we incur additional indebtedness, that indebtedness may contain significant financial and other covenants that may significantly restrict our operations. We cannot assure you that we could obtain additional financing on favorable terms or at all.

Cash Flows for the Three Months Ended March 31, 2020 and 2021 (Unaudited)

The following table shows summary cash flow information for the three months ended March 31, 2020 and 2021:

	Three Months Ended March 31,	
	2020	2021
	(in thousands)	
Net cash provided by operating activities	\$ 17,721	\$ 51,589
Net cash used in investing activities	(22,774)	(28,710)
Net cash provided by (used in) financing activities	103,702	(2,332)
Net increase in cash and cash equivalents, and restricted cash	<u>\$ 98,649</u>	<u>\$ 20,547</u>

Operating Activities. Net cash used in operating activities consists of net income adjusted for certain non-cash items, including stock-based compensation expense, property and equipment depreciation, gains on disposal of property and equipment, amortization of leased assets and deferred income taxes, as well as the effect of changes in other working capital amounts.

For the three months ended March 31, 2020, net cash provided by operating activities was \$17.6 million and was comprised of net income of \$8.9 million, increased by \$29.5 million related to non-cash adjustments, comprised primarily of depreciation and amortization, non-cash lease expense, deferred taxes, and a loss on extinguishment of debt. Changes in working capital increased cash provided by operating activities by \$20.7 million, primarily due to decreases in the operating lease liability, prepaid expenses and other current assets, accrued expenses and deferred revenue, partially offset by increases in accounts receivable, net and accounts payable.

For the three months ended March 31, 2021, net cash provided by operating activities was \$51.6 million and was comprised of net income of \$24.6 million, increased by \$28.9 million related to non-cash adjustments, comprised primarily of depreciation and amortization, non-cash lease expense, and deferred taxes. Changes in working capital decreased cash provided operating activities by \$1.9 million, primarily due to decreases in the operating lease liability and accounts receivable, net partially offset by an increase in accounts payable, accrued expenses, and deferred revenue.

Investing Activities. Our net cash used in investing activities primarily consists of purchases and sale of property and equipment and acquisition of other companies.

For the three months ended March 31, 2020, net cash used in investing activities was \$22.7 million and was primarily comprised of purchases of property and equipment to support our greenfield and other initiatives and the acquisition of car washes, partially offset by the sale of property and equipment including sale-leaseback transactions.

For the three months ended March 31, 2021, net cash used in investing activities was \$28.7 million and was primarily comprised of purchases of property and equipment primarily to support our greenfield and other initiatives, partially offset by the sale of property and equipment including sale-leaseback transactions.

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Financing Activities. Our net cash provided by financing activities primarily consists of proceeds and payments on our debt and Revolving Credit Facility.

For the three months ended March 31, 2020, net cash provided by financing activities was \$103.7 million and was primarily comprised of proceeds from borrowings on our Revolving Credit Facility and debt, partially offset by repayments of our Revolving Credit Facility and debt.

For the three months ended March 31, 2021, net cash used in financing activities was \$2.3 million and was primarily comprised of payments on our debt.

Cash Flows for the Years Ended December 31, 2019 and 2020

The following table shows summary cash flow information for the years ended December 31, 2019 and 2020:

	Year Ended December 31,	
	2019	2020
	(in thousands)	
Net cash provided by operating activities	\$ 70,072	\$ 101,846
Net cash used in investing activities	(113,821)	(13,353)
Net cash provided by financing activities	45,399	22,676
Net increase in cash and cash equivalents, and restricted cash	<u>\$ 1,650</u>	<u>\$ 111,169</u>

Operating Activities. Net cash used in operating activities consists of net income adjusted for certain non-cash items, including stock-based compensation expense, property and equipment depreciation, gains on disposal of property and equipment, amortization of leased assets and deferred income taxes, as well as the effect of changes in other working capital amounts.

For the year ended December 31, 2019, net cash provided by operating activities was \$70.1 million and was comprised of net income of \$0.9 million, increased by \$56.5 million related to non-cash adjustments, comprised primarily of depreciation and amortization, loss on extinguishment of debt and deferred rent. Changes in working capital increased cash provided by operating activities by \$12.6 million, primarily due to a decrease in accounts payable, a decrease in accrued expenses and an increase in prepaid expenses and other.

For the year ended December 31, 2020, net cash provided by operating activities was \$101.8 million and was comprised of net income of \$60.4 million, increased by \$67.9 million related to non-cash adjustments, comprised primarily of depreciation and amortization and deferred taxes, offset by gains on the disposal of property and equipment. The gains on sale of property and equipment consists mainly of the sale of the quick lube facilities. Changes in working capital decreased cash used in operating activities by \$26.4 million, primarily due to a decrease in the operating lease liability, deferred revenue and account payable partially offset by the increase in accrued expenses.

Investing Activities. Our net cash used in investing activities primarily consists of purchases and sale of property and equipment and acquisition of other companies.

For the year ended December 31, 2019, net cash used in investing activities was \$113.8 million and was primarily comprised of investment in property and equipment primarily to support our greenfield and other initiatives, and the acquisition of car washes, partially offset by the sale of property and equipment including sale-leaseback transactions.

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For the year ended December 31, 2020, net cash used in investing activities was \$13.4 million and was primarily comprised of investment in property and equipment primarily to support our greenfield and other initiatives, and the acquisition of car washes, partially offset by the sale of property and equipment including sale-leaseback transactions and the sale of our quick lube facilities.

For 2021, we expect to invest approximately \$140 million in capital expenditures, with the majority of expenditures relating to the development and opening of between 16 and 18 total greenfield locations. We also routinely enter into sale-leaseback agreements for our greenfield locations and expect to realize approximately \$50 million to \$60 million in proceeds through these transactions during fiscal year 2021.

Financing Activities. Our net cash provided by financing activities primarily consists of proceeds and payments on our long-term debt and Revolving Credit Facility.

For the year ended December 31, 2019, net cash provided by financing activities was \$45.4 million and was primarily comprised of proceeds from our long-term debt, partially offset by payments of long-term debt, dividends and our revolver.

For the year ended December 31, 2020, net cash provided by financing activities was \$22.7 million and was primarily comprised of proceeds from our long-term debt and revolver, partially offset by payments on our revolver.

Contractual Obligations and Commitments

The following table sets forth our contractual obligations as of December 31, 2020:

	Payments Due by Period				
	Total	Less than 1 Year	1 to 3 Years	4 to 5 Years	More than 5 Years
			(in thousands)		
Long-term debt obligations	\$ 1,070,273	\$ 8,400	\$ 25,200	\$ 16,800	\$ 1,019,873
Finance leases	32,447	1,659	5,139	3,417	22,232
Operating lease commitments	<u>1,129,459</u>	<u>77,533</u>	<u>230,972</u>	<u>106,954</u>	<u>714,000</u>
Total ⁽¹⁾	<u>\$ 2,232,179</u>	<u>\$ 87,592</u>	<u>\$ 261,311</u>	<u>\$ 127,171</u>	<u>\$ 1,756,105</u>

(1) There have been no material changes to our contractual obligations as of March 31, 2021.

Seasonality

Our business model is generally not seasonal in nature. As we have expanded our national footprint to 21 states, the geographic diversity of our locations ensures that we are not subject to the weather patterns of one specific region. The success of the UWC program has further mitigated our seasonality, as members pay on a monthly basis, irrespective of the weather and their usage frequency. As our UWC sales have grown to comprise more than approximately 62% of our total wash sales in fiscal year 2020 and the three months ended March 31, 2021, our financial performance has become more predictable.

Off-Balance Sheet Arrangements

We did not have off-balance sheet arrangements during the periods presented, and we do not currently have, any off-balance sheet financing arrangements or any relationships with unconsolidated entities or financial partnerships, including entities sometimes referred to as structured finance or special purpose entities, that were established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Unaudited Quarterly Results

The following table sets forth certain financial and operating information for each of our fiscal quarters since the second quarter of 2019. We have prepared the following unaudited quarterly financial information on the same basis as our audited consolidated financial statements and have included all adjustments, consisting only of normal recurring adjustments that, in our opinion are necessary to fairly state the financial information set forth in those statements. This information should be read in conjunction with the consolidated financial statements and related notes thereto included elsewhere in this prospectus.

	Three Months Ended							
	June 30, 2019	September 30, 2019	December 31, 2019	March 31, 2020	June 30, 2020	September 30, 2020	December 31, 2020	March 31, 2021
	(dollars in thousands)							
Revenues, net	\$ 158,093	\$ 162,373	\$ 158,258	\$ 155,252	\$ 101,856	\$ 155,796	\$ 162,037	\$ 175,508
Operating income	3,316	27,688	15,856	25,907	4,244	43,203	69,744	46,925
Net (loss) income	(14,771)	7,093	(1,325)	8,860	(8,754)	19,884	40,413	24,584
<i>Net (loss) income margin</i>	(9)%	4%	(1)%	6%	(9)%	13%	25%	14%
Location Count (end of period)	306	309	322	327	327	338	342	344
Comparable Store Sales Growth %	7%	12%	11%	(2)%	(37)%	(6)%	3%	19%
UWC Members (in thousands)	922	956	986	1,033	1,106	1,189	1,233	1,391
UWC sales as a percentage of total wash sales	51%	54%	56%	57%	62%	62%	66%	62%
Adjusted EBITDA	\$ 42,637	\$ 43,995	\$ 35,348	\$ 40,070	\$ 28,154	\$ 43,340	\$ 49,520	\$ 61,472
<i>Adjusted EBITDA Margin</i>	27%	27%	22%	26%	28%	28%	31%	35%
Reconciliation of net income (loss) to Adjusted EBITDA:								
Net (loss) income	\$ (14,771)	\$ 7,093	\$ (1,325)	\$ 8,860	\$ (8,754)	\$ 19,884	\$ 40,413	\$ 24,584
Interest expense, net	18,072	19,099	16,325	17,195	16,229	15,874	14,711	13,959
Income tax expense (benefit)	(9,154)	1,496	856	(2,066)	(3,231)	7,445	14,620	8,382
Depreciation and amortization	9,524	10,416	11,057	10,957	11,140	11,372	11,819	11,650
Loss (gain) on sale of assets (a)	1,112	1,175	(872)	343	167	(4,283)	(4,343)	790
Gain on sale of quick lube facilities (b)	—	—	—	—	—	—	(29,773)	—
Dividend recapitalization fees and payments (c)	24,521	174	4,310	772	—	2	(124)	—
Loss on early debt extinguishment (d)	9,169	—	—	1,918	—	—	—	—
Stock-based compensation expense (e)	415	1,130	436	387	398	403	306	310
Acquisition expenses (f)	660	872	1,727	664	350	551	597	454
Management fees (g)	250	250	250	250	—	—	—	250
Non-cash rent expense (h)	1,114	1,013	1,222	317	11,151	(8,276)	503	378
Nonrecurring expenses (i)	1,725	1,277	1,362	473	704	368	791	715
Adjusted EBITDA	\$ 42,637	\$ 43,995	\$ 35,348	\$ 40,070	\$ 28,154	\$ 43,340	\$ 49,520	\$ 61,472

- (a) Consists of gain or (loss) on disposition of assets associated with store closures or the sale of property and equipment.
- (b) Consists of the gain on sale of the 27 quick lube facilities in December 2020.
- (c) Represents payments to holders of our stock options made pursuant to antidilution provisions in connection with dividends paid to holders of our common stock and legal fees related to dividend recapitalizations.
- (d) Represents expensing of previously unamortized deferred financing fees at time of debt amendments.
- (e) Represents non-cash charges related to stock-based compensation.

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- (f) Represents professional fees and expenses associated with strategic acquisitions.
- (g) Represents management fees paid to LGP in accordance with our management services agreement, which will terminate on the consummation of this offering.
- (h) Represents the difference between cash paid for rent and GAAP rent expense (per ASC 840 for 2019 and per ASC 842 in 2020).
- (i) Consists of other non-recurring or discrete items as determined by management not to be reflective of our core operating performance, such as transaction costs; personnel-related costs such as severance costs; legal settlements and legal fees related to contract terminations; and non-recurring strategic project costs.

Critical Accounting Policies and Estimates

We believe that the following accounting policies involve a high degree of judgment and complexity. Accordingly, these are the policies we believe are the most critical to aid in fully understanding and evaluating our consolidated financial condition and results of our operations. See Note 2 “Summary of Significant Accounting Policies” to our consolidated financial statements and unaudited condensed consolidated financial statements included elsewhere in this prospectus for a description of our other significant accounting policies. The preparation of our consolidated financial statements in accordance with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, expenses and related disclosures of contingent assets and liabilities. We base our estimates on past experience and other assumptions that we believe are reasonable under the circumstances, and we evaluate these estimates on an ongoing basis. Actual results may differ from those estimates.

Our critical accounting policies are those that materially affect our consolidated financial statements and unaudited condensed consolidated financial statements including those that involve difficult, subjective or complex judgments by management. A thorough understanding of these critical accounting policies is essential when reviewing our consolidated financial statements and unaudited condensed consolidated financial statements. We believe that the critical accounting policies listed below are those that are most important to the portrayal of our results of operations or involve the most difficult management decisions related to the use of significant estimates and assumptions as described above.

Revenue Recognition

We use a five-step model to recognize revenue from customer contracts. The five-step model requires that we (i) identify the contract with the customer, (ii) identify the performance obligations in the contract, (iii) determine the transaction price, including variable consideration to the extent that it is probable that a significant future reversal will not occur, (iv) allocate the transaction price to the respective performance obligations in the contract, and (v) recognize revenue when (or as) we satisfy the performance obligation.

We have two primary sources of revenue. First, we offer the UWC to our customers. The UWC entitles a UWC Member to unlimited washes for a monthly fee, cancellable at any time. We enter into a contract with the customer that falls under the definition of a customer contract under ASC 606. UWC Members are automatically charged on a credit or debit card on the same day of the month that they originally signed up. The UWC revenue is recognized ratably over the month in which it is earned and amounts unearned are recorded as deferred revenue on the consolidated balance sheets. All amounts recorded as deferred revenue at month end are recognized as revenue in the following month. Second, revenue from car wash and, prior to 2021, quick lube services is recognized at the point in time services are rendered and the customer pays with cash or credit. Discounts are applied as a reduction of revenue at the time of payment.

We also promote and sell a limited number of prepaid products, which includes car washes, discounted car wash packages and gift cards. We record the sale of these items as deferred revenue which is reduced for estimated breakage. Revenue is recognized based on the terms of the packages and when the prepaid packages or gift cards are redeemed by the customer.

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Leases

We determine if a contract contains a lease at inception. Our material operating leases consist of car wash locations, warehouses and office space. GAAP requires that our leases be evaluated and classified as operating or finance leases for financial reporting purposes. The classification evaluation begins at the commencement date, and the lease term used in the evaluation includes the non-cancellable period for which we have the right to use the underlying asset, together with renewal option periods when the exercise of the renewal option is reasonably certain and failure to exercise such option would result in an economic penalty. Nearly all of our car wash locations and office space leases are classified as operating leases.

We disburse cash for leasehold improvements, furniture and fixtures and equipment to build out and equip our leased premises. Tenant improvement allowance incentives may be available to partially offset the cost of developing and opening the related car washes, pursuant to agreed-upon terms in the respective lease agreements. Tenant improvement allowances can take the form of cash payments upon the opening of the related car washes, full or partial credits against rents otherwise payable by us, or a combination thereof. All tenant improvement allowances received are recorded as a contra operating lease asset and amortized over the term of the lease.

The lease term used for straight-line rent expense is calculated from the commencement date (the date we take possession of the premises) through the lease termination date (including any options where exercise is reasonably certain and failure to exercise such option would result in an economic penalty). The initial lease term of the Company's operating leases ranges from 6 to 50 years. We record rent expense on a straight-line basis beginning on the lease commencement date.

Maintenance, insurance and property tax expenses are generally accounted for on an accrual basis as variable lease costs. We recognize variable lease cost for operating leases in the period when changes in facts and circumstances on which the variable lease payments are based occur. All operating lease rent expense is included in equipment and facilities or general and administrative expense on the consolidated statements of operations and comprehensive income.

We record a lease liability for its operating leases equal to the present value of future payments discounted at the estimated fully collateralized incremental borrowing rate (discount rate) corresponding with the lease term as the rate implicit in our leases is not readily determinable. Our operating lease liability calculation is the total rent payable during the lease term, including rent escalations in which the amount of future rent is certain or fixed on the straight-line basis over the term of the lease (including any rent holiday period beginning upon our possession of the premises, and any fixed payments stated in the lease). A corresponding operating lease asset is also recorded equaling the initial amount of the operating lease liability, plus any lease payments made to the lessor before or at the lease commencement date and any initial direct costs incurred, less any lease incentives received. The difference between the minimum rents paid and the straight-line rent is reflected within the associated operating lease asset.

For certain build-to-suit lease arrangements, we are responsible for the construction of a lessor owned facility using our designs. As construction occurs, we will recognize a construction receivable on its consolidated balance sheets due from the lessor. To the extent costs exceed the amount to be reimbursed by the lessor, we consider such costs prepaid rent, which are added to the associated right-of-use asset once the leases commences.

Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. Additionally, we do not enter into lease transactions with related parties.

We make judgments regarding the reasonably certain lease term for each car wash property lease, which can impact the classification and accounting for a lease as finance or operating and/or escalations in payments that are taken into consideration when calculating straight-line rent, and the term over which leasehold improvements for each car wash are amortized. These judgments may produce materially different amounts of depreciation, amortization and rent expense than would be reported if different assumed lease terms were used.

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In April 2020, the FASB issued a Staff Question-and-Answer to clarify whether lease concessions related to the effects of COVID-19 require the application of the lease modification guidance under the new lease standard, which we adopted on January 1, 2020. We have elected to apply the temporary practical expedient and not treat changes to certain leases due to the effects of COVID-19 as modifications for leases where the total payments were substantially the same as the existing leases.

Intangible Assets

Long-lived assets, such as property and equipment and intangible assets, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset or asset group be tested for possible impairment, we first compare undiscounted cash flows expected to be generated by that asset or asset group to its carrying amount. If the carrying amount of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined using various valuation techniques including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary. No impairment losses associated with our long-lived assets were recognized during the years ended December 31, 2019 and December 31, 2020 or the three months ended March 31, 2021.

Goodwill

Goodwill represents the excess of cost over the fair value of the net tangible and identifiable intangible assets acquired in a business combination. Goodwill is tested for impairment at the reporting unit level annually on October 31 or more frequently if events or changes in circumstances indicate that the asset may be impaired. We first assess qualitative factors to determine whether events or circumstances existed that would lead us to conclude it is more likely than not that the fair value of the reporting unit is below its carrying amount. If we determine that it is more likely than not that the fair value of the reporting unit is below the carrying amount, a quantitative goodwill assessment is required. In the quantitative evaluation, the fair value of the reporting unit is determined and compared to the carrying value. If the fair value is greater than the carrying value, then the carrying value is deemed to be recoverable and no further action is required. If the fair value estimate is less than the carrying value, goodwill is considered impaired for the amount by which the carrying amount exceeds the reporting unit's fair value and a charge is reported as impairment of goodwill in our consolidated statement of operations. No impairment losses associated with our goodwill were recognized during the years ended December 31, 2019 and December 31, 2020.

Income Taxes

We account for income taxes in accordance with ASC Topic 740, *Income Taxes*. Under this method, deferred tax assets and liabilities are determined based on the temporary differences between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. We classify all deferred income tax assets and liabilities as noncurrent on our balance sheet. The effect of a change in tax rates on deferred tax assets and liabilities is recognized within the provision for (benefit from) income taxes on the consolidated statement of operations and comprehensive loss in the period that includes the enactment date.

We reduce deferred tax assets, if necessary, by a valuation allowance if it is more likely than not that we will not realize some or all of the deferred tax assets. In making such a determination, we consider all available positive and negative evidence, including taxable income in prior carryback years (if carryback is permitted under the relevant tax law), the timing of the reversal of existing taxable temporary differences, tax planning strategies and projected future taxable income. Refer to Note 7 "Income Taxes" in our consolidated financial statements and unaudited condensed consolidated financial statements for additional information on the composition of these valuation allowances and for information on the impact of U.S. tax reform legislation. We

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recognize the tax benefit from an uncertain tax position only if it is more-likely-than-not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position.

We recognize interest and penalties related to uncertain tax positions within the provision for (benefit from) income taxes on our consolidated statement of operations and comprehensive loss.

Stock-Based Compensation

Stock-based compensation represents the cost related to stock-based awards granted to employees. We measure stock-based compensation cost at grant date, based upon the estimated fair value of the award, and recognize cost as expense using the tranche over the employee requisite service period. We estimate the fair value of stock options using Black-Scholes and Monte Carlo option models. Upon termination unvested time and performance-based options are forfeited. We have made a policy election to estimate the number of stock-based compensation awards that are expected to vest to determine the amount of compensation expense recognized in earnings. Forfeiture estimates are revised if subsequent information indicates that the actual number of forfeitures is likely to differ from previous estimates.

We record deferred tax assets for awards that result in deductions in our income tax returns, based upon the amount of compensation cost recognized and our statutory tax rate. The tax effect of differences between the compensation cost of an award recognized for financial reporting purposes and the deduction for an award for tax purposes is recognized as an income tax expense or benefit in the consolidated statements of operations and comprehensive income in the period in which the tax deduction arises.

Recent Accounting Pronouncements

See the sections titled “Summary of Significant Accounting Policies—Recent Accounting Pronouncements” and “—Recently issued accounting pronouncements not yet adopted” in Note 2 to our audited consolidated financial statements and unaudited condensed consolidated financial statements included elsewhere in this prospectus for additional details.

Quantitative and Qualitative Disclosures of Market Risk

We are exposed to market risk from changes in interest rates and inflation. All these market risks arise in the normal course of business, as we do not engage in speculative trading activities. The following analysis provides quantitative information regarding these risks.

Interest Rate Risk

Our First Lien Term Loan bears interest at variable rates, which exposes us to market risks relating to changes in interest rates. Interest rate risk is highly sensitive due to many factors, including U.S. monetary and tax policies, U.S. and international economic factors and other factors beyond our control. As of December 31, 2020, we had \$827.6 million of variable rate debt outstanding under our First Lien Term Loan. As of March 31, 2021, we had \$825.5 million of variable-rate debt outstanding under our First Lien Term Loan. Based on the balance outstanding under our First Lien Term Loan as of March 31, 2021, an increase or decrease of 10% in the effective interest rate on the First Lien Term Loan would cause an increase or decrease in interest expense of approximately \$2.8 million over the next 12 months.

In May 2020, we entered into an interest rate swap to mitigate variability in forecasted interest payments on an amortizing notional of \$550.0 million of our variable-rate First Lien Term Loan. We designated the interest rate swap as a pay-fixed, receive-floating interest rate swap instrument and are accounting for this derivative as a cash flow hedge.

Impact of Inflation

Our results of operations and financial condition are presented based on historical cost. While it is difficult to accurately measure the impact of inflation due to the imprecise nature of the estimates required, we believe the effects of inflation, if any, on our historical results of operations and financial condition have been immaterial. We cannot assure you, however, that our results of operations and financial condition will not be materially impacted by inflation in the future.

BUSINESS

Who We Are

Mister Car Wash is the largest national car wash brand offering express exterior and interior cleaning services to customers across 344 car wash locations in 21 states, as of March 31, 2021. Founded in 1996, we employ an efficient, repeatable and scalable process, which we call the “Mister Experience,” to deliver a clean, dry and shiny car every time. The core pillars of the “Mister Experience” are providing the highest quality car wash and ensuring the experience is quick and convenient. We offer a monthly subscription program, which we call Unlimited Wash Club (“UWC”), as a flexible, quick and convenient option for customers to keep their cars clean. As of March 31, 2021, we had 1.4 million UWC Members, and, in 2020 and the first quarter of 2021, UWC sales represented 62% and 62% of our total wash sales and 68% and 70% of our total wash volume, respectively. Our scale and 25 years of innovation allow us to drive operating efficiencies and invest in training, infrastructure and technology that improve speed of service, quality and sustainability and realize strong financial performance.

Our purpose is simple: deliver a memorable “Mister Experience” at a consistently high level, each and every time across all of our locations. This starts with our people. We attract and retain a strong pool of talent by investing in their training and development through our MisterLearn training platform and promoting them from entry-level positions to leadership roles. As a result, our team members are highly engaged and deliver memorable experiences to our customers. We have proven our people-first approach is scalable and this has enabled us to develop a world class team, comprised of both internally developed talent and external hires from top service organizations. We believe our purpose-driven culture is critical to our success.

UWC is our all-you-can-wash subscription program for a flat monthly fee. We employ a “member-centric” business model that is focused on providing easy, convenient and fast car washes. Over the last several years we have added dedicated member-only lanes and adopted radio-frequency identification (“RFID”) technology for our UWC Members to enable quick, contactless and convenient trips. In 2020, the average UWC Member washed their car over 30 times, which we believe is significantly more than the average car wash user. Increased UWC membership provides us consistent, visible and recurring revenue while improving customer loyalty. We have grown the UWC program from representing 30% of our total wash sales in 2015 to 62% of our total wash sales in the first quarter of 2021, and despite the COVID-19 pandemic, we grew UWC membership by approximately 247,000 members in 2020.

We have washed over 345 million cars during the last 20 years, and we are committed to being excellent environmental stewards for the communities we serve. We use proprietary cleaning products in our car wash process. Our wash process is also more efficient than a do-it-yourself (“DIY”) home wash, which we estimate uses more than three times the amount of water per wash on average, in part because we recycle an average of 33% of the water used during our wash process.

We are the largest national car wash brand based on number of locations, having grown from 65 locations in 2010 to 344 locations as of March 31, 2021. We operate two location formats: (i) Express Exterior Locations, which offer express exterior cleaning services, and (ii) Interior Cleaning Locations, which offer both express exterior and interior cleaning services. Our Express Exterior Locations comprise 263 of our current locations and represent all of our historical and projected greenfield growth. We have 81 Interior Cleaning Locations that serve as a fertile training ground for Mister operations and generate strong cash flows. In 2018, we launched our greenfield development strategy to expand the number of our Express Exterior Locations, opening our first location in Urbandale, Iowa. We have opened a total of 22 greenfield locations and have invested meaningfully in our greenfield development team, systems and capabilities. Our greenfield performance has been consistently strong over time. To date, we have been able to generate enough income from our existing greenfield locations to pay back our initial net capital investments in these locations within approximately three years of their operations. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide and have a strong development pipeline for future locations.

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We believe Mister Car Wash offers an affordable, feel-good experience, enjoyed by all who value a clean, dry and shiny car. Our car wash experience has broad demographic appeal and the price of our typical base exterior car wash is approximately \$8. As we continue to grow and serve the approximately 273 million registered vehicles in the United States, as of the end of 2020, we are dedicated to putting our team members first and delivering a consistent, convenient and high quality car wash experience at scale.

The Mister Track Record of Consistent Growth

We have historically delivered consistent long-term growth across geographies and vintage cohorts. From 2017 through 2019, all regions and vintage cohorts delivered positive comparable store sales growth. Prior to 2020, we achieved 39 consecutive quarters of positive comparable store sales growth, averaging 9% annually from 2010 to 2019. In 2020, as discussed below, our financial results were impacted by the COVID-19 pandemic and our response. In the first quarter of 2021 ended March 31, 2021, we delivered comparable store sales growth of 18.6%.



Since 2010, we have grown the business significantly and:

- increased our total location count from 65 in 2010 to 342 in 2020 and to 344 as of March 31, 2021, a CAGR of 18% from 2010 to March 31, 2021;
- increased UWC Members from 36,350 in 2010 to 1.2 million in 2020 and to 1.4 million as of March 31, 2021, a CAGR of 43% from 2010 to March 31, 2021;
- grew UWC sales as a percentage of total wash sales from 15% in 2010 and to 62% in 2020 to 62% for March 31, 2021;
- increased net revenue from \$124 million in 2010 to \$575 million in 2020 and to \$595 million as of for the last twelve months ended March 31, 2021 (“LTM March 31, 2021”), a CAGR of 17% from 2010 to LTM March 31, 2021;
- net income increased from \$4 million in 2010 to \$60 million in 2020 and to \$76 million for LTM March 31, 2021, a CAGR of 34% from 2010 to LTM March 31, 2021;
- grew net income margin from 3.0% in 2010 to 10.5% in 2020 and to 12.8% in LTM ended March 31, 2021;
- increased Adjusted EBITDA from \$17 million in 2010 to \$161 million in 2020 and to \$182 million for March 31, 2021, a CAGR of 26% from 2010 to LTM March 31, 2021; and
- expanded Adjusted EBITDA margin from 13.9% in 2010 to 28.0% in 2020 and to 30.7% for LTM March 31, 2021, an increase of 1,680 basis points from 2010 to LTM March 31, 2021.

2010 – LTM 3/31/2021 Performance⁽¹⁾



(1) CAGR represents growth from 2010 – 3/31/21 or 2010 – LTM 3/31/21, as applicable

Please see “Selected Consolidated Financial and Other Data” for a reconciliation of Adjusted EBITDA to net income, the most comparable GAAP measure.

Resiliency in 2020

At the onset of the COVID-19 pandemic in March and April 2020, to ensure the safety of our team members and customers and in compliance with local regulations, we temporarily suspended operations at more than 300 of our locations and paused UWC membership billing. During this period, we upgraded our safety protocols and modified our operating model by temporarily removing all interior cleaning services from Interior Cleaning Locations. We also proactively augmented our liquidity by drawing on our Revolving Credit Facility, requesting rent deferrals, suspending all acquisition activity, and pausing all greenfield initiatives. Although these choices impacted our financial results, we believe that prioritizing our team member and customer safety engendered goodwill and loyalty among our team members and our customers, allowing Mister to develop into an even stronger business.

By the end of May 2020, all of our locations were safely reopened and offering express exterior cleaning services and we had surpassed all-time highs in UWC membership. As performance improved throughout the year, we also paid back 100% of our deferred rent and successfully resumed both greenfield initiatives and acquisition activity. By the fourth quarter of 2020, our business had rebounded significantly and we grew our net income from \$(1.4) million to \$38.7 million year-over-year and our Adjusted EBITDA at 38% year-over-year. Our business has continued to accelerate into the first quarter of 2021, as comparable store sales increased 19%, net income grew from \$8.9 million to \$24.6 million year-over-year and Adjusted EBITDA grew from \$40.1 million to \$61.5 million year-over-year, representing 53% growth. Please see “Selected Consolidated Financial and Other Data” for a reconciliation of Adjusted EBITDA to net income, the most comparable GAAP measure.

Introducing the Car Wash Industry

Large and Recession-Resilient Car Wash Industry

Mister Car Wash operates within the large, recession-resilient \$11 billion U.S. car wash industry. We operate in the automated segment of the car wash industry, which accounts for approximately 70% of the total car wash market. Automated car washing is less labor intensive relative to other forms of car washing and allows car wash operators to realize better throughput and operating margins per location.

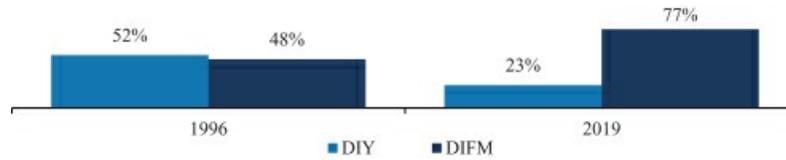
Benefiting from Secular Trends

Every year, cars in North America are washed two billion times. The car wash industry enjoys strong market fundamentals and benefits from positive secular trends. First, the car wash industry is benefiting from a

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continued shift in demand away from DIY services towards the time-efficient convenience of do-it-for-me car washes, as consumers place more importance on speed, quality and convenience. Second, the number of registered vehicles in the United States continues to grow and has increased from approximately 250 million vehicles in 2010 to approximately 273 million as of 2020. Third, we believe consumers increasingly understand and appreciate the environmental benefits of automated car washes relative to hand washing through water recycling and safe chemical disposal.

Consumer Preferences Shifting from DIY to DIFM Car Washes
Percentage of consumers who chose a DIFM (or DIY) car wash most often



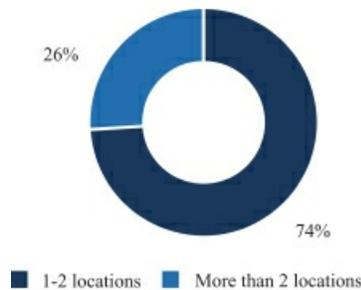
Source: International Car Wash Association

Please see “Management’s Discussion and Analysis of Financial Condition and Results of Operation – Impact of COVID-19” for a discussion on the impact COVID-19 had on our business in 2020, which we believe is representative of the U.S. car wash industry as a whole.

Highly Fragmented Market, Characterized by Many Independent Operators

The car wash industry is highly fragmented with the vast majority of the market comprised of independent operators that operate one or two locations. As the largest player in the industry, Mister Car Wash is able to make investments in training, technology and innovation that independent operators typically lack the resources to undertake. However, our 344 locations as of March 31, 2021, represented less than 5% of the market by location count, and the top ten operators combined comprised less than 10% market share, underscoring the opportunity for us to continue to expand our footprint in a highly attractive and growing category.

U.S. Car Wash Market: Highly Fragmented Industry



Source: 2019 Industry Report of Professional Carwashing & Detailing

Our Competitive Strengths

Largest National Car Wash Brand with Significant Scale Advantages

We are the largest national car wash brand and have developed extensive resources and capabilities over our 25 year history. Our scale, consistency of operations at every location and culture of continuous improvement have allowed us to develop an efficient and high quality customer experience with every wash.

We believe our key differentiators include:

- ***Unified National Brand.*** We lead with a unified national brand and customer experience. We rebrand all acquisitions to “Mister” and undertake capital investment at each to deliver a consistent, high-quality experience. Recently, we completed a company-wide exterior and interior remodeling program to align branding across our footprint. We believe our unified national brand builds customer loyalty and is a catalyst for continued new customer acquisition and UWC membership growth. No matter which location they choose, our customers receive a consistent “Mister Experience.”
- ***Robust Training & Development Programs and Talent Pipeline.*** We have developed and scaled a strong talent pipeline beginning with our robust, proprietary training and development programs, such as MisterLearn and our 360 Service Model. As of March 31, 2021, our general managers had an average tenure of six years with the Company and 93% were promoted from within the organization. Over the last three years, we have also reduced team member turnover in the first 30 days of employment by approximately 50%. We believe our robust training and development process results in team members who are equipped to maintain the highest levels of operational excellence and consistently deliver the “Mister Experience” to our customers.
- ***Dedicated Regional Support Infrastructure.*** Our significant regional support infrastructure includes over 50 regional managers, over 60 regional training and development specialists and over 150 facility maintenance staff as of March 31, 2021. Our regional managers support six general managers on average, allowing them to focus on coaching, mentorship and delivering consistently high standards. We employ approximately one maintenance staff for every two locations, which has allowed us to achieve significant uptime. We believe the strength and depth of our regional support infrastructure supports our ability to efficiently and successfully integrate acquisitions and to open greenfield locations in existing and new markets.
- ***Sophisticated Technology and Proprietary Products.*** We employ sophisticated technology, proprietary chemical control systems, automatic scanning RFID tags for UWC Members, as well as proprietary cleaning and drying products, including our Unity Chemistry, Dynamic Dry and patented HotShine wax system. We believe our products and technology result in a superior clean relative to our competitors, driving customer satisfaction.
- ***Strategic Market Density “Network Effect.”*** We generally have multiple locations in a specific market and take advantage of our local market density to generate a strong “network effect.” We believe our network offers incremental value to UWC Members by allowing them to utilize multiple locations at their convenience. It also enables us to better leverage marketing spend, build a local talent pipeline and optimize regional support infrastructure.

The Mister Experience: Delivering Consistent, Operational Excellence at Scale

The “Mister Experience” is anchored in quality, speed and a commitment to creating a memorable customer experience. The formula is simple: make people feel good by delivering a clean, dry and shiny car every time. We believe we consistently deliver:

- **A High-Quality Wash.** We aim to deliver to customers the cleanest, driest and shiniest wash possible. We employ a team of in-house research & development specialists to assist our location-level team members in calibrating a balanced wash process that factors in conveyor length, line speed, water quality, mechanical equipment, ambient temperature and soil conditions. Each of our cleaning products is specifically formulated for each site’s unique soil and water characteristics to “perfect the clean.” Our commitment to quality extends outside the tunnel as well, as our team members are trained to always maintain curb appeal and site cleanliness.

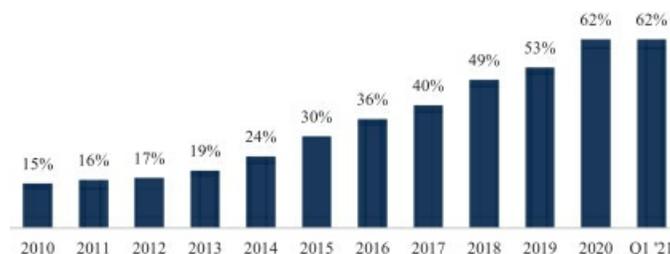
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- **Speed and Convenience.** We employ a labor optimization model that allows us to drive maximum volume through our locations, particularly during peak hours. We have increased throughput and capacity at our locations by growing our exterior, conveyor-based locations and by expanding drive-up lanes and dedicated UWC Member lanes. Additionally, we provide customers with convenient online and mobile app tools to manage their membership accounts or pre-purchase washes, respectively.
- **A Memorable Customer Experience.** We complement quality and speed with excellent customer service from our highly knowledgeable staff members. Our team members are friendly, professional and strategically placed throughout each location to ensure each customer is greeted and guided throughout the wash process. Our focus on developing a world class team is emphasized by our rigorous in-store training programs, supplemented by dedicated regional training centers. Our 360 Service Model trains team members to excel at all non-managerial positions at a location. Our MisterLearn learning management platform includes over 150 computer-based training courses, which are paired with hands-on learning in the field to enable skill mastery.

Unlimited Wash Club Drives Recurring Revenue

UWC is the largest car wash membership program in North America, representing 62% and 62% of our total wash sales in 2020 and for the first quarter of 2021, respectively. UWC drives significant customer loyalty and generates predictable, consistent and recurring revenue that is resilient to macroeconomic forces and weather volatility. We employ a “member-centric” business model that is focused on providing easy, convenient and fast car washes. We also leverage key data insights from our 1.4 million UWC Members as of March 31, 2021 to enable efficient labor planning and process optimization.

UWC Sales as a Percentage of Total Wash Sales



We specifically train our team members to greet and educate customers about the benefits of our UWC offering. We introduced UWC Member-only lanes nationwide to drive speed and convenience for our members. We have also invested in technology to enhance our sign-up capabilities and optimize throughput. As a result of these initiatives, we have grown our UWC membership at a CAGR of 42% from 2010 to 2020. We view our UWC monthly subscription service as a distinct competitive advantage that helps build brand awareness and loyalty, resulting in resilient, consistent and predictable cash flow.

Attractive Unit Economics Support Greenfield Expansion Strategy

We believe our market leadership and operational excellence result in our attractive unit-level economics. Our Express Exterior Locations, which offer express exterior cleaning services, represented over 75% and 76% of our total units and generated average unit volumes of \$1.6 million in 2020. Express Exterior locations opened or acquired prior to 2020 generated average unit volumes of approximately \$1.6 million and average four-wall EBITDA margins of over 40% in 2020. Our Interior Cleaning Locations, which offer both exterior and interior cleaning services, generated average unit volumes of \$2.6 million in 2019 before the COVID-19 pandemic severely impacted our Interior Cleaning Locations.

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In 2018, we launched our greenfield development strategy to expand the number of our Express Exterior Locations, with the opening of our first location in Urbandale, Iowa. Since then, we have invested in a dedicated real estate team and developed a proven process for launching new greenfield locations. We have experienced strong success with our greenfield strategy driven by highly compelling unit economics. We target average unit volumes of approximately \$1.2 million and four-wall EBITDA margins of 25% in the first year of operation, growing to \$1.7 million and over 40% by year three, respectively. Our average capital expenditures, net of sale-leaseback financing, are approximately \$1.8 million per location, resulting in approximately a three year pay-back. We believe that our greenfield strategy of focusing on expansion of Express Exterior Locations will drive improvements in our net income margins and Adjusted EBITDA margins as express exterior cleaning services are less labor intensive compared to interior cleaning services.

Leadership Team Inspiring People to Shine

We are rewriting the rules of the car wash industry by putting our team members first, investing in their development and helping them turn jobs into careers. During 2020, we underscored our commitment to our team members by raising average wages for non-managerial hourly workers by 5% and continued that commitment in the first quarter of 2021 with an average wage increase of 6%, to an average of \$14.34 per hour, while reducing turnover. We offer attractive benefits, including paid parental leave, 401(k) program with company match, progressive and affordable health benefits, paid-time-off and tuition reimbursement. We also established the Mister Cares Foundation in April 2020, a 501(c)(3) non-profit organization, with the mission of providing financial assistance to members of our team that face unforeseen hardship. Since formation, the Mister Cares Foundation has granted over \$175,000 in aggregate to over 200 individuals.

We operate geographically diverse regional hubs with additional leadership in operations, human resources, safety, information technology and maintenance to assist our local location teams. Our extensive regional support infrastructure enables location team members to focus exclusively on providing excellent customer service. As of March 31, 2021, this included over 150 facilities maintenance staff, approximately one maintenance staff for every two locations, over 50 regional managers, approximately 60 regional training and development specialists that provide local training and human resources support and three regional safety managers. We believe the strength and depth of our regional support infrastructure enables our consistent operational excellence and provides the foundation for our greenfield expansion strategy.

Our strategic vision and culture are shaped by our senior leadership team. Our team has a shared passion for operational excellence, disrupting the status quo and being good stewards of capital for our shareholders. We pride ourselves on our diversity, with women representing approximately half of our senior management team as of March 31, 2021, and we believe we have among the most extensive depth and breadth of senior leadership in the industry across location development, training, operations and services, technology and marketing, respectively.

Our Growth Strategies

Acquire New Customers and Grow Comparable Store Sales

We have demonstrated an ability to drive attractive organic growth through consistent positive quarterly comparable store sales growth performance for nearly a decade, prior to the COVID-19 pandemic in 2020. While our comparable store sales decreased in 2020 due primarily to measures we took in the first two quarters of 2020 in response to the COVID-19 pandemic, including temporary suspension of operations at more than 300 of our locations between March 2020 and May 2020, our business rebounded significantly by the fourth quarter of 2020 and has continued that momentum into 2021. We believe that we are well-positioned to continue to acquire new customers, retain existing customers and drive positive comparable store sales growth by continuing to:

- *Focus on Operational Excellence.* We continue to evolve and optimize our training programs, labor staffing models, mentorship programs, and throughput optimization strategies to drive efficiencies and speed of service. We expect to grow our average unit volumes and throughput, allowing us to serve more customers each day, and drive strong, continued comparable store sales growth.

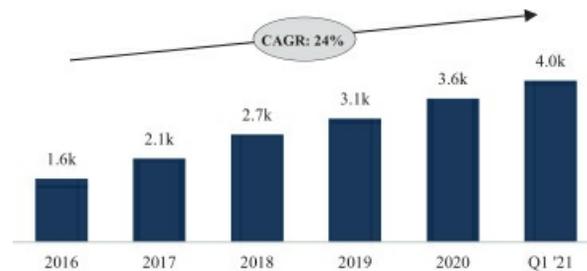
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- *Innovate with New Products and Technology.* Mister Car Wash has a dedicated in-house research & development team that we believe provides a meaningful competitive advantage in our industry. This enables us to continually innovate our product formulations and service offerings to give customers what we believe to be the quickest, highest quality car wash in the industry, which keeps our customers coming back and helps attract new customers. We intend to continue investing in improving our member-centric experience through technology, including our digital ecosystem, mobile app and RFID capabilities. Additionally, we are focused on continuously innovating our proprietary cleaning products to deliver high quality, environmentally-friendly car washes.
- *Leverage Data Analytics Throughout The Organization* We collect customer data through our UWC membership program, mobile app and web tools and have only just begun to unlock the full value of utilizing this data across our business. We have made investments in an enterprise-wide, integrated point-of-sale (“POS”) system, mobile app and membership web portal to further unlock the value of data analytics and customer insights. Through our collected customer data, we believe there is a meaningful opportunity to drive targeted marketing, customer loyalty and new customer acquisition.
- *Benefit from Positive Industry Trends.* We believe that the industry continues to benefit from significant trends that will drive ongoing growth, including a broad shift to DIFM services, increasing awareness of the relative environmental benefits of professional car washing in combination with municipal water usage restrictions on at-home washing, and an increasing trend toward private vehicle usage versus mass transit post COVID-19.

Grow Our UWC Members to Drive Predictable Earnings Growth and Higher Annual Customer Spend

We believe there is a significant opportunity to grow UWC penetration further. For example, certain of our more mature markets are approaching 75% of total wash sales through our monthly subscription service relative to the overall UWC penetration of 62% and 62% of total wash sales in 2020 and for the first quarter of 2021, respectively. We estimate that the average UWC Member spends more than four times the traditional car wash consumer, providing us an opportunity to significantly increase our sales as penetration increases. At both new greenfield and acquired locations, we have developed proven processes for growing UWC membership per location. Since 2016, we have realized an average UWC membership per location CAGR of 24%.

Growth in Average UWC Membership per Location



In addition to enhancing the value proposition to our existing UWC Members through our ongoing focus on operational excellence, we intend to employ the following processes to convert additional retail customers to UWC Members and grow our UWC membership:

- *Expand Our Sales Channels.* We are focused on making it easier for our members to sign-up for and manage their UWC subscription membership, as we believe this will allow us to attract a broader membership base. In December 2020, we introduced our digital sign-up platform, which we believe will allow us to capture and convert new members.

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- *Introduce New Membership Alternatives.* We are currently piloting an expanded membership plan for members to add multiple vehicles to their subscription. We believe this offering has the potential to efficiently increase household penetration.
- *Educate Customers on Value Proposition.* We believe that educating our customers as to the benefits of UWC membership is critical to retaining existing members and adding new members. This starts with specifically training our team members to educate existing and new members at our locations, as well as investing in technology to engage in targeted digital marketing communication with members.
- *Engage in B2B Partnerships.* We are actively exploring partnerships with other businesses to offer trial UWC memberships, which we believe will give us access to additional member leads.

Build Upon Our Established Success in Opening Greenfield Locations

We have successfully opened 22 greenfield locations since 2018 with the expectation of driving the majority of our location growth through greenfield locations on a go-forward basis. We have developed a proven process for opening new greenfield locations, from site selection to post-opening local marketing initiatives, which has driven our strong greenfield performance consistently over time. In order to identify, evaluate and target the most attractive locations we employ a data-driven approach that utilizes a combination of predictive analytics produced by a multi-point, proprietary site selection matrix by trade area, with on-the-ground insights from our experienced operations team.

Based on an extensive internal analysis, we believe we have significant national whitespace compared to the 344 locations we operate as of March 31, 2021. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide and have a strong development pipeline for future locations.

Pursue Opportunistic Acquisitions in Highly Fragmented Industry

We will continue to employ a disciplined approach to acquisitions, carefully selecting high quality locations that meet the specific criteria of a potential Mister Car Wash site. We have a proven track record of location growth through acquisitions, having successfully integrated over 100 acquisitions during our history.

Once a location is acquired, we make investments in both physical assets and human capital to upgrade and integrate the location into the Mister brand. Our post-acquisition integration process involves significant investments to improve each acquired site, including the installation of our proprietary Unity Chemistry System, process flow optimization and adding UWC Member lanes. We rebrand the look and feel of acquired locations, integrate POS systems and standardize operating procedures to create one unified brand experience for our customers at all our locations. We also elevate our team-member experience at acquired locations by offering rewarding benefits and compensation packages, labor training initiatives and growth opportunities. The combination of these investments in throughput, the customer experience and people have enabled us to drive material performance improvement and EBITDA growth within two years of acquisition.

Drive Scale Efficiencies and Robust Free Cash Flow Generation

We will continue to utilize our scale to drive operating leverage as our business grows. As we open new locations and maximize throughput at our existing locations through our ongoing focus on operational excellence, we will have an opportunity to generate meaningful efficiencies of scale. These efficiencies include leveraging our research & development and technology infrastructure across our growing network, leveraging our training and marketing programs over an increasing revenue base, optimizing our regional support infrastructure and overhead costs, and leveraging insights and analytics from our growing consumer database to drive targeted marketing and customer acquisition. As a result of our attractive four-wall EBITDA margins and relatively low maintenance capital expenditures per location, we expect to generate robust free cash flow that we intend to use to fund our greenfield expansion strategy and opportunistic acquisitions.

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Our Service Offering

We are the largest national car wash brand, offering express exterior and interior car cleaning services to consumers across 344 car wash locations in 21 states. We also offer a monthly subscription program, UWC, that includes unlimited car washes for a monthly charge with benefits like dedicated member-only lanes using RFID technology at all of our locations. This allows quick, contactless and convenient visits for UWC Members. As of March 31, 2021, we served 1.4 million UWC Members and UWC sales represented 62% and 62% of our total wash sales and 68% and 70% of our total volume in 2020 and the first quarter of 2021, respectively.

Our car wash locations consist of two formats: (a) Express Exterior Locations (263 locations as of March 31, 2021) and (b) Interior Cleaning Locations (81 locations as of March 31, 2021). All locations offer express exterior wash packages and have exterior-only lanes. Every wash includes our proprietary T3 Cleaning Conditioner (gently removes dirt and grime, cleans and refreshes the exterior of the vehicle), Wheel Cleaner (high pH, soft-metal safe, foaming chemistry applied to wheel and tire through targeted applicators, removes dirt and grime to prepare for subsequent applications) and Dynamic Dry (pH charged rinse, optimized blower configuration and soft cloth technology at certain locations to deliver a spot-free and drier car).

Express Exterior Locations. Customers purchase a wash or sign-up for a UWC membership through sales kiosks or assisted by team members and remain in their vehicle through the tunnel and wash process. Customers have the option to use free self-serve vacuums at any time before or after their exterior wash.

Interior Cleaning Locations. Customers purchase a wash or sign-up for a UWC membership through sales kiosks or assisted by team members and either remain in their vehicle through the tunnel and wash process or wait in the lobby. Customers who purchase interior cleaning services have their vehicles vacuumed and cleaned by Mister team members.

Express Exterior Wash Packages

We offer four express exterior wash packages. Additional options within the wash packages include waxes and protectants that are applied during the wash process in the tunnel. These services include our proprietary chemistry and application systems: HotShine Carnauba Wax (waterfall wax application for enhanced shine), Repel Shield (silicone based to provide water repellency), Platinum Seal (extends life of shine and protection), Wheel Polish (protects wheels against pitting from road grime and provides shine), Underbody Wash (cleans beneath the vehicle) and Tire Shine (cleans and shines tires).

Base	#2	#1	Platinum
T3 Conditioner • Wheel Cleaner	Repel Shield • Tire Shine • Underbody Wash • T3 Conditioner • Wheel Cleaner	HotShine® Carnauba Wax • Repel Shield • Tire Shine • Underbody Wash • T3 Conditioner • Wheel Cleaner	Renovation Cream Platinum Seal • HotShine® Carnauba Wax • Wheel Polish • Repel Shield • Tire Shine • Underbody Wash • T3 Conditioner • Wheel Cleaner

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Interior Cleaning Wash Packages and Services

At select locations, we offer interior cleaning services in addition to express exterior washes. Interior cleaning services are added to an express exterior wash and include interior vacuuming, window cleaning, dusting of dashboard and hard surfaces and a hand towel dry of the exterior by our team members.



Unlimited Wash Club

In 2003, we established UWC as a monthly subscription service to develop deeper loyalty with customers and create a highly attractive recurring revenue stream. UWC Members are billed automatically each month on the anniversary date of their sign-up and membership is tracked through RFID technology.

We offer various membership options for both express exterior and interior cleaning services. Over 95% of our UWC members hold a UWC membership for exterior cleaning services, of which a majority of our UWC members are in our Platinum Exterior plan, priced at \$29.99 per month.



UWC Member benefits include access to all Mister locations, dedicated member lanes, a convenient and contactless experience and flexible membership plans. Members can easily manage their membership through our online account management platform, where they can make plan changes, access visit history and update credit card information.

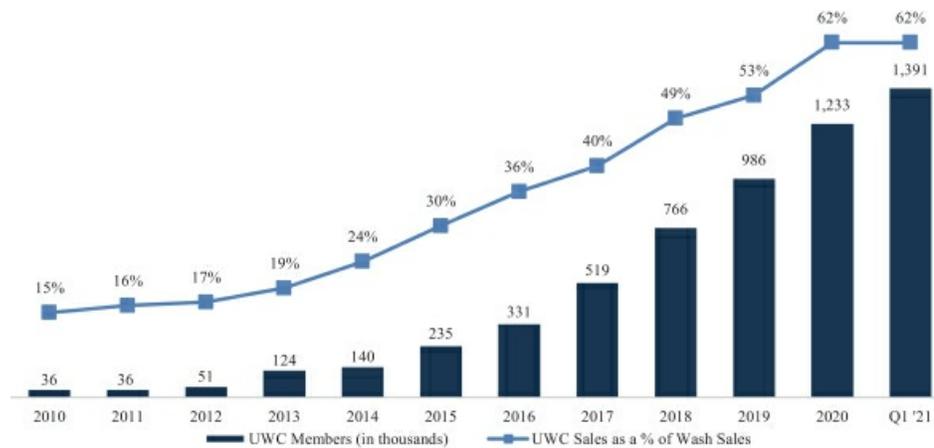


UWC has helped to diversify our sales by providing an attractive recurring revenue stream and a steady sales flow, providing stable demand through varying seasons and weather. We have grown the UWC program from representing 30% of our total wash sales in 2015 to 62% of our total wash sales in the first quarter of 2021, and despite the COVID-19 pandemic, we grew UWC membership by approximately 247,000 members in 2020.

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In 2020, a typical member averaged over 30 visits per year. UWC Members also smooth wash demand throughout the day, often choosing off-peak hours to visit our locations. Management continues to evaluate strategies for further improving the UWC experience.

Number of UWC Members and UWC Penetration



Our Team Members

As of March 31, 2021, we had approximately 3,500 full-time and approximately 2,250 part-time members. People are at the center of everything we do and are the heartbeat of our company. In order to recruit and retain the most qualified team members in the industry, we focus on treating our team members well by paying them competitive wages, offering them attractive benefit packages, offering robust training and development opportunities, and providing a strong operational support infrastructure with opportunities for upward mobility. We routinely survey our team members in order to track their level of engagement and are proud of our recent company-wide results that included a +55 Employee Net Promoter Score, a measure of how likely employees of a company are to recommend it as a desirable place to work. This recommendation is made on a scale of 0 to 10, with 10 being extremely likely to recommend and 0 being not likely at all. Employees who rate 9 or 10 are called promoters. Those who rate 7 or 8 are called passives. Those who rate between 0 and 6 are called detractors. To calculate Employee Net Promoter Score, we subtract the percentage of detractors from the percentage of promoters. We believe this measure is meaningful from a recruitment and overall business perspective as employee recommendations and satisfaction are important to recruit top talent. We also believe satisfied employees are more productive, are more likely to have a positive impact on employees around them, and are more likely to deliver great customer service.

Caring for Team Members

We believe that happy and well-cared-for team members bring their best selves to work. Our benefits packages include paid time off for both full-time and part-time team members, progressive and affordable health benefits, mental health programs, six weeks of paid parental leave, 401(k) matching and tuition reimbursement. Additionally, our hiring and promotion practices are designed to drive diversity and inclusion awareness so our employees can bring their authentic selves to work as well.

During 2020, we underscored our commitment to our team members by raising average wages for non-managerial hourly workers by 5% and continued that commitment in the first quarter of 2021 with an

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average wage increase of 6%, to an average of \$14.34 per hour, while reducing turnover. We also established the Mister Cares Foundation in April 2020, a 501(c)(3), with the mission of providing financial assistance to our team members that face unforeseen hardship.

Offering Robust Training and Development and Opportunities for Advancement

We attract and retain a strong pool of talent by investing in our employees' training and development via our MisterLearn training platform and promoting team members from the frontlines to leadership roles. As of March 31, 2021, our general managers have an average tenure of six years with the Company and 93% were promoted from within the organization.

Our focus on developing a world-class team is emphasized by our rigorous training programs. We employ defined curriculums specifically built for each position, including both initial and ongoing training as well as hands-on mentoring opportunities. Our 360 Service Model cross trains team members to excel at all positions within a car wash location, and our MisterLearn learning management system, inclusive of more than 150 computer-based training courses is readily accessible to all team members.

Our team members are highly engaged and deliver memorable experiences to our customers. We have proven our people-first approach is scalable and this has enabled us to develop a world class team, comprised of both internally developed talent and external hires from top service organizations. We believe our purpose-driven culture is critical to our industry-leading sales productivity.

Supporting Our Locations with Regional Management Infrastructure Including Dedicated Specialists

We establish regional team infrastructure in each market to support day-to-day operations, training, hiring and maintenance. As of March 31, 2021, this support team includes over 150 facilities maintenance technicians, approximately one technician for every two locations, over 50 regional managers and approximately 60 regional training and development specialists that provide local training and human resources support. Our extensive regional support infrastructure and internal maintenance team enable location team members to focus exclusively on providing excellent customer service.

We also maintain geographically diverse regional hubs with additional leadership in operations, human resources, safety, information technology and maintenance to assist our local location teams. We believe the strength and depth of our regional support infrastructure enables our consistent operational excellence and provides the foundation for our greenfield expansion strategy.

Our Customers

We serve a diverse mix of customers, which include individual retail customers, UWC Members and business accounts. Our Business Account Program offers the convenience of washing all of the vehicles in a fleet while maintaining one simple account and payment. Given the broad appeal of our services, we have a wide variety of retail customers spanning a broad set of demographics. The portfolio of cars serviced across our locations is diverse and represents a balance across new and old cars and across all vehicle price points. Our customer service, convenient locations and easy-to-manage membership programs have helped position our locations as the "go-to" destinations for our customers' car wash needs.

Our Proprietary Products and Advanced Technology

Mister Car Wash has re-imagined the entire car wash process from manufacturing proprietary chemicals to developing innovative technologies in a pursuit of a better customer experience and increased efficiency. A dedicated research and development team is responsible for car wash processes, equipment and technology improvements. The team tests new products, processes and ideas in select markets before rolling out improvements and changes across the broader platform.

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The Science of Cleaning

Through continuous research and development, Mister Car Wash has formulated a balanced wash process that factors in conveyor length, line speed, water quality, mechanical equipment, ambient temperature and soil conditions. Our proprietary Unity Chemistry System is tailored to each individual site's water quality and unique environmental conditions such as pollen, bugs and salt. Our industry-leading application systems, including the Dynamic Dry system and patented HotShine Carnuba wax waterfall, give consistent product delivery each time while reducing waste. Mister Car Wash's science of cleaning helps us reduce freshwater usage by an average of 11% and recycle 33% of water, on average, during the wash process and reduce usage by optimizing water flows and storage.

Research & Development

Our research & development team has developed a number of labor and time-saving services. The Unity Chemical program, a proprietary, color-coded chemical blending system allows us to customize our chemical blend at the store level and adjust for factors such as length of the tunnel, equipment type and water hardness. The program helps save costs for each car wash location as chemicals can be mixed on an as-needed basis and adapted for the specific characteristics of the locations based on seasonal weather patterns and local environmental conditions.

At our locations, we use proprietary cleaning products that are intended to optimize our drying and cleaning processes. Our signature products include the HotShine Carnuba Wax, Repel Shield, Platinum Seal and Wheel Polish.



Sophisticated Technology

Through sustained investments in technology, including our customer digital ecosystem, we provide our customers with unmatched convenience and speed. Our online tools and mobile app allow customers to quickly and conveniently pre-purchase washes and manage their membership plans. Our wheel clean system, for example, uses software and electronic sensors to largely automate the wheel cleaning process without the use of manual labor. Our Dynamic Dry system utilizes an optimized blower configuration and soft cloth, at select locations, to deliver a spot-free and drier vehicle. Finally, we have installed RFID technology that allows UWC Members to seamlessly drive through a specially-equipped lane. Our consistent process improvement has resulted in a tunnel and equipment design that we believe can perform a car wash significantly faster than the industry average, wash approximately twice as many cars as our next closest competitor and simultaneously recycling and reducing usage of freshwater.

Car Wash Location Growth

As of March 31, 2021, we, through our subsidiaries, operated a network of 344 car wash locations across 21 states. We have two primary location formats: (i) our Express Exterior Locations, which offer express exterior cleaning services and represented over 75% of our unit mix in 2020 and (ii) our Interior Cleaning Locations, which offer both express exterior and interior cleaning services. Our greenfield expansion strategy is solely focused on developing our Express Exterior Locations.

Mister Car Wash Locations



We develop location networks that are clustered together in adjacent markets in order to leverage shared resources, such as dedicated regional repair and maintenance crews. We also leverage integrated reporting systems that allow senior management to monitor operations in real-time.

Greenfield Location Development

We have grown rapidly in the past through multiple successful acquisitions and have recently begun pursuing greenfield development as a new lever for growth. In 2018, we launched our greenfield development strategy to expand the number of our Express Exterior Locations, opening our first greenfield location in Urbandale, Iowa. We have a total of 22 greenfield locations across 11 markets, and we have invested meaningfully in our greenfield management talent, systems and capabilities.

We employ a highly disciplined strategy when evaluating development opportunities that includes a detailed understanding of the retail, residential and daytime employment in a region. With a typical development cycle of 18 months, our team proactively builds the future pipeline. We have experienced strong success with our greenfield strategy driven by highly compelling unit economics. We target average unit volumes of approximately \$1.2 million and four-wall EBITDA margins of 25% in the first year of operation, growing to \$1.7 million and over 40% by year three, respectively. Our average capital expenditures, net of sale-leaseback financing, are approximately \$1.8 million per location, resulting in approximately a three-year pay-back. In 2021, we expect to open 16 to 18 total greenfield locations in existing markets nationwide.

Acquisitions and Integration

Mister Car Wash has a proven track record of location growth through acquisition, having successfully integrated over 100 acquisitions. We operate as the largest national brand in an industry where the vast majority

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of our competition are local operators with only one to two locations. This presents meaningful growth opportunities through attractive and accretive acquisitions. As of March 31, 2021, our 344 sites represent less than 5% of the market by location count, while the top ten operators combined comprise less than 10% market share, underscoring the meaningful opportunity for us to continue to take share and expand our footprint in a highly attractive and growing category.

Once a location is acquired, we make investments in assets and human capital to fully integrate the location into the Mister brand and deliver on our service excellence. Our post acquisition integration process involves adding UWC member only lanes, installing our propriety Unity Chemistry System, menu optimization and upgrading technology to improve site flow and drive efficiencies through process optimization. We rebrand the look and feel of acquired locations, integrate POS systems and standardize operating procedures to create one unified brand experience for our customers at all our locations. We also elevate our team-member experience at acquired locations by onboarding them to the “Mister Way,” offering them rewarding benefits and compensation packages and providing them the same mentorship and growth opportunities that are available to all other team members at other locations. The combination of these investments and process enhancements have enabled us to drive material performance improvement and EBITDA growth within two years of acquisition.

Marketing

We aim to drive strong brand awareness within a 10-mile radius of each of our locations. We lead with a unified national brand and large, clear signage to maximize visibility and curb appeal. To acquire, convert and retain our customers, we use a mix of geo-targeted traditional media, digital media, and search engine marketing, all with the goal of emphasizing the core “Mister” value proposition: number of locations, convenience, speed and the benefits of the UWC. We maintain a customer database to deliver personalized communications and to execute various targeted marketing initiatives.

We have a mobile app and online membership management tool, making it easy and accessible for customers to engage with us, purchase washes and update membership programs. Our technology platforms provide better visibility into customer behavior, enabling Mister Car Wash to acquire new customers with look-alike targeting in the future. We generally have multiple locations in a specific market and take advantage of our local market density to generate a strong “network effect” enabling us to better leverage our marketing spend.

Community and Charitable Partners

We have a robust community giving and fundraising program that allows Mister Car Wash to have meaningful impact within the neighborhoods in which we operate. We have given back over \$4 million through our fundraising, donation, sponsorship and Inspiring Futures programs, helping over 10,000 organizations since 2016. We also established the Mister Cares Foundation in April 2020, a 501(c)(3), with the mission of providing financial assistance to members of our team that face unforeseen hardship. Since formation, the Mister Cares Foundation has granted over \$175,000 in aggregate to over 200 individuals. We continue to focus our giving efforts at a local level where our dollars and partnership can make the most impact.

Suppliers and Distribution

We maintain long-term relationships with our key vendors. We believe our scale and large purchase quantities provide us significant leverage in securing competitive pricing. Our key purchases include car wash equipment and parts and wash chemicals.

We enjoy longstanding relationships with most of our suppliers and believe we are able to obtain competitive pricing. We employ rebates and pricing reductions based on the volume of purchases with several of our suppliers. We maintain in stock a limited amount of supply for repairs and maintenance but most everything is purchased from suppliers as our needs dictate.

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The majority of our raw materials are shipped directly from vendors to our locations. We have deep industry knowledge and maintain relationships with previous and prospective suppliers to provide contingencies in the event that any issues arise with our current supply base.

We use a variety of proprietary chemical blends, the formulas for which Mister Car Wash owns, in our car washing process. The total contract term with our chemical blend manufacturer is for three years and includes component level price transparency with mechanisms in place to limit the amount of price increases we receive based on underlying commodity fluctuations. We have not entered, at this time, into hedges of our raw material costs at this time, but we may choose to enter into such hedges in the future.

In 2018, we entered into an agreement with a supplier of a comprehensive suite of hardware, software, and management systems. We implemented their systems, which has enabled us to better track our membership and customer loyalty programs better, streamline our operations and enhance our ability to track costs.

Competition

The car wash industry is highly fragmented and we compete with a variety of operators. Competitors include national, regional and local independent car wash operators, and other retailers (including gasoline and convenience retailers and mass market merchandise stores), each of which offer car washes. We believe the core competitive factors in our industry are convenience, price, quality, brand awareness, speed, and customer satisfaction. We believe our scale allows us to compete effectively with respect to each of these factors.

Our People and Human Capital

As of March 31, 2021, we employed approximately 3,500 team members on a full-time basis and approximately 2,250 on a part-time basis in the United States.

We attract and retain a strong pool of talent by investing in their training and development through our MisterLearn training platform and promoting them from entry-level positions to leadership roles. As a result, our team members are highly engaged and deliver memorable experiences to our customers. We have proven our people-first approach is scalable and this has enabled us to develop a world class team, comprised of both internally developed talent and external hires from top service organizations.

None of our employees are represented by a labor union or covered by collective bargaining agreements. We believe we have strong and positive relations with our employees.

Intellectual Property and Trademarks

As of March 31, 2021, we had approximately 25 trademark registrations and applications, including registrations for “Mister Car Wash,” “Hotshine,” “Mister Hotshine” and “Unlimited Wash Club.” As of March 31, 2021, we held one U.S. patent and one foreign patent. Our patents are expected to expire between 2022 and 2025.

We have also registered the Internet domain name: “*mistercarwash.com*”.

We believe that our trademarks and other proprietary rights are important to our success and our competitive position, and, therefore, we devote resources to the protection of our trademarks and proprietary rights.

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Our Facilities, Properties and Office Space

We lease 25,350 and own 27,973 square feet of office space at our corporate headquarters in Tucson, Arizona. As of March 31, 2021, we leased 315 locations and owned 29 locations. The chart below provides a breakdown of our car wash locations as of March 31, 2021:

<u>State</u>	<u>Total Locations</u>
Alabama	13
Arizona	15
California	37
Colorado	6
Florida	30
Georgia	21
Idaho	6
Illinois	1
Iowa	12
Maryland	2
Michigan	27
Minnesota	17
Mississippi	8
Missouri	6
New Mexico	17
Pennsylvania	4
Tennessee	16
Texas	65
Utah	14
Washington	14
Wisconsin	13

Legal Proceedings

We are from time to time subject to various claims, lawsuits and other legal proceedings, including intellectual property claims. Some of these claims, lawsuits and other legal proceedings involve highly complex issues, and often these issues are subject to substantial uncertainties. Accordingly, our potential liability with respect to a large portion of such claims, lawsuits and other legal proceedings cannot be estimated with certainty. Management, with the assistance of legal counsel, periodically reviews the status of each significant matter and assesses potential financial exposure. We recognize provisions for claims or pending litigation when we determine that an unfavorable outcome is probable and the amount of loss can be reasonably estimated. Due to the inherent uncertain nature of litigation, the ultimate outcome or actual cost of settlement may materially vary from estimates. If management's estimates prove incorrect, we could incur a charge to earnings which could have a material and adverse effect on our business, results of operations, and financial condition.

Government Regulation

We are subject to various laws and regulations, including labor and employment laws, laws governing advertising, data privacy laws, safety regulations and other laws such as consumer protection regulations. We monitor changes in these laws and believe that we are in material compliance with applicable laws.

Labor, Employment and Safety

We are subject to a variety of labor, employment and safety laws, including the U.S. Fair Labor Standards Act, the Occupational Safety and Health Act and various other federal and state laws, governing matters

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including minimum and unpaid wages, tip pooling, overtime, workplace safety and other working conditions. We are also subject to the U.S. Equal Employment Opportunity Commission and other federal and state laws and regulations relating to workplace and employment matters, discrimination and similar matters.

Data Privacy and Security

We are subject to various federal and state laws and regulations relating to the privacy and security of consumer, customer and employee personal information. These laws often require companies to implement specific information security controls to protect certain types of data (such as personal data), and/or impose specific requirements relating to the collection or processing of such data. We are also subject to various state laws relating to notice requirements in the event of security breaches.

For example, the California Consumer Privacy Act, or CCPA, came into force in California in 2020. The CCPA establishes a new privacy framework for covered businesses such as ours, creates new privacy rights for consumers residing in the state, and requires us to modify our data processing practices and policies and incur compliance related costs and expenses. In November 2020, California voters passed the California Privacy Rights and Enforcement Act of 2020, or CPRA, which further expands the CCPA with additional data privacy compliance requirements and rights of California consumers effective January 1, 2023, and establishes a regulatory agency dedicated to enforcing those requirements. Further, our operations are subject to the Telephone Consumer Protection Act (the “TCPA”), and we have received in the past, and may receive in the future, claims alleging violations by us of the same. The interplay of federal and state laws may be subject to varying interpretations by courts and government agencies, creating complex compliance issues for us and potentially exposing us to additional expense, adverse publicity and liability.

Consumer Protection

We are subject to a number of federal regulations relating to the use of debit and credit cards, such as the Electronic Funds Act and the Truth in Lending Act of 1968, which provide guidelines and parameters for payment processing on debit cards and credit cards, respectively, and certain state regulations relating to automatic renewal, including the California Business & Professional Code Section 17601-17606, as amended, which provides requirements we must follow for the automatic renewal of subscription fees such as those charge to our UWC Members.

Environmental and Occupational Safety and Health Matters

Compliance with Environmental Laws and Regulations

We are subject to various federal, state and local environmental laws and regulations, including those relating to ownership and operation of underground storage tanks; the release or discharge of regulated materials into the air, water and soil; the generation, storage, handling, use, transportation and disposal of regulated materials, including wastes; the exposure of persons to hazardous materials; remediation of contaminated soil and groundwater; and the health and safety of employees dedicated to such transportation and storage activities.

Environmental laws and regulations can restrict or impact our business activities in many ways, such as:

- requiring the acquisition of certifications, registrations, permits or other authorizations or the provision of financial assurances in connection with the transportation, storage and sale of hazardous substances and other regulated activities;
- requiring remedial action to mitigate releases of petroleum hydrocarbons, hazardous substances or wastes caused by our operations or attributable to former operators;
- requiring capital expenditures to comply with environmental pollution control, cathodic protection or release detection requirements;

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- enjoining the operations of facilities deemed to be in noncompliance with environmental laws and regulations; and
- imposing substantial liabilities for pollution resulting from our operations.

Failure to comply with environmental laws and regulations may trigger a variety of administrative, civil and criminal enforcement measures, including the assessment of monetary penalties, the imposition of investigatory, remedial or corrective action requirements and the issuance of orders enjoining or otherwise curtailing future operations in a particular area. Certain environmental statutes impose strict, joint and several liability for costs required to clean up and restore sites where hydrocarbons, hazardous substances or wastes have been released or disposed of into the environment. Moreover, neighboring landowners and other third parties may file claims for nuisance, personal injury and property or natural resource damage allegedly caused by the release of petroleum hydrocarbons, hazardous substances or wastes into the environment.

The trend in environmental regulation is to place more restrictions and limitations on activities that may adversely affect the environment, and thus changes in environmental laws and regulations that impose more stringent and costly petroleum hydrocarbons, hazardous substances or waste handling, storage, transport, disposal or remediation requirements on us could have a material adverse effect on our financial position and results of operations. As a result, there can be no assurance as to the amount or timing of future expenditures for environmental compliance or remediation, and actual future expenditures may be different from the amounts we currently anticipate. We try to anticipate future regulatory requirements that might be imposed and plan accordingly to remain in compliance with changing environmental laws and regulations and minimize the costs of such compliance, but there is no assurance that our expectations will be realized.

Wastes, Hazardous Substances and Releases

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (“CERCLA”) and analogous state laws impose strict, joint and several liability, without regard to fault, on the owner and operator as well as former owners and operators of properties where a hazardous substance has been released into the environment, including liabilities for the costs of investigation, removal or remediation of contamination and any related damages to natural resources.

Under CERCLA and similar state laws, as persons who arrange for the transportation, treatment or disposal of hazardous substances, we also may be subject to similar liability at sites where such hazardous substances may be released. We may also be subject to third-party claims alleging property damage and/or personal injury in connection with releases of or exposure to hazardous substances at, from or in the vicinity of our current properties or at off-site locations where such hazardous substances have been taken for treatment or disposal. In the course of our operations, we may generate some amounts of material that may be regulated as hazardous substances.

We may generate some amounts of ordinary industrial wastes that may be regulated as hazardous wastes under the federal Resource Conservation and Recovery Act, as amended (“RCRA”). RCRA and comparable state statutes regulate the generation, transportation, treatment, storage and disposal of solid wastes, which includes hazardous and certain non-hazardous wastes. Pursuant to rules issued by the U.S. Environmental Protection Agency (“EPA”), the individual states often administer some or all of the provisions of RCRA, sometimes in conjunction with their own, more stringent requirements.

Water Discharges

The Federal Clean Water Act, and analogous state laws, impose restrictions and strict controls with respect to the discharge of pollutants, including spills and other releases of petroleum hydrocarbons, hazardous substances and wastes, into regulated Waters of the United States and similarly regulated state waters. The

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discharge of pollutants into regulated waters is prohibited, except in accordance with the terms of a permit issued by the EPA or an analogous state agency. Spill prevention, control and countermeasure plan requirements imposed under the Clean Water Act require appropriate containment berms and similar structures to help prevent the contamination of navigable waters in the event of a petroleum hydrocarbon tank spill, rupture or leak. In addition, the Clean Water Act and analogous state laws may require individual permits or coverage under general permits for discharges of storm water runoff from certain types of facilities. Federal and state regulatory agencies can impose administrative, civil and criminal penalties for non-compliance with discharge permits or other requirements of the Clean Water Act and analogous state laws and regulations.

Pursuant to these laws and regulations, or future changes thereto, we may be required to obtain and maintain approvals or permits for the discharge of wastewater or storm water and are required to develop and implement spill prevention, control and countermeasure plans in connection with on-site storage of significant quantities of motor fuel. We believe that we maintain all required discharge permits necessary to conduct our operations, and further believe we are in substantial compliance with the terms thereof.

Air Emissions

The federal Clean Air Act, as amended, (“CAA”) and similar state laws impose requirements on emissions to the air from motor fueling activities in certain areas of the country, including those that do not meet state or national ambient air quality standards. These laws may require the installation of vapor recovery systems to control emissions of volatile organic compounds to the air during the motor fueling process.

Under the CAA and comparable state and local laws, permits are typically required to emit regulated air pollutants into the atmosphere. While we expect to obtain necessary approvals for our operations, as with all governmental permitting processes, there is a degree of uncertainty as to whether a particular permit will be granted, the time it will take for such permit to be issued, and the conditions that may be imposed in connection with the granting of such permit. We are unaware of pending changes to air quality laws and regulations that will have a material adverse effect on our financial condition, results of operations or cash available for distribution to our unitholders; nonetheless, there exists the possibility that new laws or regulations may be imposed in the future that could result in more stringent and costly compliance requirements that potentially could materially and adversely affect our business.

Climate Change

Climate change continues to attract considerable public and scientific attention and, as a result, numerous proposals have been made and are likely to continue to be made at the international, national, regional and state levels of government to monitor and limit emissions of greenhouse gases (“GHGs”). In recent years, the EPA has adopted and substantially expanded regulations for the measurement and annual reporting of carbon dioxide, methane and other GHG emitted from certain large facilities, including onshore oil and gas production, processing, transmission, storage and distribution facilities. In addition, both houses of Congress have considered legislation to reduce emissions of GHG, and a number of states have taken, or are considering taking, legal measures to reduce emissions of GHG, primarily through the development of GHG inventories, GHG permitting, state or regional GHG cap and trade programs, and/or mandates for the use of renewable energy.

Many states and local governments are undertaking efforts to meet climate goals which could restrict development of oil and gas as well as lessen demand depending on the specific initiatives. Foreign governments’ pursuit of climate change goals, such as the United States reentering the Paris Climate Agreement, could also impact demand. New international, federal, or state restrictions on GHG emissions that may be imposed in areas of the United States in which we conduct business and that apply to our operations could adversely affect our business.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information about our executive officers and directors, including their ages as of the date of this prospectus. With respect to our directors, each biography contains information regarding the person’s service as a director, business experience, director positions held currently or at any time during the past five years, information regarding involvement in certain legal or administrative proceedings and the experience, qualifications, attributes or skills that caused our board of directors to determine that the person should serve as a director of our Company.

<u>Name</u>	<u>Age</u>	<u>Position</u>
Executive Officers		
John Lai	57	Chief Executive Officer and Director
Jedidiah Gold	41	Chief Financial Officer
Lisa Bossard Funk	62	General Counsel
Joseph Matheny	45	Senior Vice President, Operations
Mayra Chimienti	37	Vice President, Operations Services
Casey Lindsay	39	Vice President, Corporate Development
Directors		
John Danhaki	65	Director
Jonathan Seiffer	49	Director
J. Kristofer Galashan	43	Director
Jeffrey Suer	35	Director

John Lai. Mr. Lai has served as our President and Chief Executive Officer and as a member of our board of directors since June 2013, and previously served as our Vice President of Market Development. Mr. Lai joined Mister Car Wash in 2002. Mr. Lai has served as a director at the Southern Arizona Leadership Council since December 2019. Mr. Lai received a B.S. from the University of Arizona.

We believe that Mr. Lai is qualified to serve on our board of directors based on his understanding of our business and operations and perspective as our Chief Executive Officer and President.

Jedidiah Gold. Mr. Gold has served as our Treasurer and Chief Financial Officer since July 2019. Mr. Gold previously served as Senior Director Finance, Assistant Treasurer at Yum Brands, Inc. from May 2016 to July 2019, and as Chief Financial Officer MENAPak at KFC Corporation from October 2014 to May 2016. Mr. Gold has served as a director for the Mister Cares Foundation since April 2020. Mr. Gold received an M.B.A. in Finance and Accounting from Indiana University and a B.S. in accounting from the University of Utah.

Lisa Bossard Funk. Ms. Funk has served as our Secretary and General Counsel since August 2015. Ms. Funk served as a director at Tohono Chul Park, Inc. from 2014 to 2018, the Pima County Bar Association from 2014 to 2016, and the Arizona Women Lawyers Association from 2007 to 2019. Ms. Funk received a J.D. from the University of Arizona College of Law, and a B.A. in Spanish, political science, and economics from the University of Arizona.

Joseph Matheny. Mr. Matheny has served as our Senior Vice President, Operations since March 2020. Mr. Matheny has previously served as our Vice President, Operations since December 2016, and has also served as our General Manager, Regional Manager, and Division Manager since 1998.

Mayra Chimienti. Ms. Chimienti has served as our Vice President, Operations Services since July 2017. Ms. Chimienti joined our Company in 2007 and previously served as our Director of Training & Development from March 2013 to July 2017. Ms. Chimienti has served as a director for the Mister Cares Foundation since April 2020. Ms. Chimienti received a B.A. in communications from the University of Texas, El Paso.

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Casey Lindsay. Mr. Lindsay has served as our Vice President, Corporate Development since September 2017. Mr. Lindsay previously served as our Director, Acquisitions from September 2013 to September 2017, and as the Corporate Development Manager for Sonova Holding AG from February 2010 to August 2013. Mr. Lindsay received a B.A. in Finance from Drake University.

John Danhaki. Mr. Danhaki has served as a member of our board of directors since August 2014. Mr. Danhaki has served as the Managing Partner of Leonard Green & Partners, a private equity investing firm, since 1995. Mr. Danhaki has also served on the board of directors of IQVIA Holdings Inc. since 2010. Mr. Danhaki received an M.B.A. from Harvard Business School, and a B.A. in economics from the University of California, Berkeley.

We believe Mr. Danhaki is qualified to serve on our board of directors due to his extensive experience investing in and supporting high-growth, market-leading companies, and his experience as a financial analyst.

Jonathan Seiffer. Mr. Seiffer has served as a member of our board of directors since August 2014. Mr. Seiffer is a Senior Partner at Leonard Green & Partners, a private equity investing firm, which he joined as an Associate in October 1994. Mr. Seiffer has also served on the board of directors of Signet Jewelers, LTD since 2019 and previously served on the Boards of Directors of Whole Foods Market, Inc. from 2008 to 2017 and BJ's Wholesale Club from 2011 to 2020. Mr. Seiffer obtained a B.S. in finance and systems engineering from the University of Pennsylvania.

We believe Mr. Seiffer is qualified to serve on our board of directors due to his extensive experience investing in and supporting high-growth, market-leading companies.

J. Kristofer Galashan. Mr. Galashan has served as a member of our board of directors since August 2014. Mr. Galashan is a Partner of Leonard Green & Partners where he joined as an associate in 2002. Mr. Galashan has also served on the board of directors of USHG Acquisition Corp. since February 2021 and The Container Store since August 2007, and previously served on the board of directors for BJ's Wholesale Club from 2011 to 2019. Mr. Galashan earned a B.A. in Honors Business Administration from the Richard Ivey School of Business at the University of Western Ontario.

We believe Mr. Galashan is qualified to serve on our board of directors due to his extensive experience investing in and supporting high-growth, market-leading companies.

Jeffrey Suer. Mr. Suer has served as a member of our board of directors since August 2014. Mr. Suer is a Principal at Leonard Green & Partners, a private equity investing firm. Prior to joining Leonard Green & Partners in August 2013, Mr. Suer previously served as a private equity associate at Apollo Global Management LLC and a mergers and acquisitions analyst at Morgan Stanley. Mr. Suer received an M.B.A. from Harvard Business School, and a B.S. in Mathematics/Economics from the University of California, Los Angeles.

We believe Mr. Suer is qualified to serve on our board of directors due to his extensive experience investing in and supporting high-growth, market-leading companies.

Composition of the Board of Directors after this Offering

Our business and affairs are managed under the direction of the board of directors. Following this offering, our board of directors will initially consist of directors.

Pursuant to the Stockholders Agreement, LGP will be entitled to designate individuals to be included in the slate of nominees recommended by our board of directors for election to our board of directors. So long as LGP owns, in the aggregate, (i) at least 40% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), LGP will be entitled to nominate four directors, (ii) less than 40% but at least 30% of the total

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outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will be entitled to nominate three directors, (iii) less than 30%, but at least 20% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will be entitled to nominate two directors, (iv) less than 20%, but at least 10% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will be entitled to nominate one director and (v) less than 10% of the total outstanding shares of our common stock owned by it immediately following the consummation of this offering (including the sale of any shares pursuant to the underwriters' option to purchase additional shares), it will not be entitled to nominate a director. See "Certain Relationships and Related Party Transactions—Stockholders Agreement." The directors LGP elects have the authority to incur additional debt, issue or repurchase stock, declare dividends and make other decisions that could be detrimental to shareholders.

In accordance with our amended and restated certificate of incorporation that will be in effect upon the closing of this offering, our board of directors will be divided into three classes with staggered three year terms. At each annual meeting of stockholders after the initial classification, the successors to the directors whose terms will then expire will be elected to serve from the time of election and qualification until the third annual meeting following their election. Our directors will be divided among three classes as follows:

- the Class I directors will be [redacted] and [redacted], and their terms will expire at the annual meeting of stockholders to be held in 2022;
- the Class II directors will be [redacted] and [redacted], and their terms will expire at the annual meeting of stockholders to be held in 2023; and
- the Class III directors will be [redacted] and [redacted], and their terms will expire at the annual meeting of stockholders to be held in 2024.

Pursuant to the terms of the Stockholders Agreement, directors nominated by LGP may only be removed at the request of LGP in accordance with the bylaws of the Company then in effect. In all other cases and at any other time, directors may only be removed for cause by the affirmative vote of the holders of at least a majority of our common stock.

This classification of our board of directors may have the effect of delaying or preventing changes in control of our Company. Directors may only be removed for cause by the affirmative vote of the holders of at least a majority of our common stock.

Director Independence and Controlled Company Exception

Our board of directors has affirmatively determined that [redacted] and [redacted] are independent directors under the rules of the New York Stock Exchange.

As a result of LGP controlling more than 50% of the voting power of our Company, we will be a "controlled company" within the meaning of the New York Stock Exchange corporate governance standards following this offering. As a "controlled company," we may elect not to comply with certain corporate governance standards, including the requirements:

- that a majority of our board of directors consist of independent directors;
- that our board of directors have a nominating and corporate governance committee that is composed entirely of independent directors with a written charter addressing the committee's purpose and responsibilities;

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- that our board of directors have a compensation committee that is composed entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities; and
- for an annual performance evaluation of the nominating and corporate governance committee and compensation committee.

For at least a period following this offering, we intend to utilize all of these exemptions. As a result, we will not have a majority of independent directors, our nominating and corporate governance committee and compensation committee will not consist entirely of independent directors and such committees will not be subject to annual performance evaluations. Accordingly, you will not have the same protections afforded to stockholders of companies that are subject to all of the corporate governance requirements. Risk Factors—Risks Relating to this Offering and Ownership of Our Common Stock—We will be a “controlled company” within the meaning of the New York Stock Exchange rules following this offering and, as a result, will qualify for, and may rely on, exemptions from certain corporate governance requirements.” In the event that we cease to be a “controlled company” and our common stock continues to be listed on the New York Stock Exchange, we will be required to comply with these provisions within the applicable transition periods.

Leadership Structure of the Board of Directors

Our board of directors will combine the roles of chairperson of the Board and Chief Executive Officer. These positions will be held by John Lai, as our Chairperson and Chief Executive Officer, at the consummation of this offering. The board of directors has determined that combining these positions will serve the best interests of the Company and its stockholders. Our board of directors believes that our Chief Executive Officer is best situated to serve as Chairperson because he is the director most familiar with our business and industry, and most capable of effectively identifying strategic priorities and leading the consideration and execution of strategy. The board of directors believes that the combined position of Chairperson and Chief Executive Officer promotes the development of policy and plans, and facilitates information flow between management and the board of directors, which is essential to effective governance.

Committees of the Board of Directors

Upon consummation of this offering, our board of directors will have the following committees: the audit committee, the compensation committee and the nominating and corporate governance committee. From time to time, our board of directors may also establish any other committees that it deems necessary or desirable.

Audit Committee. Upon consummation of this offering, we expect to have an audit committee consisting of as chair and . Rule 10A-3 of the Exchange Act requires us to have one independent audit committee member upon the listing of our common stock, a majority of independent directors on our audit committee within 90 days of the effective date of this registration statement and an audit committee composed entirely of independent directors within one year of the effective date of this registration statement. qualifies as our “audit committee financial expert” within the meaning of regulations adopted by the SEC. The audit committee appoints and reviews the qualifications and independence of our independent registered public accounting firm, prepares audit committee reports to be included in proxy statements filed under SEC rules and reviews the scope of audit and non-audit assignments and related fees, the results of the annual audit, accounting principles used in financial reporting, internal auditing procedures, the adequacy of our internal control procedures, the quality and integrity of our financial statements and investigations into matters related to audit functions. The audit committee is also responsible for overseeing risk management on behalf of our board of directors. See “—Risk Oversight.”

Compensation Committee. Upon consummation of this offering, we expect to have a compensation committee consisting of as chair and . The principal responsibilities of the compensation committee are to review and approve matters involving executive and director compensation, recommend changes in employee

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benefit programs, authorize equity and other incentive arrangements, prepare compensation committee reports to be included in proxy statements filed under SEC rules and authorize us to enter into employment and other employee-related agreements.

Nominating and Corporate Governance Committee. Upon the consummation of this offering, we expect to have a nominating and corporate governance committee consisting of as chair and . The nominating and corporate governance committee assists our board of directors in identifying individuals qualified to become board members, consistent with criteria approved by our board of directors, makes recommendations for nominees for committees, oversees the evaluation of the board of directors and management and develops, recommends to the board of directors and reviews our corporate governance principles.

Risk Oversight

Our board of directors has extensive involvement in the oversight of risk management related to us and our business and accomplishes this oversight primarily through the audit committee. To that end, our audit committee will meet quarterly with our Chief Financial Officer and our independent auditors where it will receive regular updates regarding our management’s assessment of risk exposures including liquidity, credit and operational risks and the process in place to monitor such risks and review results of operations, financial reporting and assessments of internal controls over financial reporting.

Code of Conduct

Prior to the consummation of this offering, we intend to adopt a code of conduct applicable to all of our directors, officers (including our principal executive officer, principal financial officer and principal accounting officer) and employees. Our code of conduct will be available on our website at www.mistercarwash.com under Investor Relations. Our code of conduct will be a “code of ethics” as defined in Item 406(b) of Regulation S-K. In the event that we amend or waive certain provisions of our code of conduct applicable to our principal executive officer, principal financial officer or principal accounting officer that requires disclosure under applicable SEC rules, we intend to disclose the same on our website.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves, or in the past year has served, as a member of the board of directors or compensation committee (or other committee performing equivalent functions) of any entity that has one or more executive officers serving on our board of directors or compensation committee. No interlocking relationship exists between any member of our compensation committee (or other committee performing equivalent functions) and any executive, member of the board of directors or member of the compensation committee (or other committee performing equivalent functions) and of any other company. We are party to certain transactions with LGP and affiliates thereof as described in “Certain Relationships and Related Party Transactions.”

EXECUTIVE COMPENSATION

This section discusses the material components of the executive compensation program for our executive officers who are named in the “Summary Compensation Table” below. In 2020, our “named executive officers”, or “NEOs”, and their positions were as follows:

- John Lai, President, Chief Executive Officer and Director;
- Jedidiah Gold, Chief Financial Officer;
- Joseph Matheny, Senior Vice President, Operations; and
- Casey Lindsay, Vice President, Corporate Development.

This discussion may contain forward-looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we adopt following the completion of this offering may differ materially from the currently planned programs summarized in this discussion.

Summary Compensation Table

The following table sets forth information concerning the compensation of our named executive officers for the years ended December 31, 2020.

<u>Name and Principal Position</u>	<u>Year</u>	<u>Salary (\$)(1)</u>	<u>Bonus (\$)(2)</u>	<u>Non-Equity Incentive Plan Compensation (\$)(3)</u>	<u>All Other Compensation (\$)(4)</u>	<u>Total (\$)</u>
John Lai <i>Chief Executive Officer and Director</i>	2020	473,077	231,186	471,262	141,076	1,316,601
Jedidiah Gold <i>Chief Financial Officer</i>	2020	274,615	51,224	70,690	4,048	400,577
Joseph Matheny <i>Senior Vice President, Operations</i>	2020	245,668	43,774	62,515	8,145	360,102
Casey Lindsay <i>Vice President, Corporate Development</i>	2020	300,127	45,185	77,256	7,948	430,516

- (1) Amounts reflect the actual base salary paid to each named executive officer in respect of 2020, taking into account salary reductions implemented in connection with the COVID-19 pandemic.
- (2) Amounts reflect one-time discretionary bonuses paid to each named executive officer in recognition of the compensation reductions applicable to each such named executive officer during 2020, as determined by our board of directors. For additional information, see “Base Salaries” and “Bonus Compensation” below.
- (3) Amounts reflect quarterly performance bonuses earned with respect to 2020 under our 2020 Bonus Program, as described below.
- (4) Amounts reflect (i) a car allowance for Mr. Lai in the amount of \$7,269, (ii) cell phone allowances for Messrs. Lai, Gold, Matheny and Lindsay in the amount of \$2,500, \$1,000, \$1,500 and \$1,750, respectively, (iii) 401(k) matching contributions of \$3,674, \$3,203 and \$1,775 made by us on behalf of Messrs. Lai, Matheny and Lindsay’s accounts, respectively, and (iv) supplemental executive disability insurance premiums of \$6,469, \$3,048, \$3,443 and \$4,423 paid by us on behalf of Messrs. Lai, Gold, Matheny and Lindsay, respectively. For Mr. Lai, the amount also reflects the value of personal usage of Company aircraft in the amount of \$105,439 and a tax gross-up in the amount of \$15,725 associated with his personal usage of Company aircraft.

Elements of the Company's Executive Compensation Program

For the year ended December 31, 2020, the compensation for our named executive officers generally consisted of a base salary and cash bonuses. These elements (and the amounts of compensation and benefits under each element) were selected because we believe they are necessary to help us attract and retain executive talent which is fundamental to our success.

Below is a more detailed summary of the current executive compensation program as it relates to our named executive officers.

Base Salaries

Our named executive officers receive a base salary to compensate them for the services they provide to our Company. The base salary payable to each named executive officer is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role and responsibilities. Mr. Lai's base salary was initially established in his employment agreement and has been increased from time to time thereafter.

On March 16, 2020, in response to the COVID-19 pandemic, we imposed a reduction on the base salaries for certain of our employees, including our named executive officers. The salaries paid to Messrs. Lai, Gold, Matheny and Lindsay were reduced by 100%, 40%, 35% and 40%, respectively. Salaries were restored fully to pre-COVID-19 amounts effective June 1, 2020.

The actual salaries paid to each named executive officer for 2020 are set forth in the "Summary Compensation Table" above in the column titled "Salary."

Effective June 1, 2021, the base salaries for Messrs. Lai, Matheny and Lindsay will be increased to \$1,000,000, \$316,843 and \$369,263, respectively. Effective January 1, 2022, Mr. Gold's base salary will be increased to \$475,000.

Bonus Compensation

2020 Bonus Programs

In 2020, we maintained the HQ Bonus Program, or the 2020 Bonus Program, which was a performance-based quarterly incentive plan that provided cash bonuses to certain salaried employees (including our named executive officers). Pursuant to the 2020 Bonus Program, bonus payouts are paid quarterly subject to the achievement of specific performance goals by each participant as well as the overall performance of the Company against our year-to-date budget, with 25% of each quarter's total bonus held back and paid after year-end performance has been determined. Each named executive officer's award under the 2020 Bonus Program is determined as a function of the participant's target bonus amount, 50% of which is based on individual performance and the other 50% on Company performance. Subject to the 25% holdback described above, named executive officers are eligible to be awarded between 0% and 120% of the quarterly target bonus amount for individual performance as evaluated by our chief executive officer (other than with respect to his own compensation) and the Company, and between 85% and 110% of the quarterly target bonus amount for Company performance, which is based on the Company's Adjusted EBITDAR budget attainment. The amount of each named executive officer's quarterly bonus based on Company performance is determined based on the prorated portion of the Company's year-to-date Adjusted EBITDAR budget attainment at the end of such quarter, with final bonus payouts earned based on actual performance for the year. The Company's calculation of Adjusted EBITDAR for purposes of determining bonus compensation is equivalent to its presentation of Adjusted EBITDA elsewhere in this prospectus as described in "Key Performance Indicators and Non-GAAP Measures," except further adjusted for the Company's cash rent expense.

In response to the COVID-19 pandemic, we temporarily discontinued payment of quarterly bonuses under the 2020 Bonus Program to certain of our employees, including our named executive officers. The non-payment

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of such bonuses occurred during the same period in which we imposed base salary reductions, as described above. On June 1, 2020, eligibility for quarterly bonus payments was fully restored to pre-COVID-19 levels, effective April 1, 2020, which payment amounts were then determined based on actual Adjusted EBITDAR budget attainment for the second quarter of 2020.

With respect to 2020, we determined that the actual achievement of the Company's year-to-date Adjusted EBITDAR budget attainment was 91.84% and individual performance was achieved at 100% by each NEO, resulting in payouts for each NEO as follows: \$471,262 for Mr. Lai, \$70,690 for Mr. Gold, \$62,515 for Mr. Matheny and \$77,256 for Mr. Lindsay after taking into account the temporary cessation of bonus payments as described above. The actual cash bonuses awarded to each named executive officer under the 2020 Bonus Program for 2020 are set forth above in the Summary Compensation Table in the column entitled "Non-Equity Incentive Plan Compensation."

Effective June 1, 2021, the target bonus opportunities for each of Messrs. Lai, Matheny and Lindsay under our applicable cash incentive plan will be increased to 100%, 40% and 40%, respectively, of such named executive officer's base salary.

Discretionary Make Whole Bonuses

In 2020, we provided one-time discretionary cash bonuses to each of our named executive officers intended to make them whole for salary and bonus reductions implemented in connection with the COVID-19 pandemic in recognition of the extraordinary efforts required from such executives to deliver value for the Company in 2020. The actual amounts of such bonuses are set forth above in the Summary Compensation Table in the column entitled "Bonus."

Equity Compensation

2014 Plan and Outstanding Awards

We also currently maintain the 2014 Stock Option Plan of Hotshine Holdings, Inc., or the 2014 Plan, which provides for the issuance of stock option awards to our eligible employees (including our named executive officers), consultants and directors. The 2014 Plan provides our eligible service providers the opportunity to participate in the equity appreciation of our business and incentivizes them to work towards our long-term performance goals. We believe that such awards function as a compelling incentive and retention tool.

As described in further detail below in the Outstanding Equity Awards at Fiscal Year End Table and related footnotes, prior to 2020, we granted stock options under the 2014 Plan to each of our named executive officers, 60% of which vest based on the passage of time and 40% of which vest based on performance. Mr. Lai was granted an option to purchase 116,094 shares of our common stock on September 3, 2014 originally at an exercise price of \$100.00 per share (currently at an exercise price of \$62.50 per share for the time-based vesting portion of the option, all of which is already vested, and \$43.75 per share for the performance-based vesting portion of the option). Mr. Gold was granted an option to purchase 15,403 shares of our common stock on September 9, 2019 at an exercise price of \$203.00 per share. Mr. Matheny was granted an option to purchase 3,870 shares of our common stock on each of September 3, 2014, July 15, 2015 and November 23, 2016, respectively, originally at an exercise price of \$100.00, \$100.00 and \$119.52, respectively, per share (in each case, currently at an exercise price of \$62.50 per share for the time-based vesting portion of the option and \$43.75 per share for the performance-based vesting portion of the option). Mr. Lindsay was granted an option to purchase 7,740, 3,870 and 1,935 shares of our common stock on September 3, 2014, November 23, 2016 and June 1, 2017, respectively, originally at an exercise price of \$100.00, \$119.52 and \$100.00, respectively, per share (for the 2014 and 2016 options, currently at an exercise price of \$62.50 per share for the time-based vesting portion of the option and \$43.75 per share for the performance-based vesting portion of the option and, for the 2017 option, currently at an exercise price of \$64.00 per share for each of the time-based vesting portion of the option and the performance-based vesting portion of the option). In each of December 2016 and May 2019, we

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paid out dividends to equityholders (including optionholders) which, among other things, resulted in the bifurcation and reduction of the exercise prices with respect to such optionholders' outstanding time-based vesting and performance-based vesting options.

The time-based vesting portion of each option vests in five equal annual installments on each anniversary of the grant date (for Mr. Lai, September 3, 2014; for Mr. Gold, September 9, 2019; and for Mr. Matheny, September 3, 2014, July 15, 2015 and November 23, 2016, respectively; and for Mr. Lindsay, September 3, 2014, November 23, 2016 and June 1, 2017, respectively), subject to the named executive officer's continued employment with us through each applicable vesting date. Messrs. Lai and Lindsay's 2014 time-based vesting options vested in full on September 3, 2019, and Mr. Matheny's 2014 and 2015 time-based vesting options vested in full on September 3, 2019 and July 15, 2020, respectively. The unvested portion of the time-based vesting options will accelerate in full upon a qualifying change in control of the Company, subject to the named executive officer's continued employment with us through the consummation of such change in control.

The performance-based vesting portion of each option vests upon a performance measurement date (including a change in control or initial public offering) based on the return on LGP and its affiliates' investment in the Company, subject to the named executive officer's continued employment on such performance measurement date. To the extent LGP and its affiliates have received aggregate proceeds in respect of their investment in the Company in the form of cash or marketable securities that result in their attainment of an internal rate of return of at least 17.5% or a multiple of invested capital of at least 2.5 (taking into account the value of their equity securities in the Company retained immediately after such performance measurement date), fifty percent (50%) of the performance-based vesting options will vest on the applicable performance measurement date. Further, to the extent LGP and its affiliates have received aggregate proceeds in respect of their investment in the Company in the form of cash or marketable securities that result in their attainment of an internal rate of return of at least 20% or a multiple of invested capital of at least 3.0 (taking into account the value of their equity securities in the Company retained immediately after such performance measurement date), the remaining fifty percent (50%) of the performance-based vesting options will vest on the applicable performance measurement date. For the avoidance of doubt, this offering will constitute a performance measurement date under the applicable option agreements for purposes of the performance-based vesting portion of the options.

Upon a termination of employment due to the named executive officer's death or disability prior to any performance measurement date, the performance-based vesting options will vest and become exercisable in an equivalent percentage to the corresponding time-based vesting options that have already vested as of the date of such termination and any remaining performance-based vesting options will be forfeited. We expect the performance-based vesting options to vest in full in connection with this offering.

Rollover Plan

We currently maintain the Hotshine Holdings, Inc. 2014 Rollover Option Plan, or the Rollover Plan, covering certain rollover options to purchase shares of our common stock that was adopted in connection with the prior acquisition of Mister Car Wash Holdings, Inc. No named executive officers other than Mr. Lindsay hold any outstanding options under the Rollover Plan as of December 31, 2020. Mr. Lindsay was granted an option to purchase 1,643 shares of our common stock on August 21, 2014 at an exercise price of \$25.00 per share. Mr. Lindsay's option vested in full on August 21, 2014.

2021 Plan

In connection with this offering, we intend to adopt the 2021 Incentive Award Plan, referred to herein as the 2021 Plan, in order to facilitate the grant of cash and equity incentives to directors, employees (including our named executive officers) and consultants of our Company and certain of its affiliates and to enable our Company and certain of its affiliates to obtain and retain the services of these individuals, which is essential to our long-term success. For additional information about the 2021 Plan, see “—Equity Plans—2021 Incentive Award Plan” below.

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IPO Awards

In addition, in connection with this offering, we intend to grant stock options and restricted stock unit awards to certain of our employees, including our named executive officers, under the 2021 Plan. We intend to grant, in the aggregate, equity awards with respect to _____ shares of our common stock to such employees (including our named executive officers) and with an aggregate value of \$ _____ million.

Under the 2021 Plan, Messrs. Lai, Gold, Matheny and Lindsay will be granted awards with an aggregate value of \$ _____, \$ _____, \$ _____ and \$ _____, respectively. Of the grant date value of each named executive officer's awards, _____ % will be granted in the form of restricted stock units and _____ % in the form of stock options with an exercise price equal to the per share offering price of our common stock.

Other Elements of Compensation

Retirement and Deferred Compensation Plans

We currently maintain a 401(k) retirement savings plan for our employees, including our named executive officers, who satisfy certain eligibility requirements. The Code allows eligible employees to defer a portion of their compensation, within prescribed limits, on a pre-tax basis through contributions to the 401(k) plan. Currently, we provide matching contributions in the 401(k) plan equal to 50% of a participant's salary deferrals up to 3% of his or her compensation, subject to limits provided in the Code. These matching contributions are fully vested after one year of service to the Company. We believe that providing a vehicle for tax-deferred retirement savings through our 401(k) plan, and making matching contributions, adds to the overall desirability of our executive compensation package and further incentivizes our employees, including our named executive officers, in accordance with our compensation policies.

We also maintain a nonqualified deferred compensation plan in which certain of our eligible employees, including certain of our named executive officers, participate. Under this plan, participants may defer the payment of eligible salary and incentive compensation until certain specified payment dates.

Employee Benefits and Perquisites

Health and Welfare Plans

All of our full-time employees, including our named executive officers, are eligible to participate in our health and welfare plans, including:

- medical, dental and vision benefits;
- short-term and long-term disability insurance; and
- life and accidental death & dismemberment insurance.

In addition, certain of our key employees (including our named executive officers) are eligible to participate in supplemental executive disability insurance. The amount of executive disability insurance premiums paid by us on behalf of each named executive officer are set forth above in the Summary Compensation Table in the column entitled "All Other Compensation."

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Other Benefits and Perquisites

We maintain a Company aircraft that is used primarily for business air travel by our executive officers. From time to time, Mr. Lai uses the Company aircraft for personal air travel pursuant to guidelines approved by our board of directors. On certain occasions, Mr. Lai's family members and guests may accompany him on a flight. For 2020, the value of the aggregate incremental costs associated with Mr. Lai's personal usage of Company aircraft was \$105,439. We determine the incremental costs of the personal use of Company aircraft based on the variable operating costs to us, which includes (i) aircraft fuel expenses per hour of flight; (ii) certain variable repair and maintenance expenses; (iii) remote hangar, landing, ramp, and airport fees; (iv) customs, foreign permit and similar fees; (v) crew travel expenses; (vi) supplies and catering; and (vii) passenger ground transportation. Flights where there are no passengers on Company aircraft (so-called "deadhead" flights) are allocated to Mr. Lai when in connection with personal use. Because Company aircraft is used primarily for business travel, this methodology excludes fixed costs that do not change based on usage, such as aircraft permanent hangar rent, insurance, depreciation and pilot salaries. In addition, we provide Mr. Lai with a car allowance and Messrs. Lai, Gold, Matheny and Lindsay with cell phone allowances.

The actual car and cell phone allowance amounts paid to our named executive officers for 2020 are set forth above in the Summary Compensation Table in the column entitled "All Other Compensation."

We believe the benefits and perquisites described above are necessary and appropriate to provide a competitive compensation package to our named executive officers.

Tax Gross-Ups

Mr. Lai received a tax gross-up of \$15,725 in 2020 associated with the income associated with his Company aircraft usage. In general, no other named executive officers receive tax gross-ups from the Company.

Stock Ownership Guidelines

In connection with this offering, we intend to adopt executive officer stock ownership guidelines that will be applicable to our executive officers, including our named executive officers. Our executive officers are expected to satisfy the applicable guidelines set forth below within five years of the later of (i) the effective date of this offering and (ii) the date of such individual's appointment to a position with the Company that is subject to such guidelines, and to hold at least such minimum value in shares of common stock for so long as they are an executive officer thereafter.

<u>Executive</u>	<u>Salary Multiple Threshold (\$)</u>
Chief Executive Officer	5x annual base salary
Other Executive Officers	3x annual base salary

Outstanding Equity Awards at Fiscal Year-End

The following table summarizes the number of shares of common stock underlying outstanding stock option awards for each named executive officer as of December 31, 2020.

Name	Grant Date	Option Awards				
		Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price (\$)	Option Expiration Date
John Lai	09/03/2014 ⁽¹⁾	69,656	—	—	62.50	09/03/2024
	09/03/2014 ⁽²⁾	—	—	46,438	43.75	09/03/2024
Jedidiah Gold	09/09/2019 ⁽¹⁾	1,848	7,394	—	203.00	09/09/2029
	09/09/2019 ⁽²⁾	—	—	6,161	203.00	09/09/2029
Joseph Matheny	09/03/2014 ⁽¹⁾	2,322	—	—	62.50	09/03/2024
	09/03/2014 ⁽²⁾	—	—	1,548	43.75	09/03/2024
	07/15/2015 ⁽¹⁾	2,322	—	—	62.50	07/15/2025
	07/15/2015 ⁽²⁾	—	—	1,548	43.75	07/15/2025
	11/23/2016 ⁽¹⁾	1,858	464	—	62.50	11/23/2026
Casey Lindsay	11/23/2016 ⁽²⁾	—	—	1,548	43.75	11/23/2026
	08/21/2014 ⁽³⁾	1,643	—	—	25.00	08/18/2023
	09/03/2014 ⁽¹⁾	4,644	—	—	62.50	09/03/2024
	09/03/2014 ⁽²⁾	—	—	3,096	43.75	09/03/2024
	11/23/2016 ⁽¹⁾	1,858	464	—	62.50	11/23/2026
	11/23/2016 ⁽²⁾	—	—	1,548	43.75	11/23/2026
	06/01/2017 ⁽¹⁾	697	464	—	64.00	06/01/2027
06/01/2017 ⁽²⁾	—	—	774	64.00	06/01/2027	

- (1) Each such time-based vesting option vests in five annual equal installments on each anniversary of the grant date, subject to the named executive officer's continued employment through each applicable vesting date. Mr. Lai's 2014 options and Messrs. Lai and Lindsay's 2014 and 2015 options are fully vested. Any unvested portion of the option will accelerate in full upon a qualifying change in control of the Company, subject to the named executive officer's continued employment through the consummation of such change in control.
- (2) Such performance-based vesting options vest, subject to the named executive officer's continued employment, with respect to 50% of such option when LGP and its affiliates have received aggregate proceeds in respect of their investment in the Company in the form of cash or marketable securities that result in their attainment of an internal rate of return of at least 17.5% or a multiple of invested capital of at least 2.5 (taking into account the value of their equity securities in the Company retained immediately after such performance measurement date), and the remaining 50% of such option when LGP and its affiliates have received aggregate proceeds in respect of their investment in the Company in the form of cash or marketable securities that result in their attainment of an internal rate of return of at least 20% or a multiple of invested capital of at least 3.0 (taking into account the value of their equity securities in the Company retained immediately after such performance measurement date).
- (3) The option is fully vested.

Executive Compensation Arrangements

Below is a written description of our employment arrangement with our Chief Executive Officer, Mr. Lai. We have not entered into employment agreements with our other named executive officers, Messrs. Gold, Matheny and Lindsay. Each of our other named executive officers' employment is "at will" and may be terminated at any time without notice or the payment of severance.

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In connection with this offering, we intend to enter into a new employment agreement with Mr. Lai to be effective upon the completion of this offering, the material terms of which have not yet been determined.

Existing Employment Agreement with John Lai

On March 4, 2014, we entered into an employment agreement with Mr. Lai providing for his employment as our Chief Executive Officer, as was subsequently amended October 10, 2014 (the “CEO Agreement”).

Pursuant to the CEO Agreement, Mr. Lai was entitled to an initial annual base salary of \$350,000 (increased to \$600,000 effective October 2018). The CEO Agreement also provides that Mr. Lai was eligible to receive a performance-based cash bonus of 75% of his base salary (set at \$600,000 effective October 2018), paid quarterly, based on the achievement of performance objectives established by the Company in its discretion.

Pursuant to the CEO Agreement, if Mr. Lai’s employment is terminated by us without Cause (as defined below), then, subject to his timely execution and non-revocation of a release of claims, he will be entitled to (i) a base severance amount equal to his then current base monthly salary for a period of 18 consecutive months and (ii) the maximum target incentive compensation, or \$600,000. In addition, if Mr. Lai’s employment is terminated by reason of his death or Disability (as defined below), then he is entitled to receive continued base salary payments through the end of the month in which the date of such termination occurs in accordance with our customary payroll practices.

For purposes of the CEO Agreement, “Cause” means: (i) commission of, conviction of, or entry of a plea by executive of *nolo contendere* to a felony that is materially detrimental to the Company, its reputation, or its shareholders; (ii) malfeasance, willful or gross misconduct, or willful dishonesty by executive that materially and adversely affects the business or affairs of the Company, its reputation, or its stockholders; (iii) conviction of or entry of a plea of *nolo contendere* to a crime involving fraud; (iv) material violation by executive of the Company’s ethics/policy code, including breach of duty of loyalty to the Company; (v) willful failure by executive to perform his duties and responsibilities under the CEO Agreement, which failure has not been cured by executive within 15 days after written notice thereof to executive from the Company; (vi) inappropriate use or disclosure by executive of the confidential information and trade secrets of the Company in violation of the CEO Agreement that adversely affects the business or affairs of the Company in a material way; and (vii) material breach by executive not caused by the Company of any terms and conditions of the CEO Agreement, or the Security Holder Agreement, which breach has not been cured by executive within 15 days after written notice thereof to executive from the Company.

For purposes of the CEO Agreement, “Disability” means the inability of executive to perform on a full-time basis the duties and responsibilities of his employment with the Company, or any other position or occupation for which he is reasonably qualified considering executive’s age, education and past work experience, by reason of his illness or other severe physical or mental impairment or condition that has lasted or is expected to last in excess of 12 months, if such inability continues for an uninterrupted period of 180 days or more during any 360 day period. A period of inability shall be “uninterrupted” unless and until executive returns to full-time work for a continuous period of at least 30 days.

The CEO Agreement contains 12-month post-termination non-competition and non-solicitation of employees and suppliers covenants, as well as perpetual confidentiality and mutual non-disparagement covenants.

New Employment Agreement with John Lai

As described above, we intend to enter into a new employment agreement with Mr. Lai, effective upon the completion of this offering, which will replace the CEO Agreement and provide for his continued employment as our Chief Executive Officer (the “New CEO Agreement”). The material terms of the New CEO Agreement have not yet been determined.

Director Compensation

As of December 31, 2020, nonon-employee directors received compensation for their service on our board of directors.

In connection with this offering, we intend to adopt anon-employee director compensation policy that, effective upon the completion of this offering, will be applicable to each of our non-employee directors. Pursuant to this non-employee director compensation policy, we expect that each non-employee director will receive a mixture of cash and equity compensation.

Pursuant to this policy, each eligible non-employee director will receive an annual cash retainer of \$ that will be paid quarterly in arrears. The chairperson of the audit committee will receive an additional annual cash retainer of \$, the chairperson of the compensation committee will receive an additional annual cash retainer of \$, and the chairperson of the nominating and governance committee will receive an additional annual cash retainer of \$.

Also, pursuant to this policy, we intend to grant all eligible non-employee directors an initial equity award of restricted stock units that has a grant date value of \$ upon election to our board of directors, and thereafter an annual equity award of restricted stock units that has a grant date value of \$, in each case, which will vest in full on , subject to the non-employee director's continued service through the applicable vesting date. Each non-employee director serving at the time of the offering will receive a one-time restricted stock unit award with a grant date value of \$ in connection with the offering, which will vest on the .

Equity Plans

Rollover Plan and 2014 Plan

We currently maintain our Rollover Plan and 2014 Plan, as described above. Following the completion of this offering and the effectiveness of the 2021 Plan, no further stock options will be granted under the Rollover Plan or the 2014 Plan.

2021 Incentive Award Plan

In connection with this offering, we intend to adopt the 2021 Plan, subject to approval by our stockholders, under which we may grant cash and equity incentive awards to eligible service providers in order to attract, motivate and retain the talent for which we compete. The material terms of the 2021 Plan, as it is currently contemplated, are summarized below.

Eligibility and Administration

Our employees, consultants and directors, and the employees and consultants of our parents and subsidiaries, will be eligible to receive awards under the 2021 Plan. Following our initial public offering, the 2021 Plan will be administered by our board of directors with respect to awards to non-employee directors and by our compensation committee with respect to other participants, each of which may delegate its duties and responsibilities to committees of our directors and/or officers (referred to collectively as the “plan administrator” below), subject to certain limitations that may be imposed under the 2021 Plan, Section 16 of the Exchange Act, and/or stock exchange rules, as applicable. The plan administrator will have the authority to make all determinations and interpretations under, prescribe all forms for use with, and adopt rules for the administration of, the 2021 Plan, subject to its express terms and conditions. The plan administrator will also set the terms and conditions of all awards under the 2021 Plan, including any vesting and vesting acceleration conditions.

Limitation on Awards and Shares Available

The aggregate number of shares initially available for issuance under the 2021 Plan will be equal to the sum of (1) _____ shares of our common stock, plus (2) any shares available for issuance under the 2014 Plan as of the effective date of the 2021 Plan or subject to awards under the 2014 Plan that are forfeited or lapse unexercised and, following the effective date of the 2021 Plan, are not issued under the 2014 Plan. No more than _____ shares of common stock may be issued under the 2021 Plan upon the exercise of incentive stock options. Shares available under the 2021 Plan may be authorized but unissued shares, shares purchased on the open market or treasury shares.

If any shares subject to an award under the 2021 Plan are forfeited, expire, are converted to shares of another entity in connection with certain corporate events, are surrendered pursuant to an “exchange program” (as described below) or such award is settled for cash, or any shares subject to an award under the 2014 Plan are surrendered pursuant to an exchange program, any shares subject to such award shall, to the extent of such forfeiture, expiration or cash settlement, be again available for new grants under the 2021 Plan. Further, the following shares shall be again available for grant under the 2021 Plan: (i) shares tendered or withheld to satisfy the exercise price or tax withholding obligations associated with an award; (ii) shares subject to a stock appreciation right, or SAR, or other stock-settled award that are not issued in connection with the stock

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settlement of the SAR or other stock-settled award on its exercise; and (iii) shares purchased on the open market with the cash proceeds from the exercise of options. However, notwithstanding the foregoing, after the tenth anniversary of the earlier of (a) the date on which our board of directors adopts the 2021 Plan and (b) the date on which our stockholders approve the 2021 Plan, no shares shall again be available for future grants of awards under the 2021 Plan to the extent that such return of shares would at such time cause the 2021 Plan to constitute a “formula plan” or a “material revision” of the 2021 Plan subject to shareholder approval under then-applicable rules of the NYSE or any other applicable exchange or quotation system.

Awards granted under the 2021 Plan upon the assumption of, or in substitution for, outstanding equity awards previously granted by an entity in connection with a corporate transaction, such as a merger, combination, consolidation or acquisition of property or stock, will not reduce the shares available for grant under the 2021 Plan.

The 2021 Plan will provide that the sum of any cash compensation and the aggregate grant date fair value of all awards granted to a non-employee director pursuant to the 2021 Plan as compensation for services as a non-employee director during any calendar year shall not exceed the amount equal to \$750,000; provided that such limit shall be increased to \$1,000,000 with respect to a non-employee director serving as lead independent director or chairperson of our board of directors or a non-employee director with respect to his or her first year as a director. The plan administrator may make exceptions to this limit for individual non-employee directors in extraordinary circumstances, as the plan administrator may determine in its discretion, provided that the non-employee director receiving such additional compensation may not participate in the decision to award such compensation or in other contemporaneous compensation decisions involving non-employee directors.

Awards

The 2021 Plan provides for the grant of stock options, including incentive stock options, or ISOs, and nonqualified stock options, or NSOs, restricted stock, dividend equivalents, restricted stock units, or RSUs, other stock-based awards, stock appreciation rights, or SARs, and cash awards. No determination has been made as to the types or amounts of awards that will be granted to specific individuals pursuant to the 2021 Plan. Certain awards under the 2021 Plan may constitute or provide for a deferral of compensation, subject to Section 409A of the Code, which may impose additional requirements on the terms and conditions of such awards. All awards under the 2021 Plan will be set forth in award agreements, which will detail all terms and conditions of the awards, including any applicable vesting and payment terms and post-termination exercise limitations. Awards other than cash awards generally will be settled in shares of our common stock, but the plan administrator may provide for cash settlement of any award. A brief description of each award type follows.

- *Stock Options.* Stock options provide for the purchase of shares of our common stock in the future at an exercise price set on the grant date. ISOs, by contrast to NSOs, may provide tax deferral beyond exercise and favorable capital gains tax treatment to their holders if certain holding period and other requirements of the Code are satisfied. The exercise price of a stock option may not be less than 100% of the fair market value of the underlying share on the date of grant (or 110% in the case of ISOs granted to certain significant stockholders), except with respect to certain substitute options granted in connection with a corporate transaction. The term of a stock option may not be longer than ten years (or five years in the case of ISOs granted to certain significant stockholders) and, unless otherwise specified in a stock option award agreement or by a stock option holder in writing, each vested and exercisable and in-the-money stock option automatically exercises on the last business day of such term. Vesting conditions determined by the plan administrator may apply to stock options and may include continued service, performance and/or other conditions.
- *SARs.* SARs entitle their holder, upon exercise, to receive from us an amount equal to the appreciation of the shares subject to the award between the grant date and the exercise date. The exercise price of a SAR may not be less than 100% of the fair market value of the underlying share on the date of grant (except with respect to certain substitute SARs granted in connection with a corporate transaction). The term of a

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SAR may not be longer than ten years and, unless otherwise specified in a SAR award agreement or by a SAR holder in writing, each vested and exercisable and in-the-money SAR automatically exercises on the last business day of such term. Vesting conditions determined by the plan administrator may apply to SARs and may include continued service, performance and/or other conditions.

- *Restricted Stock and RSUs.* Restricted stock is an award of nontransferable shares of our common stock that remain forfeitable unless and until specified conditions are met, and which may be subject to a purchase price. RSUs are contractual promises to deliver shares of our common stock in the future, which may also remain forfeitable unless and until specified conditions are met. Delivery of the shares underlying RSUs may be deferred under the terms of the award or at the election of the participant, if the plan administrator permits such a deferral. Conditions applicable to restricted stock and RSUs may be based on continuing service, the attainment of performance goals and/or such other conditions as the plan administrator may determine. Holders of restricted stock generally have all of the rights of a stockholder upon the issuance of restricted stock. RSU holders have no rights of a stockholder with respect to shares subject to RSUs unless and until such shares are delivered in settlement of the RSUs. In the sole discretion of the plan administrator, RSUs may also be settled for an amount of cash equal to the fair market value of the shares underlying the RSU on the RSU's maturity date, or a combination of cash and shares.
- *Other Stock or Cash-Based Awards.* Other stock or cash-based awards are awards of cash, fully vested shares of our common stock and other awards denominated in, linked to, or derived from shares of our common stock or value metrics related to our shares. Other stock or cash-based awards may be granted to participants and may also be available as a payment form in the settlement of other awards, as standalone payments and as payment in lieu of base salary, bonus, fees or other cash compensation otherwise payable to any individual who is eligible to receive awards. Conditions applicable to other stock or cash-based awards may be based on continuing service, the attainment of performance goals and/or such other conditions as the plan administrator may determine.
- *Dividend Equivalents.* Dividend equivalents represent the right to receive the equivalent value of dividends paid on shares of our common stock and may be granted alone or in tandem with awards other than stock options or SARs. Dividend equivalents are credited as of dividend record dates during the period between the date an award is granted and the date such award terminates or expires, as determined by the plan administrator. Dividend equivalents paid with respect to an award that are based on dividends paid prior to the vesting of such award shall only be paid out to the extent the vesting conditions of the award are satisfied and the award vests.
- *Performance Awards.* Performance awards include any of the foregoing awards that are granted subject to vesting and/or payment based on the attainment of specified performance goals or other criteria the plan administrator may determine, which may or may not be objectively determinable. Performance criteria upon which performance goals are established by the plan administrator may include but are not limited to: (i) net earnings or losses (either before or after one or more of the following: (A) interest, (B) taxes, (C) depreciation, (D) amortization and (E) non-cash equity-based compensation expense); (ii) gross or net sales or revenue or sales or revenue growth; (iii) net income (either before or after taxes); (iv) adjusted net income; (v) operating earnings or profit (either before or after taxes); (vi) cash flow (including, but not limited to, operating cash flow and free cash flow); (vii) return on assets; (viii) return on capital (or invested capital) and cost of capital; (ix) return on stockholders' equity; (x) total stockholder return; (xi) return on sales; (xii) gross or net profit or operating margin; (xiii) costs, reductions in costs and cost control measures; (xiv) expenses; (xv) working capital; (xvi) earnings or loss per share; (xvii) adjusted earnings or loss per share; (xviii) price per share or dividends per share (or appreciation in and/or maintenance of such price or dividends); (xix) regulatory achievements or compliance (including, without limitation, regulatory body approval for commercialization of a product); (xx) implementation or completion of critical projects; (xxi) market share; (xxii) economic value; (xxiii) individual employee performance; or (xxiv) any combination of the foregoing, any of which may be measured either in absolute terms for us or any operating unit of our company or as compared to any incremental increase or decrease or as compared to results of a peer group or to market performance indicators or indices.

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Certain Transactions and Adjustments

The plan administrator will have broad discretion to take action under the 2021 Plan, as well as make adjustments to the terms and conditions of existing and future awards, to prevent the dilution or enlargement of intended benefits and facilitate necessary or desirable changes in the event of certain transactions and events affecting our common stock, such as stock dividends, stock splits, mergers, acquisitions, consolidations and other corporate transactions. In addition, in the event of certain nonreciprocal transactions with our stockholders known as “equity restructurings,” the plan administrator will make equitable adjustments to the 2021 Plan and outstanding awards. Individual award agreements may provide for accelerated vesting and payment provisions. In addition, the plan administrator has discretion to institute and determine the terms and conditions of an exchange program pursuant to which outstanding awards may be surrendered or cancelled in exchange for awards of the same type (which may have higher or lower exercise prices and different terms), awards of a different type, and/or cash, under which participants have the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the plan administrator, or under which the exercise price of an outstanding award may be reduced or increased.

Foreign Participants, Claw-Back Provisions, Transferability, and Participant Payments

The plan administrator may modify award terms, establish subplans and/or adjust other terms and conditions of awards, subject to the share limits described above, in order to facilitate grants of awards subject to the laws and/or stock exchange rules of countries outside of the United States. All awards will be subject to the provisions of any claw-back policy implemented by our company to the extent set forth in such claw-back policy and/or in the applicable award agreement. With limited exceptions for estate planning, domestic relations orders, certain beneficiary designations and the laws of descent and distribution, awards under the 2021 Plan are generally non-transferable, and are exercisable only by the participant. With regard to tax withholding, exercise price and purchase price obligations arising in connection with awards under the 2021 Plan, the plan administrator may, in its discretion, accept cash or check, provide for net withholding of shares, allow shares of our common stock that meet specified conditions to be repurchased, allow a “market sell order” or such other consideration as it deems suitable.

Plan Amendment and Termination

Our board of directors may amend or terminate the 2021 Plan at any time; however, except in connection with certain changes in our capital structure, stockholder approval will be required for any amendment that increases the number of shares available under the 2021 Plan. No ISO may be granted pursuant to the 2021 Plan after the tenth anniversary of the earlier of (a) the date on which our board of directors adopts the 2021 Plan and (b) the date on which our stockholders approve the 2021 Plan.

2021 Employee Stock Purchase Plan

In connection with this offering, we intend to adopt the 2021 Employee Stock Purchase Plan, or the ESPP. The material terms of the ESPP, as it is currently contemplated, are summarized below.

Shares Available and Administration

A total of _____ shares of our common stock will initially be reserved for issuance under our ESPP. In addition, the number of shares available for issuance under the ESPP will be annually increased on January 1 of each calendar year beginning in 2022 and ending on and including 2031, by an amount equal to the lesser of (a) _____ % of the shares outstanding on the final day of the immediately preceding calendar year and (b) such smaller number of shares as determined by our board of directors, provided that no more than _____ shares of our common stock may be issued under the ESPP. Our board of directors or the compensation committee will have authority to interpret the terms of the ESPP and determine eligibility of participants. We expect that the compensation committee of our board of directors will be the initial administrator of the ESPP (referred to as the “plan administrator” below).

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Eligibility

We expect that our employees, other than employees who, immediately after the grant of a right to purchase common stock under the ESPP, would own (directly or through attribution) stock possessing 5% or more of the total combined voting power or value of all classes of our common or other class of stock, will be eligible to participate in the ESPP. However, consistent with Section 423 of the Code the plan administrator may provide that other groups of employees, including without limitation those customarily employed by us for fewer than 20 hours per week or fewer than five months in any calendar year, will not be eligible to participate in the ESPP.

Grant of Rights

The ESPP will be intended to qualify under Section 423 of the Code and shares of our common stock will be offered under the ESPP during offering periods. The length of the offering periods under the ESPP will be determined by the plan administrator and may be up to 27 months long. Employee payroll deductions will be used to purchase shares on each purchase date during an offering period. The purchase dates for each offering period will be the final trading day in each purchase period. Offering periods under the ESPP will commence when determined by the plan administrator. The plan administrator may, in its discretion, modify the terms of future offering periods. We expect that the first offering period will commence on the date the registration statement of which this prospectus forms a part becomes effective and will end on November 9, 2021, with subsequent offering periods of six month thereafter unless otherwise determined by the plan administrator.

The ESPP will permit participants to purchase common stock through payroll deductions of up to a specified percentage of their eligible compensation, which includes a participant's gross cash compensation for services to us. The plan administrator will establish a maximum number of shares that may be purchased by a participant during any offering period. In addition, no employee will be permitted to accrue the right to purchase stock under the ESPP at a rate in excess of \$25,000 worth of shares during any calendar year during which such a purchase right is outstanding (based on the fair market value per share of our common stock as of the first day of the offering period).

The plan administrator in its discretion may also establish a cashless participation program such that participants may exercise their right to purchase shares by means other than payroll deduction.

On the first trading day of each offering period, each participant will automatically be granted an option to purchase shares of our common stock. The option will expire on the earlier of (a) the last purchase date of the applicable offering period, (b) the last day of the applicable offering period or (c) the date on which the participant withdraws from the ESPP, and will be exercised on each purchase date during such offering period to the extent of the payroll deductions accumulated during the offering period. Unless the plan administrator otherwise determines, the purchase price of the shares will be 85% of the lower of the fair market value of our common stock on the first trading day of the offering period or on the purchase date. Participants may voluntarily end their participation in the ESPP prior to the end of the applicable offering period, and will be paid their accrued payroll deductions that have not yet been used to purchase shares of common stock. Participation will end automatically upon a participant's termination of employment.

A participant will not be permitted to transfer rights granted under the ESPP other than by will, the laws of descent and distribution, and are generally exercisable only by the participant.

Certain Transactions and Adjustments

In the event of certain transactions or events affecting our common stock, such as any stock dividend or other distribution, change in control, reorganization, merger, consolidation or other corporate transaction, the plan administrator will make equitable adjustments to the ESPP and outstanding rights. In addition, in the event of the foregoing transactions or events or certain significant transactions, the plan administrator may provide for

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(1) either the replacement of outstanding rights with other rights or property or termination of outstanding rights in exchange for cash, (2) the assumption or substitution of outstanding rights by the successor or survivor corporation or parent or subsidiary thereof, if any, (3) the adjustment in the number and type of shares of stock subject to outstanding rights, (4) the use of participants' accumulated payroll deductions to purchase stock on a new purchase date prior to the next scheduled purchase date and termination of any rights under ongoing offering periods or (5) the termination of all outstanding rights.

Plan Amendment and Termination

The plan administrator may amend, suspend or terminate the ESPP at any time. However, stockholder approval will be obtained for any amendment to the ESPP that increases the aggregate number or changes the type of shares that may be sold pursuant to rights under the ESPP or as may otherwise be required under Section 423(b) of the Code or other applicable law.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth information regarding the beneficial ownership of our common stock as of [redacted], 2021 and as adjusted to reflect the sale of the shares of common stock offered by us and the selling stockholders by:

- each person or entity who is known by us to beneficially own more than 5% of our common stock;
- each of our directors and named executive officers;
- all of our directors and executive officers as a group; and
- each of the selling stockholders.

Information with respect to beneficial ownership has been furnished to us by each director, executive officer or stockholder listed in the table below, as the case may be. The amounts and percentages of our common stock beneficially owned are reported on the basis of rules of the SEC governing the determination of beneficial ownership of securities. Under these rules, a person is deemed to be a “beneficial owner” of a security if that person has or shares “voting power,” which includes the power to vote or direct the voting of such security, or “investment power,” which includes the power to dispose of or to direct the disposition of such security. A person is also deemed to be a beneficial owner of any securities of which that person has a right to acquire beneficial ownership within 60 days after [redacted], 2021. More than one person may be deemed to be a beneficial owner of the same securities.

Percentage of beneficial ownership prior to this offering is based on [redacted] shares of common stock outstanding as of [redacted], 2021. Percentage of beneficial ownership after this offering is based on [redacted] shares of common stock outstanding after giving effect to the sale by us of the shares of common stock offered hereby (including [redacted] shares to be issued upon exercise of options by certain selling stockholders in connection with the sale of such shares in this offering). In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of common stock subject to options, warrants or other rights held by such person that are currently exercisable or that will become exercisable or will otherwise vest within 60 days of [redacted], 2021 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person.

Unless otherwise indicated below, to our knowledge, all persons listed below have sole voting and investment power with respect to their shares of common stock, except to the extent authority is shared by spouses under applicable law. The table below excludes any shares of our common stock that may be purchased in this offering pursuant to the reserved share program. See “Underwriting—Reserved Share Program.” Unless otherwise indicated below, the address for each person or entity listed below is c/o Mister Car Wash, Inc., 222 East 5th Street, Tucson, Arizona, 85705.

Name of Beneficial Owner	Common Stock Beneficially Owned Before This Offering		Shares Being Sold in This Offering		Common Stock Beneficially Owned After This Offering Assuming No Exercise of Underwriters' Option		Common Stock Beneficially Owned After This Offering Assuming Full Exercise of Underwriters' Option	
	Number of Shares	Percentage of Total Outstanding Common Stock (%)	No Exercise of Underwriters' Option	Full Exercise of Underwriters' Option	Number of Shares	Percentage of Total Outstanding Common Stock (%)	Number of Shares	Percentage of Total Outstanding Common Stock (%)
5% Stockholders								
Green Equity Investors VI, L.P., Green Equity Investors Side VI, L.P., LGP Associates VI-A LLC and LGP Associates VI-B LLC								
(1)								

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Name of Beneficial Owner	Common Stock Beneficially Owned Before This Offering		Shares Being Sold in This Offering		Common Stock Beneficially Owned After This Offering Assuming No Exercise of Underwriters' Option		Common Stock Beneficially Owned After This Offering Assuming Full Exercise of Underwriters' Option	
	Number of Shares	Percentage of Total Outstanding Common Stock (%)	No Exercise of Underwriters' Option	Full Exercise of Underwriters' Option	Number of Shares	Percentage of Total Outstanding Common Stock (%)	Number of Shares	Percentage of Total Outstanding Common Stock (%)
Directors and Named Executive Officers								
John Lai ⁽²⁾			—					
Jedidiah Gold ⁽³⁾			—					
Joseph Matheny ⁽⁴⁾			—					
John Danhak ⁽¹⁾			—					
Jonathan Seiffer ⁽¹⁾			—					
J. Kristofer Galashan ⁽¹⁾			—					
Jeffrey Suer			—					
Casey Lindsay ⁽⁵⁾			—					
All directors and executive officers as a group (ten persons) ⁽⁶⁾			—					
Other Selling Stockholders:								
Crescent Mezzanine Partners ⁽⁷⁾								
Penfund Capital Fund TC Limited Partnership ⁽⁸⁾								
Other ⁽⁹⁾								

- * Represents beneficial ownership of less than 1% of our outstanding common stock.
- (1) Voting and investment power with respect to the shares of our common stock held by Green Equity Investors VI, L.P., and Green Equity Investors Side VI, L.P., LGP Associates VI-A LLC and LGP Associates VI-B LLC, or collectively, Green VI, is shared. Messrs. Danhakl, Seiffer and Galashan may also be deemed to share voting and investment power with respect to such shares due to their positions with affiliates of Green VI, and each disclaims beneficial ownership of such shares except to the extent of his pecuniary interest therein. Mr. Jeffrey Suer is an investment professional with affiliates of Green VI. Each of the foregoing individuals' address is c/o Leonard Green & Partners, L.P., 11111 Santa Monica Boulevard, Suite 2000, Los Angeles, California 90025.
- (2) Represents (i) shares of our common stock and (ii) shares of our common stock underlying options to purchase common stock that are exercisable within 60 days of , 2021.
- (3) Represents (i) shares of our common stock and (ii) shares of our common stock underlying options to purchase common stock that are exercisable within 60 days of , 2021.
- (4) Represents (i) shares of our common stock and (ii) shares of our common stock underlying options to purchase common stock that are exercisable within 60 days of , 2021.
- (5) Represents (i) shares of our common stock and (ii) shares of our common stock underlying options to purchase common stock that are exercisable within 60 days of , 2021.
- (6) Represents (i) shares of our common stock and (ii) shares of our common stock underlying options to purchase common stock that are exercisable within 60 days of , 2021.
- (7) The address for Crescent Mezzanine Partners is .
- (8) The address for Penfund Capital Fund TC Limited Partnership is .
- (9) Consists of selling stockholders not otherwise listed in this table who collectively beneficially own less than approximately 1% of our common stock.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following is a description of transactions to which we were a party since January 1, 2018 in which the amount involved exceeded or will exceed \$120,000, and in which any of our executive officers, directors or holders of more than 5% of any class of our voting securities, or an affiliate or immediate family member thereof, had or will have a direct or indirect material interest.

Stockholders Agreement

In August 2014, we entered into a Stockholders Agreement with LGP, certain of our executive officers and certain other stockholders. The stockholders agreement contains, among other things, certain restrictions on the ability of LGP and our other stockholders to freely transfer shares of our stock, a right of first refusal to us and LGP for other stockholders' shares, a repurchase right for us for certain shares held by management stockholders and drag-along and tag-along rights in connection with certain transfers of shares by LGP. It also provides that each party to the Stockholders Agreement agrees to vote all of their shares to elect the initial individuals designated to serve on our board. The Stockholders Agreement also provides for registration rights.

Upon the closing of this offering, we will amend and restate the existing stockholders agreement to eliminate certain provisions (but maintain those related to the registration rights, which are described below) and to provide specific board rights and obligations. Following this offering, the Stockholders Agreement will include provisions pursuant to which we will grant the right to cause us, in certain instances, at our expense, to file registration statements under the Securities Act covering resales of our common stock held by LGP, and the right to LGP and certain other stockholders to piggyback on such registration statements in certain circumstances. These shares will represent approximately % of our common stock after this offering, or approximately % if the underwriters exercise their option to purchase additional shares in full. These shares also may be sold under Rule 144 under the Securities Act, depending on their holding period and subject to restrictions in the case of shares held by persons deemed to be our affiliates. The Stockholders Agreement will also require us to indemnify such stockholders in connection with any registrations of our securities. In addition, the Stockholders Agreement will provide that LGP is entitled to designate individuals to be included in the slate of nominees recommended by our board of directors for election to our board of directors, so as to ensure that the composition of our board of directors and its committees complies with the provisions of the Stockholders Agreement related to the composition of our board of directors and its committees, which are discussed under "Management—Composition of the Board of Directors after this Offering" and "Management—Committees of the Board of Directors."

Management Services Agreement

We are party to a management services agreement with the advisory affiliate of LGP, pursuant to which LGP agreed to provide certain management and financial services. In each of 2018 and 2019, we paid \$1.0 million in fees and out of pocket expenses to LGP under the management services agreement. Due to the impact of the COVID-19 pandemic, starting in April 2020, the management fee payable to LGP was forgiven until the end of 2020. We paid \$250,000 in fees and out of pocket expenses to LGP under the management services agreement in 2020. The management services agreement with LGP will terminate without any termination payment automatically upon the closing of this offering, subject to the survival of certain obligations, including as to indemnification. Following the consummation of this offering, LGP will not provide managerial services to us in any form.

Credit Facilities

An affiliate of LGP is a lender under our Credit Facilities pursuant to the incremental amendment to the Second Lien Term Loan which we entered into on March 31, 2020 for an additional \$5.6 million of term loans. See "Description of Certain Indebtedness—Credit Facilities."

Indemnification Agreements

Our amended and restated bylaws, as will be in effect prior to the closing of this offering, provide that we will indemnify our directors and officers to the fullest extent permitted by the DGCL, subject to certain exceptions contained in our amended and restated bylaws. In addition, our amended and restated certificate of incorporation, as will be in effect prior to the closing of this offering, will provide that our directors will not be liable for monetary damages for breach of fiduciary duty.

Prior to the closing of this offering, we will enter into indemnification agreements with each of our executive officers and directors. The indemnification agreements will provide the indemnitees with contractual rights to indemnification, and expense advancement and reimbursement, to the fullest extent permitted under the DGCL, subject to certain exceptions contained in those agreements.

There is no pending litigation or proceeding naming any of our directors or officers for which indemnification is being sought, and we are not aware of any pending litigation that may result in claims for indemnification by any director or executive officer.

Reserved Share Program

At our request, the underwriters have reserved for sale, at the initial public offering price, up to 5% of the shares offered by this prospectus for sale to some of our directors, officers, employees, business associates and related persons. See “Underwriting—Reserved Share Program.”

Our Policy Regarding Related Party Transactions

Our board of directors recognizes the fact that transactions with related persons present a heightened risk of conflicts of interests or improper valuation (or the perception thereof). In connection with this offering, our board of directors intends to adopt a written policy on transactions with related persons that is in conformity with the requirements for issuers having publicly held common stock that is listed on the New York Stock Exchange. Under such policy, a related person transaction (as defined in the policy), and any material amendment or modification to a related person transaction, will be reviewed and approved or ratified by a committee of the board of directors composed solely of independent directors who are disinterested or by the disinterested members of the board of directors.

In connection with the review and approval or ratification of a related person transaction:

- management will disclose to the committee or disinterested directors, as applicable, information such as the name of the related person and the basis on which the person is a related person, the material terms of the related person transaction, including the approximate dollar value of the amount involved in the transaction and other the material facts as to the related person’s direct or indirect interest in, or relationship to, the related person transaction;
- management will advise the committee or disinterested directors, as applicable, as to other relevant considerations such as whether the related person transaction conflicts with the terms of our agreements governing our material outstanding indebtedness that limit or restricts our ability to enter into a related person transaction; and
- related person transactions will be disclosed in our applicable filings under the Securities Act or the Exchange Act, and related rules, and, to the extent required.

In addition, the related person transaction policy will provide that the committee or disinterested directors, as applicable, in connection with any approval or ratification of a related person transaction involving a non-employee director or director nominee, should consider whether such transaction would compromise the director or director nominee’s status as an “independent,” or “non-employee” director, as applicable, under the rules and regulations of the SEC.

DESCRIPTION OF CAPITAL STOCK

The following descriptions of our capital stock and provisions of our amended and restated certificate of incorporation and our amended and restated bylaws are summaries and are qualified by reference to the amended and restated certificate of incorporation and the amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus forms a part.

General

Our authorized capital stock following this offering will consist of _____ shares of common stock, par value \$0.01 per share, and _____ shares of preferred stock, par value \$0.01 per share. Unless the board of directors determines otherwise, we will issue all shares of our capital stock in uncertificated form. We urge you to read our amended and restated certificate of incorporation and our amended and restated bylaws.

Common Stock

Our amended and restated certificate of incorporation authorizes a total of _____ shares of common stock. Upon the consummation of this offering, we expect that _____ shares of common stock will be issued and outstanding.

Holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. An election of directors by our stockholders shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election. Holders of common stock are entitled to receive proportionately any dividends as may be declared by our board of directors, subject to any preferential dividend rights of any series of preferred stock that we may designate and issue in the future.

In the event of our liquidation, dissolution, or winding up, the holders of common stock are entitled to receive proportionately our net assets available for distribution to stockholders after the payment in full of all debts and other liabilities and subject to the prior rights of any outstanding preferred stock. Holders of common stock have no preemptive, subscription, redemption or conversion rights. There will be no sinking fund provisions applicable to our common stock. The rights, preferences and privileges of holders of common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

Preferred Stock

Our amended and restated certificate of incorporation authorizes a total of _____ shares of preferred stock. Upon the closing of this offering, we will have no shares of preferred stock issued or outstanding.

Under the terms of our amended and restated certificate of incorporation, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. We have no present plans to issue any shares of preferred stock.

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Options

As of _____, 2021, we had options to purchase an aggregate of _____ shares of our common stock, with a weighted-average exercise price of approximately \$ _____ per share, outstanding under our Rollover Plan and 2021 Plan, of which shares were vested of that date. In connection with the sale of shares by certain selling stockholders in this offering, _____ shares of our common stock will be issued upon exercise of options by such selling stockholders.

Dividends

The DGCL permits a corporation to declare and pay dividends out of “surplus” or, if there is no “surplus,” out of its net profits for the fiscal year in which the dividend is declared or the preceding fiscal year. “Surplus” is defined as the excess of the net assets of the corporation over the amount determined to be the capital of the corporation by the board of directors. The capital of the corporation is typically calculated to be (and cannot be less than) the aggregate par value of all issued shares of capital stock. Net assets equal the fair value of the total assets minus total liabilities. The DGCL also provides that dividends may not be paid out of net profits if, after the payment of the dividend, capital is less than the capital represented by the outstanding stock of all classes having a preference upon the distribution of assets.

Declaration and payment of any dividend will be subject to the discretion of our board of directors. The time and amount of dividends will depend upon our financial condition, operations, cash requirements and availability, debt repayment obligations, capital expenditure needs, restrictions in our debt instruments, industry trends, the provisions of Delaware law affecting the payment of distributions to stockholders and any other factors our board of directors may consider relevant.

We have no current plans to pay dividends on our common stock. Any decision to declare and pay dividends in the future will be made at the sole discretion of our board of directors and will depend on, among other things, our results of operations, cash requirements, financial condition, contractual restrictions and other factors that our board of directors may deem relevant. Our ability to pay dividends will be limited by covenants in our existing indebtedness and may be limited by the agreements governing other indebtedness that we or our subsidiaries incur in the future. See “Description of Certain Indebtedness.” In addition, because we are a holding company and have no direct operations, we will only be able to pay dividends from funds we receive from our subsidiaries.

Authorized but Unissued Shares

The authorized but unissued shares of our common stock and our preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of the New York Stock Exchange. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Stockholders Agreement

Upon the closing of this offering, we will enter into an Amended and Restated Stockholders Agreement pursuant to which LGP will have specified board representation rights, governance rights and other rights. See “Certain Relationships and Related Party Transactions—Stockholders Agreement.”

Exclusive Venue

Our amended and restated certificate of incorporation and amended and restated bylaws will require, to the fullest extent permitted by law, that (i) any derivative action or proceeding brought on our behalf, (ii) any action

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asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our shareholders, (iii) any action asserting a claim against us arising pursuant to any provision of the DGCL or our amended and restated certificate of incorporation or our amended and restated bylaws, or (iv) any action asserting a claim against us governed by the internal affairs doctrine will have to be brought only in the Court of Chancery in the State of Delaware (or the federal district court for the District of Delaware or other state courts of the State of Delaware if the Court of Chancery in the State of Delaware does not have jurisdiction). The amended and restated certificate of incorporation and amended and restated bylaws will also require that the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act; however, there is uncertainty as to whether a court would enforce such provision, and investors cannot waive compliance with federal securities laws and the rules and regulations thereunder. Although we believe these provisions benefit us by providing increased consistency in the application of applicable law in the types of lawsuits to which they apply, the provisions may have the effect of discouraging lawsuits against our directors and officers. These provisions would not apply to any suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts of the United States have exclusive jurisdiction.

Conflicts of Interest

Delaware law permits corporations to adopt provisions renouncing any interest or expectancy in certain opportunities that are presented to the corporation or its officers, directors or stockholders. Our amended and restated certificate of incorporation will, to the maximum extent permitted from time to time by Delaware law, renounce any interest or expectancy that we have in, or right to be offered an opportunity to participate in, specified business opportunities that are from time to time presented to our officers, directors or stockholders or their respective affiliates, other than those officers, directors, stockholders or affiliates who are our or our subsidiaries' employees. Our amended and restated certificate of incorporation will provide that, to the fullest extent permitted by law, none of LGP or any of their affiliates or any director who is not employed by us (including any non-employee director who serves as one of our officers in both his director and officer capacities) or his or her affiliates will have any duty to refrain from (i) engaging in a corporate opportunity in the same or similar lines of business in which we or our affiliates now engage or propose to engage or (ii) otherwise competing with us or our affiliates. In addition, to the fullest extent permitted by law, in the event that LGP or any non-employee director acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself or himself or its or his affiliates or for us or our affiliates, such person will have no duty to communicate or offer such transaction or business opportunity to us or any of our affiliates and they may take any such opportunity for themselves or offer it to another person or entity. Our amended and restated certificate of incorporation will not renounce our interest in any business opportunity that is expressly offered to a non-employee director solely in his or her capacity as a director or officer of the Company. To the fullest extent permitted by law, no business opportunity will be deemed to be a potential corporate opportunity for us unless we would be permitted, to undertake the opportunity under our amended and restated certificate of incorporation, we have sufficient financial resources to undertake the opportunity and the opportunity would be in line with our business.

Limitations on Liability and Indemnification of Officers and Directors

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties, subject to certain exceptions. Our amended and restated certificate of incorporation includes a provision that eliminates the personal liability of directors for monetary damages for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL. The effect of these provisions is to eliminate the rights of us and our stockholders, through stockholders' derivative suits on our behalf, to recover monetary damages from a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, exculpation does not apply to any director if the director has breached his or her duty of loyalty, failed to act in good faith, knowingly or intentionally violated the law, authorized illegal dividends or redemptions or derived an improper personal benefit from his or her actions as a director.

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Our amended and restated bylaws provide that we must indemnify and advance expenses to our directors and officers to the fullest extent authorized by the DGCL. We also are expressly authorized to carry directors' and officers' liability insurance providing indemnification for our directors, officers and certain employees for some liabilities. We believe that these indemnification and advancement provisions and insurance are useful to attract and retain qualified directors and executive officers.

The limitation of liability, indemnification and advancement provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

Anti-Takeover Effects of Provisions of Our Amended and Restated Certificate of Incorporation, Our Amended and Restated Bylaws and Delaware Law

Certain provisions of Delaware law and our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may delay, defer or discourage another party from acquiring control of us. We expect that these provisions, which are summarized below, will discourage coercive takeover practices or inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which we believe may result in an improvement of the terms of any such acquisition in favor of our stockholders. However, they also give our board of directors the power to discourage acquisitions that some stockholders may favor.

Classified Board of Directors

Our amended and restated certificate of incorporation provides that our board of directors is divided into three classes, with each class serving three-year staggered terms. As a result, approximately one-third of our directors are expected to be elected each year. Pursuant to the terms of the Stockholders Agreement, directors designated by LGP may only be removed with or without cause by the request of LGP. In all other cases, our amended and restated certificate of incorporation provides that directors may only be removed from our board of directors for cause by the affirmative vote of at least two-thirds of the voting power of the then outstanding shares of voting stock, following such time as when LGP ceases to beneficially own, in the aggregate, 50% or more of the voting power of our common stock. Prior to that time, any individual director may be removed with or without cause by the affirmative vote of a majority of the confirmed voting power of our common stock. See "Management—Committees of the Board of Directors." These provisions may have the effect of deferring, delaying or discouraging hostile takeovers, or changes in control of us or our management.

Requirements for Advance Notification of Stockholder Meetings, Nominations and Proposals

Our amended and restated certificate of incorporation will provide that, after the date on which LGP ceases to beneficially own, in the aggregate, more than 50% in voting power of our common stock, special meetings of the stockholders may be called only by the chairperson of the board, a resolution adopted by the affirmative vote of the majority of the directors then in office and not by our stockholders or any other person or persons. Our amended and restated bylaws prohibit the conduct of any business at a special meeting other than as specified in the notice for such meeting. In addition, any stockholder who wishes to bring business before an annual meeting or nominate directors must comply with the advance notice requirements set forth in our amended and restated bylaws. These provisions may have the effect of deferring, delaying or discouraging hostile takeovers or changes in control of us or our management.

Stockholder Action by Written Consent

Pursuant to Section 228 of the DGCL, any action required to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote if a consent or consents

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in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of our stock entitled to vote thereon were present and voted, unless our amended and restated certificate of incorporation provides otherwise. Our amended and restated certificate of incorporation prohibits stockholder action by written consent (and, thus, requires that all stockholder actions be taken at a meeting of our stockholders) after the date on which LGP ceases to beneficially own, in the aggregate, 50% or more of the voting power of our common stock.

Approval for Amendment of Certificate of Incorporation and Bylaws

Our amended and restated certificate of incorporation further provides that the affirmative vote of holders of at least two-thirds of the voting power of all of the then outstanding shares of voting stock, voting as a single class, will be required to amend certain provisions of our amended and certificate of incorporation, including provisions relating to the size of the board, removal of directors, special meetings, actions by written consent and cumulative voting, if LGP ceases to beneficially own, in the aggregate, 50% or more of the voting power of our common stock. The affirmative vote of holders of at least two-thirds of the voting power of all of the then outstanding shares of voting stock, voting as a single class, will be required to amend or repeal our bylaws, if LGP ceases to beneficially own, in the aggregate, 50% or more of the voting power of our common stock, although our bylaws may be amended by a simple majority vote of our board of directors.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock will be American Stock Transfer & Trust.

Stock Exchange Listing

We have applied to list our common stock on the New York Stock Exchange under the symbol "MCW."

DESCRIPTION OF CERTAIN INDEBTEDNESS

Credit Facilities

On May 14, 2019, in connection with the refinancing of Mister Car Wash Holdings, Inc.'s prior debt facilities, our subsidiary, Mister Car Wash Holdings, Inc., entered into a First Lien Term Loan and a Second Lien Term Loan, which provided for the following:

- a \$800.0 million first lien term loan facility (the "First Lien Term Loan");
- a \$75.0 million revolving credit facility (the "Revolving Credit Facility");
- a \$40.0 million delayed draw term loan facility (the "Delayed Draw Facility"); and
- a \$225.0 million second lien term loan facility (the "Second Lien Term Loan").

We collectively refer to the First Lien Term Loan, the Revolving Credit Facility and the Delayed Draw Facility as the First Lien Facilities. We collectively refer to the First Lien Facilities and the Second Lien Term Loan as the Credit Facilities.

On February 5, 2020, Mister Car Wash Holdings, Inc. amended the First Lien Term Loan in connection with a repricing to reduce the applicable rate and reset the applicable period for the prepayment premium.

On March 31, 2020, Mister Car Wash Holdings, Inc. entered into an incremental amendment to the Second Lien Term Loan which, among other things, provided for an additional \$5.6 million of term loans, and make certain changes to covenants and definitions, including but not limited to amending covenants and definitions related to payment-in-kind interest and the applicable rate.

Interest Rates and Fees

Borrowings under the First Lien Term Loan are, at the option of Mister Car Wash Holdings, Inc., either Base Rate Loans or Eurocurrency Rate Loans (each as defined in the First Lien Term Loan). Term loans and revolving loans comprising each Base Rate (as defined in the First Lien Term Loan) borrowings under the First Lien Term Loan accrue interest at the Base Rate plus an Applicable Rate (as defined in the First Lien Term Loan). The current applicable rate for Base Rate revolving loans ranges from 2.50% to 2.00% per annum, based upon specified leverage ratios. The current applicable rate for Base Rate term loans ranges from 2.25% to 2.00% per annum, based upon specified leverage ratios. Term loans and revolving loans comprising each Eurocurrency Rate borrowings bear interest at the Eurocurrency Rate (as defined in the First Lien Term Loan) plus an Applicable Rate. The current applicable rate for Eurocurrency Rate revolving loans ranges from 3.50% to 3.00% per annum, based upon specified leverage ratios. The current applicable rate for Eurocurrency Rate term loans ranges from 3.25% to 3.00% per annum, based upon specified leverage ratios.

Borrowings under the Second Lien Term Loan accrue interest at 10.0% per annum. Pursuant to the amendment to the Second Lien Term Loan, from March 31, 2020 to September 30, 2020, Mister Car Wash Holdings, Inc. was permitted to elect to have interest on the Second Lien Term Loan paid-in-kind by capitalizing and adding the full amount of interest due on such interest payment date to the then-outstanding principal amount of the Second Lien Term Loan.

In addition to paying interest on the principal amounts outstanding under the Credit Facilities, Mister Car Wash Holdings, Inc. is required to pay a commitment fee under the Revolving Credit Facility with respect of the unutilized commitments thereunder at a rate ranging from 0.25% to 0.50% per year, in each case based upon specified leverage ratios. Mister Car Wash Holdings, Inc. is also subject to customary letter of credit and agency fees.

Mister Car Wash Holdings, Inc. is required to pay an upfront fee of 0.25% of the principal amount of any Delayed Draw Facility borrowing on the date of such advance. Additionally, Mister Car Wash Holdings, Inc. is required to pay a ticking fee under the Delayed Draw Facility in respect of the unutilized commitments thereunder at a rate ranging from 0% to 3.25% per annum, in each case based on specified elapsed periods of time and based upon specified leverage ratios.

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Mandatory Prepayments

The First Lien Term Loan requires that Mister Car Wash Holdings, Inc., following the end of each fiscal year, repay the outstanding principal amount of all term loans under the First Lien Term Loan in an aggregate amount equal to (A) 50% of Excess Cash Flow (as defined in the First Lien Term Loan) of Mister Car Wash Holdings, Inc. and its restricted subsidiaries for such fiscal year if the First Lien Net Leverage Ratio ("FLNLR") (as defined in the First Lien Term Loan), is greater than or equal to 4.83:1.00, which percentage is reduced to 25% if the FLNLR is less than 4.83:1.00 and equal to or greater than 4.33:1.00, and to 0% if the FLNLR is less than 4.33:1.00, minus (B) at the option of Mister Car Wash Holdings, Inc., (i) the aggregate principal amount of any voluntary prepayment of any term loans under the First Lien Term Loan and other term loans that are Pari Passu Lien Debt (as defined in the First Lien Term Loan), (ii) the aggregate principal amount of any voluntary payments and prepayments of any Revolving Credit Facility loans and other revolving loans that are Pair Passu Lien Debt, to the extent accompanied by a corresponding permanent reduction in commitments, (iii) the aggregate principal amount of any voluntary prepayment of any Junior Lien Debt (as defined in the First Lien Term Loan), (iv) the aggregate principal amount of voluntary prepayment of debt secured by liens on Excluded Assets (as defined in the First Lien Term Loan) and (v) the aggregate principal amount of voluntary prepayment of debt of restricted subsidiaries that are not guarantors under the First Lien Term Loan.

The Second Lien Term Loan requires that Mister Car Wash Holdings, Inc., following the end of each fiscal year, repay the outstanding principal amount of all loans under the Second Lien Term Loan in an aggregate amount equal to (A) 50% of Excess Cash Flow of Mister Car Wash Holdings, Inc. and its restricted subsidiaries for such fiscal year if the Secured Net Leverage Ratio (as defined in the Second Lien Term Loan) ("SNLR") is greater than or equal to 6.50:1.00, which percentage is reduced to 25% if the SNLR is less than 6.50:1.00 and greater than or equal to 6.00:1.00, and to 0% if the SNLR is less than 6.00:1.00, minus (B) at the option of Mister Car Wash Holdings, Inc., (i) the aggregate principal amount of any voluntary prepayment of (1) First Lien Term Loans (as defined in the Second Lien Term Loan) and (2) any other term loans that are Senior Priority Lien Debt (as defined in the Second Lien Term Loan), (ii) the aggregate principal amount of any voluntary payments and prepayments of any Revolving Credit Facility loans and other revolving loans that are Pari Passu Lien Debt (as defined in the Second Lien Term Loan) to the extent accompanied by a corresponding permanent reduction in commitments, (iii) the aggregate principal amount of any voluntary prepayment of any Junior Lien Debt (as defined in the Second Lien Term Loan), (iv) the aggregate principal amount of voluntary prepayment of debt secured by liens on Excluded Assets (as defined in the Second Lien Term Loan) and (v) the aggregate principal amount of voluntary prepayment of debt of subsidiaries that are not guarantors under the Second Lien Term Loan.

The First Lien Term Loan requires Mister Car Wash Holdings, Inc. to repay term loan amounts outstanding under the First Lien Facilities following the receipt of net proceeds from non-ordinary course asset sales constituting collateral or casualty insurance or condemnation proceeds with respect to property constituting collateral, to the extent the aggregate amount of such proceeds, in each case, exceeds \$10.0 million for any transaction or series of related transactions. Subject to certain reinvestment rights, Mister Car Wash Holdings, Inc. must apply 100% of the net proceeds to prepay the term loans under the First Lien Facilities if the FLNLR is equal to or greater than 4.83:1.00, which percentage is reduced to 50% if the FLNLR is less than 4.83:1.00 and equal to or greater than 4.33:1.00, and to 0% if the FLNLR is less than 4.33:1.00.

The Second Lien Term Loan requires Mister Car Wash Holdings, Inc. to repay term loan amounts outstanding under the Second Lien Term Loan following the receipt of net proceeds from non-ordinary course asset sales constituting collateral or casualty insurance or condemnation proceeds with respect to property constituting collateral, to the extent the aggregate amount of such proceeds, in each case, exceeds \$10.0 million for any transaction or series of related transactions. Subject to certain reinvestment rights, Mister Car Wash Holdings, Inc. must apply 100% of the net proceeds to prepay the term loans under the Second Lien Term Loan if the SNLR is equal to or greater than 6.50:1.00, which percentage is reduced to 50% if the SNLR is less than 6.50:1.00 and equal to or greater than 6.00:1.00, and to 0% if the SNLR is less than 6.00:1.00.

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Each credit agreement requires 100% of the net proceeds from the issuance or incurrence of indebtedness to be applied to prepay the term loans under the Credit Facilities, to the extent such incurrence is not permitted to be incurred under the indebtedness covenants of credit agreements or such indebtedness constitutes a Credit Agreement Refinancing Indebtedness (as defined in the credit agreements).

If Mister Car Wash Holdings, Inc. is required to prepay the Second Lien Term Loan using 100% of the proceeds of indebtedness (i) not permitted to be incurred by the indebtedness covenants of the Second Lien Term Loan or (ii) that constitutes Credit Agreement Refinancing Indebtedness (as defined in the Second Lien Term Loan), Mister Car Wash Holdings, Inc. shall be required to pay a premium equal to (x) 2.00% of the amount of Second Lien Term Loans being repaid, if such prepayment occurs prior to May 14, 2020, and (y) 1.00% of the amount of Second Lien Term Loans being repaid, if such prepayment occurs on or following May 14, 2020 but prior to May 14, 2021.

Voluntary Prepayment

Mister Car Wash Holdings, Inc. may voluntarily prepay outstanding borrowings under the First Lien Term Loan at any time in whole or in part without premium or penalty, subject to the applicable prepayment premium for any Repricing Event (as defined in the First Lien Term Loan) which has expired.

Mister Car Wash Holdings, Inc. may voluntarily prepay outstanding borrowings under the Second Lien Term Loan Facility at any time in whole or in part, without premium or penalty, except that, to the extent Mister Car Wash Holdings, Inc. makes a voluntary prepayment of the Second Lien Term Loan (including in connection with a Change of Control (as defined in the Second Lien Term Loan)) on or prior to May 14, 2021, Mister Car Wash Holdings, Inc. shall be required to pay a premium equal to (x) 2.00% of the amount of Second Lien Term Loans being repaid, if such prepayment occurs prior to May 14, 2020, and (y) 1.00% of the amount of Second Lien Term Loans being repaid, if such prepayment occurs on or following May 14, 2020 but prior to May 14, 2021.

Amortization and Final Maturity

The First Lien Term Loan is payable in quarterly installments of 0.25% of the aggregate principal amount of all term loans outstanding on the closing date of the First Lien Term Loan (subject to adjustments a borrowing of the Delayed Draw Facility is made after the closing date of the First Lien Term Loan). The remaining unpaid balance on the First Lien Term Loan (and the Delayed Draw Facility, to the extent a borrowing thereof has been made), together with all accrued and unpaid interest thereon, is due and payable on or prior to May 14, 2026. Outstanding borrowings under the Revolving Credit Facility do not amortize and are due and payable on May 14, 2024. The remaining unpaid balance on the Second Lien Term Loan, together with all accrued and unpaid interest thereon, is due and payable on May 14, 2027.

Guarantees and Security

Mister Car Wash Holdings, Inc.'s obligations under the Credit Facilities are guaranteed by each of Mister Car Wash Holdings, Inc.'s subsidiary guarantors and by its direct parent entity, Hotshine Intermediateco, Inc., or Holdings. All obligations under the First Lien Term Loan are secured by, among other things, and in each case subject to certain exceptions: (1) a first-priority pledge of all of the capital stock or other equity interests held by Mister Car Wash Holdings, Inc., Holdings and certain subsidiaries (collectively, the "Grantors"), (2) a first-priority pledge in substantially all of the other tangible and intangible assets of each Grantor and (3) a first-priority pledge in intellectual property collateral owned by the Grantors (as applicable). All obligations under the Second Lien Term Loan are secured by, among other things, and in each case subject to certain exceptions: (1) a second-priority pledge of all of the capital stock or other equity interests held by the Grantors, (2) a second-priority pledge in substantially all of the other tangible and intangible assets of each Grantor and (3) a second-priority pledge in intellectual property collateral owned by the Grantors (as applicable).

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Covenants and Other Matters

The credit agreements governing the Credit Facilities each contain a number of covenants that, among other things and subject to certain exceptions, restrict Mister Car Wash Holdings, Inc., Holdings and restricted subsidiaries' ability to:

- incur liens;
- make investments, loans, advances, guarantees and acquisitions;
- incur indebtedness or issue certain disqualified stock;
- consolidate or merge;
- sell or otherwise dispose of assets;
- pay dividends or make other distributions on equity interests, or redeem, repurchase or retire equity interests;
- alter the business conducted by us and our restricted subsidiaries;
- enter into transactions with affiliates;
- enter into agreements restricting the ability to pay dividends or grant liens securing obligations under the credit agreements;
- redeem, repurchase or refinance other indebtedness; and
- amend or modify governing documents.

In addition, the First Lien Term Loan requires Mister Car Wash Holdings, Inc. to comply with a first lien leverage ratio (not to exceed 8.25:1.00 and in each case, measured on a trailing four-quarter basis). The requirement is only triggered if (a) all revolving loans, (b) swing line loans and (c) letters of credit (other than (i) undrawn letters of credit that have been cash collateralized and/or (ii) undrawn letters of credit that have not been cash collateralized in an aggregate amount of up to \$7,500,000 at any time outstanding) exceeds an amount equal to 35% of the aggregate amount of outstanding revolving credit commitments.

The credit agreements also contain certain customary representations and warranties and affirmative covenants, and certain reporting obligations. In addition, the lenders under the Credit Facilities will be permitted to accelerate all outstanding borrowings and other obligations, terminate outstanding commitments and exercise other specified remedies upon the occurrence of certain events of default (subject to certain grace periods and exceptions), which include, among other things, payment defaults, breaches of representations and warranties, covenant defaults, certain cross-defaults and cross-accelerations to other indebtedness, certain events of bankruptcy and insolvency, certain judgments and changes of control. The credit agreements define "change of control" to include, among other things, (1) the members of management of Holdings (or any Successor Holdings (as defined in the credit agreements)) and/or LGP and its affiliates ceasing to beneficially own, directly or indirectly, prior to our initial public offering, at least a majority of the aggregate ordinary voting power of Holdings, and (2) after our initial public offering, (a) any person or group holding more than 35% of the aggregate ordinary voting power of Holdings, and (b) such person or group hold a greater percentage of aggregate ordinary voting power represented by the equity interests of Holdings beneficially owned, directly or indirectly, in the aggregate by the Permitted Holders (as defined in the credit agreements).

The foregoing summary describes the material provisions of the Credit Facilities, but may not contain all information that is important to you. We urge you to read the provisions of the agreements governing the Credit Facilities, which have been filed as exhibits to the registration statement of which this prospectus forms a part.

SHARES ELIGIBLE FOR FUTURE SALE

The sale of a substantial amount of our common stock in the public market after this offering could adversely affect the prevailing market price of our common stock. Furthermore, substantially all of our common stock outstanding prior to the consummation of this offering will be subject to the contractual and legal restrictions on resale described below. The sale of a substantial amount of common stock in the public market after these restrictions lapse, or the expectation that such a sale may occur, could adversely affect the prevailing market price of our common stock and our ability to raise equity capital in the future.

Upon consummation of this offering, we expect to have outstanding an aggregate of _____ shares of our common stock, assuming no exercise of outstanding options and assuming that the underwriters have not exercised their option to purchase additional shares. All of the shares of common stock sold in this offering will be freely transferable without restriction or further registration under the Securities Act by persons other than “affiliates,” as that term is defined in Rule 144 under the Securities Act. Generally, the balance of our outstanding shares of common stock are “restricted securities” within the meaning of Rule 144 under the Securities Act, and the sale of those shares will be subject to the limitations and restrictions that are described below. Shares of our common stock that are not restricted securities and are purchased by our affiliates will be “control securities” under Rule 144. Restricted securities may be sold in the public market only if registered under the Securities Act or if they qualify for an exemption from registration under Rule 144 or Rule 701 under the Securities Act. These rules are summarized below. Control securities may be sold in the public market subject to the restrictions set forth in Rule 144, other than the holding period requirement.

Upon the expiration of the lock-up agreements described below _____ days after the date of this prospectus, and subject to the provisions of Rule 144, an additional _____ shares will be available for sale in the public market. The sale of these restricted securities is subject, in the case of shares held by affiliates, to the volume restrictions contained in Rule 144.

Lock-up Agreements

In connection with this offering, we, the selling stockholders and our executive officers and directors and substantially all of our other existing security holders have agreed with the underwriters not to sell or transfer any common stock or securities convertible into, exchangeable for, exercisable for, or repayable with common stock, for _____ days after the date of this prospectus without first obtaining the written consent of the representatives, subject to certain limited exceptions. This lock-up provision applies to common stock and to securities convertible into or exchangeable or exercisable for or repayable with common stock. See “Underwriting.”

Rule 144

In general, under Rule 144 as in effect on the date of this prospectus, beginning 90 days after the consummation of this offering, a person who is an affiliate, and who has beneficially owned our common stock for at least six months, is entitled to sell in any three-month period a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately _____ million shares immediately after consummation of this offering (including the issuance of _____ shares of our common stock upon the exercise of options by certain selling stockholders in connection with the sale of such shares in this offering); or
- the average weekly trading volume in our common stock on the New York Stock Exchange during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale.

Sales by our affiliates under Rule 144 are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us. An “affiliate” is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with an issuer.

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Under Rule 144, a person who is not deemed to have been an affiliate of ours at any time during the 90 days preceding a sale, and who has beneficially owned the shares proposed to be sold for at least six months, would be entitled to sell those shares subject only to availability of current public information about us, and after beneficially owning such shares for at least twelve months, would be entitled to sell an unlimited number of shares without restriction. To the extent that our affiliates sell their common stock, other than pursuant to Rule 144 or a registration statement, the purchaser's holding period for the purpose of effecting a sale under Rule 144 commences on the date of transfer from the affiliate.

Rule 701

In general, under Rule 701 as in effect on the date of this prospectus, any of our employees, directors, officers, consultants or advisors who purchased shares from us in reliance on Rule 701 in connection with a compensatory stock or option plan or other written agreement before the effective date of this offering, or who purchased shares from us after that date upon the exercise of options granted before that date, are eligible to resell such shares 90 days after the effective date of this offering in reliance upon Rule 144. If such person is not an affiliate, such sale may be made subject only to the manner of sale provisions of Rule 144. If such a person is an affiliate, such sale may be made under Rule 144 without compliance with the holding period requirement, but subject to the other Rule 144 restrictions described above. However, substantially all Rule 701 shares are subject to lock-up agreements as described above and will become eligible for sale in compliance with Rule 144 only upon the expiration of the restrictions set forth in those agreements.

Stock Plans

We intend to file a registration statement or statements on Form S-8 under the Securities Act covering shares of common stock reserved for issuance under our 2014 Plan, Rollover Plan, ESPP and 2021 Plan and pursuant to all outstanding option grants made prior to this offering under the 2014 Plan and Rollover Plan. These registration statements are expected to be filed as soon as practicable after the closing date of this offering. Shares issued upon the exercise of stock options after the effective date of the applicable Form S-8 registration statement will be eligible for resale in the public market without restriction, subject to Rule 144 limitations applicable to affiliates and the lock-up agreements described above.

Registration Rights

Following this offering, some of our stockholders will, under some circumstances, have the right to require us to register their shares for future sale. See "Certain Relationships and Related Party Transactions—Stockholders Agreement."

**MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS
FOR NON-U.S. HOLDERS OF OUR COMMON STOCK**

The following discussion is a summary of the material U.S. federal income tax consequences to Non-U.S. Holders (as defined below) of the purchase, ownership, and disposition of our common stock issued pursuant to this offering, but does not purport to be a complete analysis of all potential tax effects. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local, or non-U.S. tax laws are not discussed. This discussion is based on the Code, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the U.S. Internal Revenue Service (the “IRS”), in each case in effect as of the date hereof. These authorities may change or be subject to differing interpretations. Any such change or differing interpretation may be applied retroactively in a manner that could adversely affect a Non-U.S. Holder. We have not sought and will not seek any rulings from the IRS regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position to that discussed below regarding the tax consequences of the purchase, ownership, and disposition of our common stock.

This discussion is limited to Non-U.S. Holders that hold our common stock as a “capital asset” within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences relevant to a Non-U.S. Holder’s particular circumstances, including the impact of the Medicare contribution tax on net investment income and the alternative minimum tax. In addition, it does not address consequences relevant to Non-U.S. Holders subject to special rules, including, without limitation:

- U.S. expatriates and former citizens or long-term residents of the United States;
- persons holding our common stock as part of a hedge, straddle, or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- brokers, dealers, or traders in securities;
- “controlled foreign corporations,” “passive foreign investment companies,” and corporations that accumulate earnings to avoid U.S. federal income tax;
- partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes (and investors therein);
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our common stock under the constructive sale provisions of the Code;
- persons who hold or receive our common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans; and
- “qualified foreign pension funds” as defined in Section 897(1)(2) of the Code and entities all of the interests of which are held by qualified foreign pension funds.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds our common stock, the tax treatment of a partner in the partnership will depend on the status of the partner, the activities of the partnership, and certain determinations made at the partner level. Accordingly, partnerships holding our common stock and the partners in such partnerships should consult their tax advisors regarding the U.S. federal income tax consequences to them.

THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. INVESTORS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP, AND DISPOSITION OF OUR COMMON STOCK ARISING UNDER THE U.S. FEDERAL ESTATE OR GIFT TAX LAWS OR UNDER THE LAWS OF ANY STATE, LOCAL, OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.

Definition of a Non-U.S. Holder

For purposes of this discussion, a “Non-U.S. Holder” is any beneficial owner of our common stock that is neither a “U.S. person” nor an entity or arrangement treated as a partnership for U.S. federal income tax purposes. A U.S. person is any person that, for U.S. federal income tax purposes, is or is treated as any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (1) is subject to the primary supervision of a U.S. court and the control of one or more “United States persons” (within the meaning of Section 7701(a)(30) of the Code), or (2) has a valid election in effect to be treated as a United States person for U.S. federal income tax purposes.

Distributions

As described in the section entitled “Dividend Policy,” we do not anticipate declaring or paying dividends to holders of our common stock in the foreseeable future. However, if we do make distributions of cash or property on our common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and first be applied against and reduce a Non-U.S. Holder’s adjusted tax basis in its common stock, but not below zero. Any excess will be treated as capital gain and will be treated as described below under “—Sale or Other Taxable Disposition.”

Subject to the discussion below on effectively connected income, dividends paid to a Non-U.S. Holder will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty, provided the Non-U.S. Holder furnishes a valid IRS Form W-8BEN or W-8BEN-E (or other applicable documentation) certifying qualification for the lower treaty rate). A Non-U.S. Holder that does not timely furnish the required documentation, but that qualifies for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaty.

If dividends paid to a Non-U.S. Holder are effectively connected with the Non-U.S. Holder’s conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such dividends are attributable), the Non-U.S. Holder will be exempt from the U.S. federal withholding tax described above. To claim the exemption, the Non-U.S. Holder must furnish to the applicable withholding agent a valid IRS Form W-8ECI, certifying that the dividends are effectively connected with the Non-U.S. Holder’s conduct of a trade or business within the United States.

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Any such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the regular rates. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected dividends, as adjusted for certain items. Non-U.S. Holders should consult their tax advisors regarding any applicable tax treaties that may provide for different rules.

Sale or Other Taxable Disposition

A Non-U.S. Holder will not be subject to U.S. federal income tax on any gain realized upon the sale or other taxable disposition of our common stock unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such gain is attributable);
- the Non-U.S. Holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our common stock constitutes a U.S. real property interest ("USRPI") by reason of our status as a U.S. real property holding corporation ("USRPHC") for U.S. federal income tax purposes.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at the regular rates. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected gain, as adjusted for certain items.

A Non-U.S. Holder described in the second bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on gain realized upon the sale or other taxable disposition of our common stock, which may be offset by U.S. source capital losses of the Non-U.S. Holder (even though the individual is not considered a resident of the United States), provided the Non-U.S. Holder has timely filed U.S. federal income tax returns with respect to such losses.

With respect to the third bullet point above, we believe we currently are not, and do not anticipate becoming, a USRPHC. Because the determination of whether we are a USRPHC depends, however, on the fair market value of our USRPIs relative to the fair market value of our non-U.S. real property interests and our other business assets, there can be no assurance we currently are not a USRPHC or will not become one in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition of our common stock by a Non-U.S. Holder will not be subject to U.S. federal income tax if our common stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market and such Non-U.S. Holder owned, actually and constructively, 5% or less of our common stock throughout the shorter of the five-year period ending on the date of the sale or other taxable disposition or the Non-U.S. Holder's holding period.

Non-U.S. Holders should consult their tax advisors regarding potentially applicable income tax treaties that may provide for different rules.

Information Reporting and Backup Withholding

Payments of dividends on our common stock will not be subject to backup withholding, provided the applicable withholding agent does not have actual knowledge or reason to know the holder is a United States person and the holder either certifies its non-U.S. status, such as by furnishing a valid IRS Form W-8BEN, W-8BEN-E, or W-8ECI, or otherwise establishes an exemption. However, information returns are required to be filed with the IRS in connection with any distributions on our common stock paid to the Non-U.S. Holder,

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regardless of whether such distributions constitute dividends or whether any tax was actually withheld. In addition, proceeds of the sale or other taxable disposition of our common stock within the United States or conducted through certain U.S.-related brokers generally will not be subject to backup withholding or information reporting if the applicable withholding agent receives the certification described above and does not have actual knowledge or reason to know that such holder is a United States person or the holder otherwise establishes an exemption. Proceeds of a disposition of our common stock conducted through a non-U.S. office of a non-U.S. broker generally will not be subject to backup withholding or information reporting.

Copies of information returns that are filed with the IRS may also be made available under the provisions of an applicable treaty or agreement to the tax authorities of the country in which the Non-U.S. Holder resides or is established.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

Additional Withholding Tax on Payments Made to Foreign Accounts

Withholding taxes may be imposed under Sections 1471 to 1474 of the Code (such Sections commonly referred to as the Foreign Account Tax Compliance Act, or "FATCA") on certain types of payments made to non-U.S. financial institutions and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on, or (subject to the proposed Treasury Regulations discussed below) gross proceeds from the sale or other disposition of, our common stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (1) the foreign financial institution undertakes certain diligence and reporting obligations, (2) the non-financial foreign entity either certifies it does not have any "substantial United States owners" (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (3) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (1) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain "specified United States persons" or "United States owned foreign entities" (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on certain payments to non-compliant foreign financial institutions and certain other account holders. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States governing FATCA may be subject to different rules.

Under the applicable Treasury Regulations and administrative guidance, withholding under FATCA generally applies to payments of dividends on our common stock. While withholding under FATCA would have applied also to payments of gross proceeds from the sale or other disposition of stock on or after January 1, 2019, proposed Treasury Regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury Regulations until final Treasury Regulations are issued.

Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our common stock.

CERTAIN ERISA CONSIDERATIONS

The following is a summary of certain considerations associated with the purchase of shares of common stock by (i) “employee benefit plans” within the meaning of Section 3(3) of the U.S. Employee Retirement Income Security Act of 1974, as amended, or ERISA, that are subject to Title I of ERISA, (ii) plans, collective investment trusts, individual retirement accounts and other arrangements that are subject to Section 4975 of the Code or any other U.S. or non-U.S. federal, state, local or other laws or regulations that are substantially similar to such provisions of ERISA or the Code, or collectively, Similar Laws, and (iii) entities whose underlying assets are considered to include “plan assets” of any such plan, account or arrangement described in clauses (i) and (ii), pursuant to ERISA or otherwise (each of the foregoing described in clauses (i), (ii) and (iii) referred to hereunder as a Plan).

Section 406 of ERISA and Section 4975 of the Code prohibit Plans which are subject to Title I of ERISA or Section 4975 of the Code, or the Covered Plans, from engaging in specified transactions involving plan assets with persons or entities who are “parties in interest,” within the meaning of ERISA, or “disqualified persons,” within the meaning of Section 4975 of the Code, unless an exemption is available. A party in interest or disqualified person who engages in a non-exempt prohibited transaction may be subject to excise taxes and other penalties and liabilities under ERISA and the Code. The acquisition of shares of common stock by a Covered Plan with respect to which the issuer, selling shareholder or an underwriter is considered a party in interest or a disqualified person may constitute or result in a direct or indirect prohibited transaction under Section 406 of ERISA and/or Section 4975 of the Code, unless the investment is acquired in accordance with an applicable statutory, class or individual prohibited transaction exemption.

Plans that are governmental plans, certain church plans and non-U.S. plans may not be subject to the prohibited transaction provisions of Section 406 of ERISA or Section 4975 of the Code, they may nevertheless be subject to Similar Laws. Fiduciaries of any such plans should consult with their counsel before acquiring any of our common stock. The foregoing discussion is general in nature and is not intended to be all-inclusive. Due to the complexity of these rules and the penalties that may be imposed upon persons involved in non-exempt prohibited transactions, it is particularly important that fiduciaries, or other persons considering purchasing common stock on behalf of, or with the assets of, any Plan, consult with their counsel regarding the potential applicability of ERISA, Section 4975 of the Code and any Similar Laws to such investment and whether an exemption would be applicable to the purchase and holding of common stock. Neither this discussion nor anything provided in this prospectus is, or is intended to be, investment advice directed at any potential Plan purchasers, or at Plan purchasers generally, and such purchasers of any shares of common stock should consult with and rely on their own counsel and advisers as to whether an investment in the common stock is suitable for the Plan.

UNDERWRITING

Under the terms and subject to the conditions in an underwriting agreement dated the date of this prospectus, the underwriters named below, for whom BofA Securities, Inc. and Morgan Stanley & Co. LLC are acting as representatives, have severally agreed to purchase, and we and the selling stockholders have agreed to sell to them, severally, the number of shares indicated below:

<u>Name</u>	<u>Number of Shares</u>
BofA Securities, Inc.	
Morgan Stanley & Co. LLC	
Goldman Sachs & Co. LLC	
Jefferies LLC	
BMO Capital Markets Corp.	
UBS Securities LLC	
Guzman & Company	
Loop Capital Markets LLC	
Mischler Financial Group, Inc.	
Nomura Securities International, Inc.	
Piper Sandler & Co.	
R. Seelaus & Co., LLC	
	<u>Total:</u>

The underwriters and the representatives are collectively referred to as the “underwriters” and the “representatives,” respectively. The underwriters are offering the shares of common stock subject to their acceptance of the shares from us and the selling stockholders and subject to prior sale. The underwriting agreement provides that the obligations of the several underwriters to pay for and accept delivery of the shares of common stock offered by this prospectus are subject to the approval of certain legal matters by their counsel and to certain other conditions. The underwriters are obligated to take and pay for all of the shares of common stock offered by this prospectus if any such shares are taken. However, the underwriters are not required to take or pay for the shares covered by the underwriters’ option to purchase additional shares described below.

The underwriters initially propose to offer part of the shares of common stock directly to the public at the offering price listed on the cover page of this prospectus and part to certain dealers at a price that represents a concession not in excess of \$ _____ per share under the public offering price. After the initial offering of the shares of common stock, the offering price and other selling terms may from time to time be varied by the representative.

The selling stockholders have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase up to _____ additional shares of common stock at the public offering price listed on the cover page of this prospectus, less underwriting discounts and commissions. To the extent the option is exercised, each underwriter will become obligated, subject to certain conditions, to purchase about the same percentage of the additional shares of common stock as the number listed next to the underwriter’s name in the preceding table bears to the total number of shares of common stock listed next to the names of all underwriters in the preceding table.

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The following table shows the per share and total public offering price, underwriting discounts and commissions, and proceeds before expenses to us and the selling stockholders. These amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase up to an additional shares of common stock from us and an additional shares of common stock from the selling stockholders.

	Per Share	Total	
		No Exercise	Full Exercise
Public offering price	\$	\$	\$
Underwriting discounts and commissions to be paid by:			
us			
the selling stockholders			
Proceeds, before expenses, to us			
Proceeds, before expenses, to selling stockholders			

The estimated offering expenses payable by us, exclusive of the underwriting discounts and commissions, are approximately \$. We have agreed to reimburse the underwriters for expenses relating to clearance of this offering with the Financial Industry Regulatory Authority up to \$.

The underwriters have informed us that they do not intend sales to discretionary accounts to exceed 5% of the total number of shares of common stock offered by them.

We have applied to list our common stock on the New York Stock Exchange under the trading symbol "MCW".

We intend to agree that, without the prior written consent of BofA Securities, Inc. and Morgan Stanley & Co. LLC on behalf of the underwriters, we will not, and will not publicly disclose an intention to, during the period ending 180 days after the date of this prospectus (the "Company Restricted Period"):

- offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable or exchangeable for shares of common stock;
- file any registration statement with the SEC relating to the offering of any shares of common stock or any securities convertible into or exercisable or exchangeable for common stock; or
- enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock,

whether any such transaction described above is to be settled by delivery of common stock or such other securities, in cash or otherwise. Notwithstanding the foregoing, such restrictions on us will not apply to: (A) the shares to be sold in this offering; (B) the issuance of shares of common stock upon the exercise of an option or warrant or the conversion of a security outstanding as described in this prospectus; (C) the grant of compensatory equity-based awards, and/or the issuance of shares of common stock with respect thereto, or the filing of any registration statement on Form S-8 (including any resale registration statement on Form S-8) relating to securities granted, issued or to be granted pursuant to any plan described in this prospectus or any assumed benefit plan contemplated by clause (B); (D) any shares of common stock issued pursuant to any non-employee director compensation plan or program disclosed in this prospectus; (E) the purchase of shares of common stock pursuant to employee stock purchase plans described in the this prospectus; (F) common stock or any securities convertible into, or exercisable or exchangeable for, common stock, or the entrance into an agreement to issue common stock or any securities convertible into, or exercisable or exchangeable for, common stock, in connection with any merger, joint venture, strategic alliances, commercial or other collaborative transaction or the acquisition or license of the business, property, technology or other assets of another individual or entity or

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the assumption of an employee benefit plan in connection with a merger or acquisition; provided that the aggregate number of common stock or any securities convertible into, or exercisable or exchangeable for, common stock that we may issue or agree to issue shall not exceed 10% of the total outstanding share capital of the Company immediately following the issuance of the shares; and provided further, that the recipients of any such shares of common stock and securities issued pursuant to this clause (F) during the 180-day restricted period described above shall enter into an agreement substantially in the form attached hereto on or prior to such issuance; (G) the filing of any registration statement relating to any proposed offering of shares of common stock or any securities convertible into or exercisable or exchangeable for common stock beneficially owned by LGP, provided that, no offering or sale of any common stock shall be made during the Company Restricted Period without the prior written release, waiver or consent from BofA Securities, Inc. and Morgan Stanley & Co. LLC; or (H) facilitating the establishment of a trading plan on behalf of a stockholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of common stock, provided that (i) such plan does not provide for the transfer during the Company Restricted Period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer may be made under such plan during the Restricted Period.

In addition, all of our directors and officers and the holders of all of our outstanding stock and stock options agree that, without the prior written consent of BofA Securities, Inc. and Morgan Stanley & Co. LLC on behalf of the underwriters, they will not, and will not publicly disclose an intention to, during the period ending 180 days after the date of this prospectus, in the case of our directors and officers, and 120 days after the date of this prospectus, in the case of LGP (such period, the "Holder Restricted Period"):

- offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable or exchangeable for shares of common stock; or
- enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock

whether any such transaction described above is to be settled by delivery of common stock or such other securities, in cash or otherwise. In addition, each such person agrees that, without the prior written consent of BofA Securities, Inc. and Morgan Stanley & Co. LLC on behalf of the underwriters, such person will not, during the Holder Restricted Period, make any demand for, or exercise any right with respect to, the registration of any shares of common stock or any security convertible into or exercisable or exchangeable for common stock.

Notwithstanding the foregoing, up to 30% of the shares of common stock and securities convertible into or exercisable or exchangeable for shares of common stock held by LGP may be sold beginning at the commencement of the second trading day after we publicly announce our earnings for the first completed quarterly period following the most recent period for which financial statements (which, for the avoidance of doubt, shall not include "flash" numbers) are included in this prospectus (the "First Earnings Release"); provided that the last reported closing price of the common stock on _____ is at least 35% greater than the initial public offering price per share set forth on the cover page of this prospectus for any 10 trading days out of the 15-consecutive full trading day period ending on the closing of the second full trading day immediately following the First Earnings Release.

In addition, the restrictions on our directors and officers and the holders of all of our outstanding stock and stock options described above will not apply to: (A) transactions relating to shares of common stock or other securities acquired (i) in this offering or (ii) in open market transactions after the completion of this offering; (B) transfers of shares of common stock or any security convertible into common stock as a bona fide gift, or for bona fide estate planning purposes; (C) in the case of a corporation, partnership, limited liability company or other business entity, (i) to another corporation, partnership, limited liability company or other business entity

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that is an affiliate (as defined in Rule 405 promulgated under the Securities Act, as amended), or to any investment fund or other entity controlled or managed by the holder of our outstanding stock and stock options or affiliates of such holder, or (ii) as part of a distribution by the undersigned to its stockholders, partners, members or other equityholders or to the estate of any such stockholders, partners, members or other equityholders; (D) by will, other testamentary document or intestacy; (E) to any member of the immediate family or to any trust for the direct or indirect benefit of our directors and officers or the holders of all of our outstanding stock and stock options or their immediate family, or if in the case of a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust (“immediate family” means any relationship by blood, current or former marriage, domestic partnership or adoption, not more remote than first cousin); (F) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree or separation agreement; (G) facilitating the establishment of a trading plan on behalf of a stockholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of common stock, provided that (i) such plan does not provide for the transfer of common stock during the Holder Restricted Period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the holder or the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of common stock may be made under such plan during the Holder Restricted Period; (H) transfers to the Company from an employee of or service provider of the Company upon death, disability or termination of employment, in each case, of such employee or service provider; (I) (i) transfers to the Company in connection with the vesting, settlement, or exercise of restricted stock units, options, warrants or other rights to purchase shares of common stock (including, in each case, by way of “net” or “cashless” exercise), including for the payment of exercise price and tax and remittance payments due as a result of the vesting, settlement, or exercise of such restricted stock units, options, warrants or rights or (ii) transfers necessary (including transfers on the open market) to generate such amount of cash needed for the payment of taxes, including estimated taxes, due as a result of the vesting or settlement of restricted stock units whether by means of a “net settlement” or otherwise, and in all such cases described in subclauses (i) and (ii), provided that any such shares of common stock received upon such exercise, vesting or settlement shall be subject to the terms of the lock-up agreement, and provided further that any such restricted stock units, options, warrants or rights are held by our directors and officers and the holders of all of our outstanding stock and stock options pursuant to an agreement or equity awards granted under a stock incentive plan or other equity award plan, each such agreement or plan which is described in this prospectus; (J) transfers to the Company in connection with the repurchase of shares of common stock issued pursuant to equity awards granted under a stock incentive plan or other equity award plan, which plan is described in this prospectus, or pursuant to the agreements pursuant to which such shares were issued, as described in this prospectus, provided that such repurchase of shares of common stock is in connection with the termination of the service-provider relationship with the Company; (K) transfers pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the board of directors of the Company and made to all holders of the Company’s capital stock involving a change of control of the Company, provided that in the event that such tender offer, merger, consolidation or other similar transaction is not completed, our directors’ and officers’ and the holders’ of our outstanding stock and stock options shall remain subject to the provisions of the lock-up agreement; (L) exercise of any rights to purchase, exchange or convert any stock options granted pursuant to the Company’s equity incentive plans referred to in this prospectus, or any warrants or other securities convertible into or exercisable or exchangeable for shares of common stock, which warrants or other securities are described in this prospectus; (M) and sales of shares of common stock in this offering; provided that in the case of clauses (A), (B), (C), and (E) above no filing under Section 16(a) of the Exchange Act shall be required or shall be voluntarily made in connection with such transfer or distribution; (other than a filing on Form 5); provided that in the case of clauses (D), (F), (H), (I), (J) and (L), (i) any filing under Section 16 of the Exchange Act made during the Lock-Up Period shall clearly indicate in the footnotes thereto that (A) the filing relates to the circumstances described in the applicable clause and (B) to the extent applicable, the underlying shares of Common Stock continue to be subject to the restrictions on transfer set forth in this lock-up agreement and (2) the undersigned does not otherwise voluntarily effect any other public filings or reports regarding such exercise during the Holder Restricted Period; provided that in the case of any transfer or distribution pursuant to clause (B), (C), (D), (E) or (F), each transferee, donee or distributee shall sign and deliver a lock-up agreement substantially in the form of the lock-up agreement described here; provided that

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in the case of any conversion, reclassification exchange or exercise pursuant to clause (i), any such shares of common stock received upon such shall remain subject to the provisions of the lock-up agreement; and provided that in the case of clauses (B), (C), (D) and (E), such transfer shall not involve a disposition for value.

BofA Securities, Inc. and Morgan Stanley & Co. LLC, in their sole discretion, may jointly waive or release the lock-up agreements described above in whole or in part at any time.

In order to facilitate the offering of the common stock, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the common stock. Specifically, the underwriters may sell more shares than they are obligated to purchase under the underwriting agreement, creating a short position. A short sale is covered if the short position is no greater than the number of shares available for purchase by the underwriters under the option to purchase additional shares. The underwriters can close out a covered short sale by exercising the option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to close out a covered short sale, the underwriters will consider, among other things, the open market price of shares compared to the price available under the option to purchase additional shares. The underwriters may also sell shares in excess of the option to purchase additional shares, creating a naked short position. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in this offering. As an additional means of facilitating this offering, the underwriters may bid for, and purchase, shares of common stock in the open market to stabilize the price of the common stock. These activities may raise or maintain the market price of the common stock above independent market levels or prevent or retard a decline in the market price of the common stock. The underwriters are not required to engage in these activities and may end any of these activities at any time.

The underwriters may offer and sell the shares through certain of their affiliates or other registered broker-dealers or selling agents.

We, the selling stockholders and the underwriters have agreed to indemnify each other against certain liabilities, including liabilities under the Securities Act.

A prospectus in electronic format may be made available on websites maintained by one or more underwriters, or selling group members, if any, participating in this offering. The representative may agree to allocate a number of shares of common stock to underwriters for sale to their online brokerage account holders. Internet distributions will be allocated by the representative to underwriters that may make Internet distributions on the same basis as other allocations.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. Certain of the underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking services for us, for which they received or will receive customary fees and expenses.

In addition, in the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers and may at any time hold long and short positions in such securities and instruments. Such investment and securities activities may involve our securities and instruments. The underwriters and their respective affiliates may also make investment recommendations or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long or short positions in such securities and instruments. In addition, certain of the underwriters and/or

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their respective affiliates are lenders of the First Lien Term Loan and the Second Lien Term Loan and, as a result, will receive approximately \$, which represents a portion of the net proceeds from this offering that we intend to allocate to the repayment of such borrowings, on a pro rata basis across all applicable lenders thereunder. See “Use of Proceeds.”

Reserved Share Program

At our request, an affiliate of BofA Securities, Inc., a participating underwriter, has reserved for sale, at the initial public offering price, up to 5% of the shares offered by this prospectus for sale to some of our directors, officers, employees, business associates and related persons. If these persons purchase reserved shares it will reduce the number of shares available for sale to the general public. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same terms as the other shares offered by this prospectus.

Pricing of the Offering

Prior to this offering, there has been no public market for our common stock. The initial public offering price was determined by negotiations between us and the representatives. Among the factors considered in determining the initial public offering price were our future prospects and those of our industry in general, our sales, earnings and certain other financial and operating information in recent periods, and the price-earnings ratios, price-sales ratios, market prices of securities, and certain financial and operating information of companies engaged in activities similar to ours.

Selling Restrictions

European Economic Area

In relation to each Member State of the European Economic Area (each, a “Relevant State”), no securities have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the securities which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that offers of securities may be made to the public in that Relevant State at any time under the following exemptions under the Prospectus Regulation:

- (a) to any legal entity which is a qualified investor as defined under the Prospectus Regulation;
- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Regulation), subject to obtaining the prior consent of the representatives; or
- (c) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares shall require us or any of our representatives to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

In the case of any shares being offered to a financial intermediary as that term is used in Article 1(4) of the Prospectus Regulation, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer to the public other than their offer or resale in a Relevant State to qualified investors, in circumstances in which the prior consent of the representatives has been obtained to each such proposed offer or resale.

The Company, the underwriters and their affiliates will rely upon the truth and accuracy of the foregoing representations, acknowledgements and agreements.

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For the purposes of this provision, the expression an “offer to the public” in relation to any shares in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase any shares, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129 (as amended).

The above selling restriction is in addition to any other selling restrictions set out below.

In connection with the offering the underwriters are not acting for anyone other than the issuer and will not be responsible to anyone other than the issuer for providing the protections afforded to their clients nor for providing advice in relation to the offering.

Notice to Prospective Investors in the United Kingdom

An offer to the public of any shares may not be made in the United Kingdom, except that an offer to the public in the United Kingdom of any shares may be made at any time under the following exemptions under the UK Prospectus Regulation:

- (a) to any legal entity which is a “qualified investor” as defined under the UK Prospectus Regulation;
- (b) to fewer than 150 natural or legal persons (other than “qualified investors” as defined under the UK Prospectus Regulation), subject to obtaining the prior consent of the representatives for any such offer; or
- (c) in any other circumstances falling within section 86 of the Financial Services and Markets Act 2000 (as amended, “FSMA”),

provided that no such offer of shares shall result in a requirement for the Issuer or any underwriters to publish a prospectus pursuant to section 85 of the FSMA or a supplemental prospectus pursuant to Article 23 of the UK Prospectus Regulation.

Each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with the Company and the representatives that it is a qualified investor within the meaning of Article 2 of the UK Prospectus Regulation.

In the case of any shares being offered to a financial intermediary as that term is used in Article 1(4) of the UK Prospectus Regulation, each financial intermediary will also be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public, other than their offer or resale in the United Kingdom to qualified investors as so defined or in circumstances in which the prior consent of the of the representatives has been obtained to each such proposed offer or resale.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Company or the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this

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document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (“FINMA”), and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

Notice to Prospective Investors in the Dubai International Financial Centre

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority, or DFSA. This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no responsibility for the prospectus. The shares to which this prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of this prospectus you should consult an authorized financial advisor.

Notice to Prospective Investors in Australia

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission, or ASIC, in relation to the offering. This prospectus does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001, or the Corporations Act, and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the shares may only be made to persons, the Exempt Investors, who are “sophisticated investors” (within the meaning of section 708(8) of the Corporations Act), “professional investors” (within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the shares without disclosure to investors under Chapter 6D of the Corporations Act.

The shares applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act. Any person acquiring shares must observe such Australian on-sale restrictions.

This prospectus contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this prospectus is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

Notice to Prospective Investors in Hong Kong

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the shares has been or may be issued or has been or may be in the possession of any person

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for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

Notice to Prospective Investors in Japan

No registration pursuant to Article 4, paragraph 1 of the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) (the “FIEL”) has been made or will be made with respect to the solicitation of the application for the acquisition of the shares of common stock.

Accordingly, the shares of common stock have not been, directly or indirectly, offered or sold and will not be, directly or indirectly, offered or sold in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan) or to others for re-offering or re-sale, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan except pursuant to an exemption from the registration requirements, and otherwise in compliance with, the FIEL and the other applicable laws and regulations of Japan.

For Qualified Institutional Investors (“QII”)

Please note that the solicitation for newly-issued or secondary securities (each as described in Paragraph 2, Article 4 of the FIEL) in relation to the shares of common stock constitutes either a “QII only private placement” or a “QII only secondary distribution” (each as described in Paragraph 1, Article 23-13 of the FIEL). Disclosure regarding any such solicitation, as is otherwise prescribed in Paragraph 1, Article 4 of the FIEL, has not been made in relation to the shares of common stock. The shares of common stock may only be transferred to QIIs.

For Non-QII Investors

Please note that the solicitation for newly-issued or secondary securities (each as described in Paragraph 2, Article 4 of the FIEL) in relation to the shares of common stock constitutes either a “small number private placement” or a “small number private secondary distribution” (each as is described in Paragraph 4, Article 23-13 of the FIEL). Disclosure regarding any such solicitation, as is otherwise prescribed in Paragraph 1, Article 4 of the FIEL, has not been made in relation to the shares of common stock. The shares of common stock may only be transferred en bloc without subdivision to a single investor.

Notice to Prospective Investors in Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, the shares were not offered or sold or caused to be made the subject of an invitation for subscription or purchase and will not be offered or sold or caused to be made the subject of an invitation for subscription or purchase, and this prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares, has not been circulated or distributed, nor will it be circulated or distributed, whether directly or indirectly, to any person in Singapore other than (i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time, the SFA) pursuant to Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

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Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares pursuant to an offer made under Section 275 of the SFA except:

- (a) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (b) where no consideration is or will be given for the transfer;
- (c) where the transfer is by operation of law;
- (d) as specified in Section 276(7) of the SFA; or
- (e) as specified in Regulation 37A of the Securities and Futures (Offers of Investment) (Securities and Securities based Derivatives Contract) Regulations 2018.

Notice to Prospective Investors in Canada

The shares may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the shares must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 (or, in the case of securities issued or guaranteed by the government of a non-Canadian jurisdiction, section 3A.4) of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

Notice to Prospective Investors in China

This prospectus will not be circulated or distributed in the People's Republic of China, or PRC, and the shares will not be offered or sold to any person for re-offering or resale directly or indirectly to any residents of the PRC, except pursuant to any applicable laws and regulations of the PRC. Neither this prospectus nor any advertisement or other offering material may be distributed or published in the PRC, except under circumstances that will result in compliance with applicable laws and regulations.

Notice to Prospective Investors in South Korea

The shares offered by this prospectus have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder (the “FSCMA”), and the shares have been and will be offered in Korea as a private placement under the FSCMA. None of the shares may be offered, sold or delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder (the “FETL”). Furthermore, the purchaser of the shares will comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares. By the purchase of the shares, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares pursuant to the applicable laws and regulations of Korea.

LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Latham & Watkins LLP. The validity of the shares of common stock offered hereby will be passed upon for the underwriters by Simpson Thacher & Bartlett LLP. Latham & Watkins LLP is acting as counsel for the selling stockholders in connection with this offering.

EXPERTS

The financial statements as of December 31, 2019 and 2020, and for each of the two years in the period ended December 31, 2020, included in this Registration Statement, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein (which report expresses an unqualified opinion on the financial statements and includes an explanatory paragraph referring to the adoption of the new lease accounting standard). Such financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement, some items of which are contained in exhibits to the registration statement as permitted by the rules and regulations of the SEC. For further information with respect to us and our common stock, we refer you to the registration statement and its exhibits. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. The exhibits to the registration statement should be reviewed for the complete contents of these contracts and documents. A copy of the registration statement and its exhibits may be obtained from the SEC upon the payment of fees prescribed by it. The SEC maintains a website at www.sec.gov that contains reports, proxy and information statements and other information regarding companies that file electronically with it.

We are not currently subject to the informational requirements of the Exchange Act. Upon completion of this offering, we will become subject to the information and periodic and current reporting requirements of the Exchange Act, and in accordance therewith, will file periodic and current reports, proxy statements and other information with the SEC. The registration statement, such periodic and current reports and other information can be obtained electronically by means of the SEC's website at www.sec.gov.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Mister Car Wash, Inc. (formerly Hotshine Holdings, Inc.):

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Mister Car Wash, Inc. (formerly Hotshine Holdings, Inc.) and subsidiaries (the “Company”) as of December 31, 2019 and 2020, the related consolidated statements of operations and comprehensive income, stockholders’ (deficit) equity, and cash flows for each of the two years in the period ended December 31, 2020, and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2020, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

Change in Accounting Principle

As discussed in Note 2 to the financial statements, effective January 1, 2020, the Company has changed its method of accounting for leases due to the adoption of the new lease accounting standard.

Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Deloitte & Touche LLP

Phoenix, Arizona
April 2, 2021

We have served as the Company’s auditor since 2018.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Consolidated Balance Sheets
(Amounts in thousands, except share and per share data)

	December 31,	
	2019	2020
Assets		
Current assets:		
Cash and cash equivalents	\$ 6,405	\$ 114,647
Restricted cash	300	3,227
Accounts receivable, net	5,125	4,613
Construction receivable	6,900	—
Inventory	7,760	6,415
Prepaid expenses and other current assets	6,611	6,068
Total current assets	<u>33,101</u>	<u>134,970</u>
Property and equipment, net	233,574	263,034
Operating lease right of use assets, net	—	681,538
Other intangible assets, net	133,128	127,019
Goodwill	731,989	737,415
Other assets	18,282	4,477
Total assets	<u>\$ 1,150,074</u>	<u>\$ 1,948,453</u>
Liabilities and stockholders' (deficit) equity		
Current liabilities:		
Accounts payable	\$ 15,792	\$ 24,374
Accrued payroll and related expenses	19,193	11,424
Other accrued expenses	21,041	20,264
Current maturities of debt	8,000	8,400
Current maturities of financing obligations	262	—
Current maturities of operating lease liability	—	33,485
Current maturities of finance lease liability	23	495
Deferred revenue	21,258	24,505
Total current liabilities	<u>85,569</u>	<u>122,947</u>
Long term portion debt, net	1,016,890	1,054,820
Construction liability	6,900	—
Financing obligations	10,250	—
Operating lease liability	—	685,479
Financing lease liability	1,015	15,917
Long-term deferred tax liability	20,013	46,082
Long-term deferred rent	39,665	—
Other long-term liabilities	33,374	6,558
Total liabilities	<u>1,213,676</u>	<u>1,931,803</u>
Commitments & Contingencies (Note 18)		
Stockholders' (deficit) equity:		
Common stock, \$0.01 par value, 3,250,000 and 3,250,000 shares authorized, 2,726,554 and 2,728,205 shares outstanding as of December 31, 2019 and 2020, respectively	27	27
Additional paid-in capital	92,951	94,118
Accumulated other comprehensive (loss)	—	(1,117)
Retained (deficit)	(156,580)	(76,378)
Total stockholders' (deficit) equity	<u>(63,602)</u>	<u>16,650</u>
Total liabilities and stockholders' (deficit) equity	<u>\$ 1,150,074</u>	<u>\$ 1,948,453</u>

See accompanying notes to consolidated financial statements.

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Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Consolidated Statements of Operations and Comprehensive Income
(Amounts in thousands, except share and per share data)

	<u>Year Ended December 31,</u>	
	<u>2019</u>	<u>2020</u>
Revenues, net	\$ 629,528	\$ 574,941
Cost of labor and chemicals	243,912	193,971
Other store operating expenses	224,402	224,419
General and administrative	84,806	51,341
Loss (gain) on sale of assets	1,345	(37,888)
Total costs and expenses	<u>554,465</u>	<u>431,843</u>
Operating income	75,063	143,098
Other (expense) income:		
Interest expense, net	(67,610)	(64,009)
Loss on extinguishment of debt	(9,169)	(1,918)
Total other expense	<u>(76,779)</u>	<u>(65,927)</u>
(Loss) income before taxes	(1,716)	77,171
Income tax (benefit) provision	<u>(2,636)</u>	<u>16,768</u>
Net income	<u>\$ 920</u>	<u>\$ 60,403</u>
Other comprehensive income (loss), net of tax:		
Loss on interest rate swap	<u>—</u>	<u>(1,117)</u>
Total comprehensive income	<u>\$ 920</u>	<u>\$ 59,286</u>
Net income per share:		
Basic	<u>\$ 0.34</u>	<u>\$ 22.15</u>
Diluted	<u>\$ 0.32</u>	<u>\$ 21.02</u>
Weighted average common shares outstanding:		
Basic	<u>2,713,327</u>	<u>2,726,806</u>
Diluted	<u>2,838,062</u>	<u>2,874,172</u>

See accompanying notes to consolidated financial statements.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Consolidated Statements of Stockholders' (Deficit) Equity
(Amounts in thousands, except share and per share data)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings (Deficit)	Stockholders' (Deficit) Equity
	Shares	Amount				
Balance at December 31, 2018	2,705,444	\$ 27	\$ 90,492	\$ —	\$ 37,228	\$ 127,747
Stock-based compensation expense	—	—	2,365	—	—	2,365
Exercise of stock options	23,732	—	713	—	—	713
Shares repurchased	(2,622)	—	(619)	—	—	(619)
Dividend paid (\$72 per share)	—	—	—	—	(194,728)	(194,728)
Net income	—	—	—	—	920	920
Balance at December 31, 2019	2,726,554	\$ 27	\$ 92,951	\$ —	\$(156,580)	\$ (63,602)
Adoption of new accounting standards, net of tax	—	—	—	—	19,798	19,798
Stock-based compensation expense	—	—	1,493	—	—	1,493
Exercise of stock options	1,925	—	46	—	—	46
Shares repurchased	(274)	—	(372)	—	—	(372)
Loss on interest rate swap	—	—	—	(1,117)	—	(1,117)
Net income	—	—	—	—	60,403	60,403
Balance at December 31, 2020	<u>2,728,205</u>	<u>\$ 27</u>	<u>\$ 94,118</u>	<u>\$ (1,117)</u>	<u>\$ (76,378)</u>	<u>\$ 16,650</u>

See accompanying notes to consolidated financial statements.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Consolidated Statements of Cash Flows
(Amounts in thousands)

	Year Ended December 31,	
	2019	2020
Cash flows provided by operating activities:		
Net income	\$ 920	\$ 60,403
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	39,468	45,289
Stock-based compensation	2,365	1,493
Deferred rent	5,884	—
Gain (loss) on disposal of property and equipment, net	1,345	(37,888)
Loss on extinguishment of debt	9,169	1,918
Amortization of deferred financing fees	2,151	1,139
Accretion of interest	743	—
Amortization of lease incentive obligation	(150)	—
Noncash lease expense	—	34,280
Deferred income tax	(4,426)	21,640
Changes in assets and liabilities:		
Accounts receivable, net	(703)	513
Inventory	(215)	935
Prepaid expenses and other	4,415	(282)
Other noncurrent assets and liabilities	(1,582)	5,456
Accounts payable	5,015	(2,813)
Accrued expenses	4,261	4,844
Change in operating lease liability	—	(30,784)
Deferred revenue	1,412	(4,297)
Net cash provided by operating activities	<u>\$ 70,072</u>	<u>\$ 101,846</u>
Cash flows used in investing activities:		
Expenditures for property and equipment	(74,580)	(58,744)
Acquisition of car wash operations, net of cash acquired	(82,495)	(33,584)
Proceeds from sale of property and equipment	43,254	23,589
Proceeds from sale of Oil Change Express	—	55,386
Net cash used in investing activities	<u>\$ (113,821)</u>	<u>\$ (13,353)</u>
Financing activities		
Stock option exercise	713	46
Share repurchase	(619)	(372)
Payment of dividends	(194,728)	—
Proceeds from long-term debt	1,085,000	45,625
Proceeds from revolving line of credit	96,400	111,681
Payments on long-term debt	(818,667)	(8,400)
Payments on revolving line of credit	(110,650)	(125,681)
Principal payments on finance lease obligations	—	(223)
Principal payments on capital lease obligations	(116)	—
Principal payments on financing obligations	(872)	—
Payment of debt issuance costs	(11,062)	—
Net cash provided by financing activities	<u>\$ 45,399</u>	<u>\$ 22,676</u>
Net change in cash and cash equivalents	1,650	111,169
Cash and cash equivalents, and restricted cash at beginning of year	5,055	6,705
Cash and cash equivalents, and restricted cash at end of year	<u>\$ 6,705</u>	<u>\$ 117,874</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	\$ 61,051	\$ 56,669
Cash paid for income taxes	\$ 1,648	\$ (7,437)
Supplemental disclosure of non-cash investing and financing activities:		
Property and equipment accrued in accounts payable	\$ 5,247	\$ 16,625
Non-cash property and equipment additions from financing obligations	\$ 947	\$ 15,597

See accompanying notes to consolidated financial statements.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

1. Nature of Business

Hotshine Holdings, Inc., a Delaware corporation based in Tucson, Arizona and provider of conveyORIZED car wash services, and at a limited number of locations also provides related automotive services, including quick lube services and gasoline sales, changed its name to Mister Car Wash, Inc. (the "Company") on March 8, 2021. The Company operates two location formats: Express Exterior Locations, which offer express exterior cleaning services and Interior Cleaning Locations, which offer both express exterior and interior cleaning services. As of December 31, 2020, the Company closed or sold all of its quick lube facilities. At December 31, 2020, the Company operated 342 car washes in 21 states.

Beginning the end of March 2020 through the first part of April, to ensure the safety of its team members and customers and in compliance with local regulations, the Company temporarily suspended operations at more than 300 of its locations due to the COVID-19 pandemic. During this period, safety protocols were upgraded and modified the operating model by temporarily removing all interior cleaning services from locations offering those services. The washes were closed for, on average, 34 days. As the Company opened washes, only exterior cleaning services were offered until July 2020 when interior clean services became available at select locations. In August 2020, all Interior Cleaning Locations were offering interior cleaning services again. As a result of the temporary suspension of operations, the Company furloughed approximately 5,500 team members, reduced the pay for the remaining team members and amended nearly all leases to allow for up to three months of rent deferrals. None on the amendments resulted in remeasurements. As of December 31, 2020, all back pay for reduced salaries and deferred lease payments had been repaid.

2. Summary of Significant Accounting Policies

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company. All material intercompany balances and transactions have been eliminated in consolidation.

Segment Disclosure

The Company determined that there is one reportable segment, with activities related to providing car wash services. The car wash locations are geographically diversified and have similar economic characteristics and nature of services.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenue and expenses during the periods reported. Some of the significant estimates that the Company has made pertain to the determination of deferred tax assets and liabilities; estimates utilized to determine the fair value of assets acquired and liabilities assumed in business combinations and the related goodwill and intangibles; and certain assumptions used related to the evaluation of goodwill, intangibles, and property and equipment asset impairment. Actual results could differ from those estimates.

Cash and Cash Equivalents, and Restricted Cash

The Company considers all highly liquid investments with original maturities of three months or less to be cash equivalents. The Company places its temporary cash investments with high credit quality financial institutions.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

At times, such investments may exceed federally insured limits; however, management does not believe the Company is exposed to any significant credit risk on counter party cash and cash equivalents.

Upon the sale of the quick lube facilities on December 11, 2020, the purchaser deposited \$3,000 into an escrow account held by an escrow agent on behalf of the Company for the purpose of any indemnification that may become due to purchaser pursuant to the purchase agreement. The funds will remain in the escrow account until August 2021, at which time the escrow period will have ended.

The Company also has \$227 in restricted cash set aside for the funding of various maintenance expenses at December 31, 2020.

Accounts Receivable, Net

Accounts receivable include amounts due for consumer credit card sales and other trade accounts receivable. Management determines the allowance for doubtful accounts and writes off trade receivables when deemed uncollectible on a specific customer identification basis. Recoveries of trade receivables previously written off are recorded when received. Accounts receivable are presented net of an allowance for doubtful accounts of \$117 and \$197 at December 31, 2019 and 2020, respectively. The activity in the allowance for doubtful accounts was immaterial for the years ended December 31, 2019 and 2020.

Inventory

Inventory consists primarily of chemical washing solutions, and quick lube-related materials, and is stated at the lower of cost or net realizable value using the average cost method. The activity in the reserve for obsolescence accounts was immaterial for the years ended December 31, 2019 and 2020.

Inventory at December 31 was as follows:

	<u>2019</u>	<u>2020</u>
Chemical washing solutions	\$7,095	\$6,490
Quick lube related materials	725	—
Other	<u>124</u>	<u>52</u>
Total inventory, gross	7,944	6,542
Reserve for obsolescence	<u>(184)</u>	<u>(127)</u>
Total inventory, net	<u>\$7,760</u>	<u>\$6,415</u>

Property and Equipment, Net

Property and equipment purchased are stated at cost less accumulated depreciation. Assets acquired in business combinations are recorded at fair value. Depreciation and amortization are recorded using the straight-line method over the estimated useful lives of the property or related lease term. Amortization of assets under finance leases is included in depreciation expense. Estimated useful lives range from 10 to 35 years for buildings and leasehold improvements, and from 3 to 7 years for machinery and equipment.

Expenditures for repairs and maintenance are charged to expense as incurred. Expenditures for major renewals and betterments that extend the useful lives of existing equipment are capitalized.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

For items that are disposed of, the cost and related accumulated depreciation are removed from the accounts and any resulting gain or loss is recognized as (gain) loss on sale of assets in the accompanying consolidated statements of operations and comprehensive income.

The Company periodically reviews the carrying value of long-lived assets held and used for possible impairment when events and circumstances warrant such a review.

Other Intangible Assets, Net and Goodwill

The Company classifies intangible assets into three categories: (1) intangible assets with definite lives subject to amortization, (2) intangible assets with indefinite lives not subject to amortization and (3) goodwill. The Company determines the useful lives of its identifiable intangible assets after considering the specific facts and circumstances related to each intangible asset. The Company considers the following factors when determining useful lives: the contractual term of any agreement related to the asset, the historical performance of the asset, the Company's long-term strategy for using the asset, any laws or other local regulations which could impact the useful life of the asset, and other economic factors, including competition and specific market conditions.

Intangible assets that are deemed to have definite lives are amortized, primarily on a straight-line basis, over their useful lives, generally ranging from 2 to 10 years. When facts and circumstances indicate that the carrying value of definite-lived intangible assets may not be recoverable, management assesses the recoverability of the carrying value by preparing estimates of sales volume and the resulting profit and cash flows expected to result from the use of the asset or asset group and its eventual disposition. If the sum of the expected future cash flows (undiscounted and without interest charges) is less than the carrying amount, the Company recognizes an impairment loss. The impairment loss recognized is the amount by which the carrying amount of the asset or asset group exceeds the fair value. The Company uses a variety of methodologies to determine the fair value of these assets, including discounted cash flow models, which are consistent with the assumptions hypothetical marketplace participants would use.

The Company tests intangible assets determined to have indefinite useful lives, including trade names and trademarks, for impairment annually, or more frequently if events or circumstances indicate that assets might be impaired. The Company uses a variety of methodologies in conducting impairment assessments of indefinite-lived intangible assets, including, but not limited to, discounted cash flow models, which are based on the assumptions the Company believes hypothetical marketplace participants would use. For indefinite-lived intangible assets, other than goodwill, if the carrying amount exceeds the fair value, an impairment charge is recognized in an amount equal to that excess. The Company has the option to perform a qualitative assessment of indefinite-lived intangible assets, other than goodwill, rather than completing the impairment test. The Company must assess whether it is more likely than not that the fair value of the intangible asset is less than its carrying amount. If the Company concludes that this is the case, it must perform the testing described above. Otherwise, the Company does not need to perform any further assessment. The Company completed its indefinite-life intangible asset impairment analysis as of October 31, 2019 and 2020 and concluded that it was not more likely than not that the carrying value of the asset may not be recoverable.

The Company evaluates its goodwill for impairment at the reporting unit-level on an annual basis (or more frequently if events or circumstances indicate that the related carrying amount may be impaired). The Company evaluates qualitative factors to determine if performing the quantitative impairment test is required. If it is determined that it is more likely than not, as defined in the guidance, that the carrying value is less than the fair value, the potential for goodwill impairment is evaluated and the amount of impairment loss, if any, is measured and recognized. If the Company determines that it is not more likely than not that the carrying value is less than

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

the fair value, no further evaluation is performed. The Company completed its goodwill impairment test as of October 31, 2019 and 2020 and concluded that it is not more likely than not that the carrying value is less than the fair value, and therefore, no further evaluation was performed.

The Company allocated \$16,191 of goodwill to the quick lube facilities disposed of on December 11, 2020. See Note 6-Dispositions for additional information.

Deferred Financing Costs

Debt issuance costs related to a recognized debt liability are presented in the consolidated balance sheets as a direct deduction from the carrying value of the related liability except for debt issuance costs related to the Company's line-of-credit arrangement. In the case of the line-of-credit arrangement, regardless of whether there are any outstanding borrowings on the line-of-credit arrangement, related debt issuance costs are presented in Other assets accompanying consolidated balance sheets.

The direct costs associated with the funding of long-term debt are amortized to interest expense over the term of the applicable loan. Unamortized deferred financing costs were \$10,681 and \$7,494 at December 31, 2019 and 2020, respectively. Accumulated amortization was approximately \$2,148 and \$3,057 at December 31, 2019 and 2020, respectively. Amortization expense was approximately \$2,151 and \$1,139 for the years ended December 31, 2019 and 2020, respectively.

Derivative Financial Instruments

The Company has a pay fixed, receive variable interest rate swap contract ("Swap") to manage its exposure to changes in interest rates. The Swap is recognized in the consolidated balance sheets at fair value. The Swap is a cash flow hedge and is recorded using hedge accounting, as such, changes in the fair value of the Swap are recorded in Other comprehensive income (loss), net of tax until the hedged item is recognized in earnings. Amounts reported in Other comprehensive income (loss), net of tax related to the Swap are reclassified to interest expense as interest payments are made on the Company's variable-rate debt. The swap is scheduled to terminate October 20, 2022.

The Company assesses, both at the inception of the hedge and on an ongoing basis, whether the derivative used as a hedging instrument is highly effective in offsetting the changes in the cash flow of the hedged item. If it is determined that the derivative is not highly effective as a hedge or ceases to be highly effective, the Company will discontinue hedge accounting prospectively. See Note 9-Fair Value Measurements and Note 10-Interest Rate Swap for additional information.

Leases

The Company determines if a contract contains a lease at inception. The Company's material operating leases consist of car wash locations, warehouses and office space. GAAP requires that the Company's leases be evaluated and classified as operating or finance leases for financial reporting purposes. The classification evaluation begins at the commencement date, and the lease term used in the evaluation includes the non-cancellable period for which the Company has the right to use the underlying asset, together with renewal option periods when the exercise of the renewal option is reasonably certain and failure to exercise such option would result in an economic penalty. Nearly all of the Company's car wash and office space leases are classified as operating leases.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

The Company disburses cash for leasehold improvements, furniture and fixtures and equipment to build out and equip the Company's leased premises. Tenant improvement allowance incentives may be available to partially offset the cost of developing and opening the related car washes, pursuant to agreed-upon terms in the respective lease agreements. Tenant improvement allowances can take the form of cash payments upon the opening of the related car washes, full or partial credits against rents otherwise payable by the Company, or a combination thereof. All tenant improvement allowances received by the Company are recorded as a contra operating lease asset and amortized over the term of the lease.

The lease term used for straight-line rent expense is calculated from the commencement date (the date the Company takes possession of the premises) through the lease termination date (including any options where exercise is reasonably certain and failure to exercise such option would result in an economic penalty). The initial lease term of the Company's operating leases ranges from 6 to 50 years. The Company records rent expense on a straight-line basis beginning on the lease commencement date.

Maintenance, insurance and property tax expenses are generally accounted for on an accrual basis as variable lease costs. The Company recognizes variable lease cost for operating leases in the period when changes in facts and circumstances on which the variable lease payments are based occur. All operating lease rent expense is included in equipment and facilities or general and administrative expense on the consolidated statements of operations and comprehensive income.

The Company records a lease liability for its operating leases equal to the present value of future payments discounted at the estimated fully collateralized incremental borrowing rate (discount rate) corresponding with the lease term as the rate implicit in the Company's leases is not readily determinable. The Company's operating lease liability calculation is the total rent payable during the lease term, including rent escalations in which the amount of future rent is certain or fixed on the straight-line basis over the term of the lease (including any rent holiday period beginning upon the Company's possession of the premises, and any fixed payments stated in the lease). A corresponding operating lease asset is also recorded equaling the initial amount of the operating lease liability, plus any lease payments made to the lessor before or at the lease commencement date and any initial direct costs incurred, less any lease incentives received. The difference between the minimum rents paid and the straight-line rent is reflected within the associated operating lease asset.

For certain build-to-suit lease arrangements, the Company is responsible for the construction of a lessor owned facility using the Company's designs. As construction occurs, the Company will recognize a construction receivable on its consolidated balance sheets due from the lessor. To the extent costs exceed the amount to be reimbursed by the lessor, the Company considers such costs prepaid rent, which are added to the associated ROU asset once the leases commences.

The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants. Additionally, the Company does not enter into lease transactions with related parties.

The Company makes judgments regarding the reasonably certain lease term for each car wash property lease, which can impact the classification and accounting for a lease as finance or operating and/or escalations in payments that are taken into consideration when calculating straight-line rent, and the term over which leasehold improvements for each car wash are amortized. These judgments may produce materially different amounts of depreciation, amortization and rent expense than would be reported if different assumed lease terms were used.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

Revenue Recognition

The Company uses a five-step model to recognize revenue from customer contracts under ASC 606, *Revenue from Contracts with Customers* (ASC 606). The five-step model requires that the Company (i) identify the contract with the customer, (ii) identify the performance obligations in the contract, (iii) determine the transaction price, including variable consideration to the extent that it is probable that a significant future reversal will not occur, (iv) allocate the transaction price to the respective performance obligations in the contract, and (v) recognize revenue when (or as) the Company satisfies the performance obligation. The adoption of ASC 606 did not have a material impact on revenue amounts recorded on the Company's consolidated financial statements.

The Company recognizes revenue in two main streams. First, the Company offers an Unlimited Wash Club (UWC) program to its customers. The UWC program entitles the customer to unlimited washes for a monthly fee, cancellable at any time. The customer and the Company enter into a contract that falls under the definition of a customer contract under ASC 606. Customers are automatically charged on a credit or debit card on the same day of the month that they originally signed up. The Company's performance obligations is to provide unlimited car wash services for a monthly fee. The UWC revenue is recognized ratably over the month in which it is earned and amounts unearned are recorded as deferred revenue on the consolidated balance sheets. All amounts recorded as deferred revenue at year end are recognized as revenue in the following year. Second, revenue from car wash and quick lube services are recognized at the point in time services are rendered and the customer pays with cash or credit. Revenues are net of sales tax, refunds and discounts applied as a reduction of revenue at the time of payment.

Revenues, net consisted of the following for the years ended December 31:

	2019	2020
Recognized over time (UWC)	\$ 311,155	\$ 339,836
Recognized at a point in time (service rendered)	311,139	232,210
Other revenue	7,234	2,895
Revenues, net	<u>\$ 629,528</u>	<u>\$ 574,941</u>

The Company promotes and sells a limited number of prepaid products, which include discounted car wash packages and gift cards that are not material to the financial statements. The Company records the sale of these items as deferred revenue which is reduced for estimated breakage, which is not material to the financial statements. Revenue is recognized based on the terms of the packages and when the prepaid packages or gift cards are redeemed by the customer.

Cost of Labor and Chemicals

Cost of labor and chemicals include labor costs associated with car wash employees, maintenance employees, warehouse employees, and chemicals and associated supplies. The related employee benefits for the aforementioned employees, such as taxes, insurance and workers compensation, are also included in the cost of labor and chemicals.

Other Store Operating Expenses

Other store operating expenses includes all other costs related to the operations of car wash and warehouse locations such as credit card fees, car damages, office and lobby supplies, information technology costs associated with the locations, telecommunications, advertising, non-healthcare related insurance, rent, repairs and maintenance related to held-for-use assets, utilities, property taxes, and depreciation on held-for-use assets at the car wash and warehouse locations.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

Sales and Marketing

Sales and marketing expenses are expensed as incurred and include costs for advertising, direct mailings, promotional events and sponsorships, and customer retention. Advertising costs totaled approximately \$3,855 and \$3,222 for the years ended December 31, 2019 and 2020, respectively, and are recorded in other store operating expenses in the consolidated statements of operations and comprehensive income.

Income Taxes

The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized differently in the financial statements or tax returns. Under this method, deferred tax liabilities and assets are determined based on the difference between the financial statement carrying amounts and tax basis of assets and liabilities using enacted tax rates.

The Company has adopted a more-likely-than-not threshold for financial statement recognition and measurement of an uncertain tax position taken or expected to be taken in a tax return. The Company recognizes interest and penalties related to uncertain tax positions in income tax provision (benefit), net and general and administrative, respectively.

Sales Taxes

The Company collects sales taxes from customers for taxable services provided and products sold and remits those collected sales and use taxes to the applicable state authorities on a monthly basis. The Company has adopted a policy of presenting such taxes on revenues on a net basis (excluded from revenues) in the Company's consolidated statements of operations and comprehensive income.

Stock-Based Compensation Plans

Stock-based compensation represents the cost related to stock-based awards granted to employees. The Company measures stock-based compensation cost at grant date, based upon the estimated fair value of the award, and recognizes cost as expense using the tranche over the employee requisite service period. The Company estimates the fair value of stock options using Black-Scholes and Monte Carlo option models. Upon termination unvested time and performance-based options are forfeited. The Company has made a policy election to estimate the number of stock-based compensation awards that are expected to vest to determine the amount of compensation expense recognized in earnings. Forfeiture estimates are revised if subsequent information indicates that the actual number of forfeitures is likely to differ from previous estimates.

The Company records deferred tax assets for awards that result in deductions in the Company's income tax returns, based upon the amount of compensation cost recognized and the Company's statutory tax rate. The tax effect of differences between the compensation cost of an award recognized for financial reporting purposes and the deduction for an award for tax purposes is recognized as an income tax expense or benefit in the consolidated statements of operations and comprehensive income in the period in which the tax deduction arises.

Business Combinations

The Company evaluates each transaction under ASC 805, *Business Combinations*, including applying a screen test to evaluate if substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets to determine whether a transaction is accounted for as an asset acquisition or business combination.

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For all business acquisitions, the Company recognizes, separately from goodwill, the identifiable assets acquired, and liabilities assumed at their estimated acquisition-date fair values. The Company measures and recognizes goodwill as of the acquisition date as the excess of the aggregate of the fair value of consideration transferred over the fair value of assets acquired and liabilities assumed.

To the extent contingencies such as pre-acquisition environmental matters, contingent purchase price consideration, litigation, and related legal fees are resolved or settled during a reporting period after a business combination occurs, the effect of changes in such contingencies is included in results of operations in the periods in which the adjustments are determined. The Company recognizes third-party transaction-related costs as general and administrative in the period in which those costs are incurred.

If information about facts and circumstances existing as of the acquisition date is incomplete by the end of the reporting period in which a business combination occurs, the Company reports provisional amounts for the items for which the accounting is incomplete. This period will not exceed one year from the acquisition date. Any material adjustments recognized during the measurement period are reflected prospectively in the consolidated financial statements of the subsequent period.

Fair Value Measurements

The Company discloses the fair value of its financial instruments based on the fair value hierarchy. The levels of the fair value hierarchy are described as follows:

Level 1—Financial assets and liabilities whose values are based on unadjusted quoted market prices for identical assets and liabilities in an active market that the Company has the ability to access.

Level 2—Financial assets and liabilities whose values are based on quoted prices in markets that are not active, or model inputs that are observable for substantially the full term of the asset or liability.

Level 3—Financial assets and liabilities whose values are based on prices or valuation techniques that require inputs that are both unobservable and significant to the overall fair value measurement.

The Company uses observable market data, when available, in making fair value measurements. When inputs used to measure fair value fall within different levels of the hierarchy, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement. There were no assets and liabilities measured at fair value (Level 3) on a recurring basis as of December 31, 2019 and 2020.

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Net Income Per Share

Basic net income per share is computed by dividing net income by the weighted-average number of common shares outstanding for the period. Diluted net income per share is computed by dividing net income by the weighted-average shares outstanding for the period and includes the dilutive impact of potential new shares issuable upon vesting and exercise of stock options. Potentially dilutive securities are excluded from the computation of diluted net income per share if their effect is anti-dilutive. A reconciliation of the numerators and denominators of the basic and diluted net income per share calculations is as follows:

	Year Ended December 31,	
	2019	2020
Numerator:		
Net income	\$ 920	\$ 60,403
Denominator:		
Weighted-average common shares outstanding—basic	2,713,327	2,726,806
Effect of potentially dilutive securities:		
Stock options	124,735	147,366
Weighted-average common shares outstanding— diluted	<u>2,838,062</u>	<u>2,874,172</u>
Net income per share—basic	\$ 0.34	\$ 22.15
Net income per share—diluted	<u>\$ 0.32</u>	<u>\$ 21.02</u>

The following potentially dilutive shares were excluded from the computation of diluted net income per share for the years ended December 31, 2019 and December 31, 2020 because including them would have been antidilutive:

	Year Ended	
	December 31,	
	2019	2020
Stock options	8,657	236

Deferred Offering Costs

The Company capitalizes certain legal, accounting and other third-party fees that are directly related to the Company's in-process equity financings, including a planned initial public offering, until such financings are consummated. After consummation of an equity financing, these costs are recorded as a reduction of the proceeds received as a result of the financing. Should a planned equity financing be abandoned, terminated or significantly delayed, the deferred offering costs are immediately written off to operating expenses. There were no deferred offering costs capitalized as of December 31, 2019 and December 31, 2020.

Prior Period Reclassification

Certain prior period amounts within operating expenses have been reclassified to conform to the current period presentation. There was no change to prior period operating income or net income.

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Recent Accounting Pronouncements

In June 2016, the FASB issued ASU No. 2016-13, Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments, which replaces the existing incurred loss impairment model with an expected credit loss model and requires a financial asset measured at amortized cost to be presented at the net amount expected to be collected. The guidance will be effective for the Company beginning January 1, 2023, and interim periods therein. Early adoption is permitted. The Company is currently evaluating the effect that ASU 2016-13 will have on its consolidated financial statements and related disclosures.

In January 2017, the FASB issued Accounting Standards Update (“ASU”) 2017-04, Intangibles-Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment (“ASU 2017-04”). ASU 2017-04 removes the requirement to compare the implied fair value of goodwill with its carrying amount as part of step two of the goodwill impairment test. As a result, under ASU 2017-04, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount and should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value; however, the impairment loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. The Company adopted ASU 2017-04 on January 1, 2020. The adoption of ASU 2017-04 had no impact on the Company’s financial statements or disclosures.

In December 2019, the FASB issued ASU No. 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes, which simplifies the accounting for income taxes by removing a variety of exceptions within the framework of ASC 740. The guidance will be effective for the Company beginning January 1, 2022, and interim periods in fiscal years beginning January 1, 2023. Early adoption is permitted. The Company is currently evaluating the effect that ASU 2019-12 will have on its consolidated financial statements and related disclosures.

In March 2020, the FASB issued ASU 2020-04, Reference Rate Reform (Topic 848), which is intended to ease the potential burden in accounting for (or recognizing the effects of) reference rate reform on financial reporting. Reference rate reform is necessary due to the phase out of LIBOR at the end of 2021. The ASU is optional and provides relief around modification and hedge accounting as it specifically arises from changing reference rates, in addition to optional expedients for cash flow hedges, which the Company has. The amendment is effective from March 12, 2020 through December 31, 2022. The Company is evaluating how the transition away from LIBOR will affect the Company, however, if adopted, it is not expected that this ASU will have a material impact on the financial statements.

Effective January 1, 2020, the Company adopted ASU 2016-02, Leases (Topic 842), along with related clarifications and improvements. Under the new guidance, lessees are required to recognize a lease liability, which represents the discounted obligation to make future minimum lease payments, and a corresponding right-of-use asset on the balance sheet for most leases. The guidance retains the historical accounting for lessors and does not make significant changes to the recognition, measurement, and presentation of expenses and cash flows by a lessee. Enhanced disclosures are also required to give financial statement users the ability to assess the amount, timing and uncertainty of cash flows arising from leases.

The Company elected the optional transition method to apply the standard as of the effective date and therefore, the Company has not applied the standard to the comparative periods presented in its consolidated financial statements.

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The Company elected the following practical expedients as of January 1, 2020:

Practical expedient package

The Company has not reassessed whether any expired or existing contracts are, or contain, leases, and has not reassessed the lease classification for any expired or existing leases.

The Company has not reassessed initial direct costs for any expired or existing leases

Land easements practical expedient

The Company has not reassessed whether any existing or expired land easements that were not previously accounted for as a lease are considered a lease under the new guidance.

The Company did not elect the following practical expedient:

Hindsight practical expedient

The Company has not elected the hindsight practical expedient, which permits the use of hindsight when determining lease term, including option periods, and impairment of operating lease assets

The Company's policy elections related to the adoption of Topic 842 were as follows:

Separate of lease and non-lease components

The Company elected to account for lease and non-lease components as a single component.

Short-term policy

The Company elected the short-term lease recognition exemption for all classes of underlying assets. Leases with an initial term of 12 months or less and that do not include an option to purchase the underlying asset that the Company is reasonably certain to exercise are not recorded on the balance sheet. Expense for short-term leases is recognized on a straight-line basis over the lease term.

The impact on the Company's opening balance sheet was as follows:

	December 31, 2019	Topic 842 Adjustments	January 1, 2020
Assets			
Current assets:			
Cash and cash equivalents	\$ 6,405	\$ —	\$ 6,405
Restricted cash	300	—	300
Accounts receivable, net	5,125	2,002	7,127
Construction receivable	6,900	(6,900)	—
Inventory	7,760	—	7,760
Prepaid expenses and other current assets	6,611	(830)	5,781
Total current assets	33,101	(5,728)	27,373
Property and equipment, net	233,574	(12,074)	221,500
Operating right of use assets, net	—	677,618	677,618
Other intangible assets, net	133,128	—	133,128
Goodwill	731,989	—	731,989

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	December 31, 2019	Topic 842 Adjustments	January 1, 2020
Other assets	18,282	(14,324)	3,958
Total assets	<u>\$ 1,150,074</u>	<u>\$ 645,492</u>	<u>\$ 1,795,566</u>
Liabilities and stockholders' (deficit) equity			
Current liabilities:			
Accounts payable	\$ 15,792	\$ —	\$ 15,792
Accrued payroll and related expenses	19,193	—	19,193
Other accrued expenses	21,041	(2,273)	18,768
Current maturities of debt	8,000	—	8,000
Current maturities of financing obligations	262	(262)	—
Current maturities of operating lease liability	—	31,642	31,642
Current maturities of finance lease liability	23	104	127
Deferred revenue	21,258	—	21,258
Total current liabilities	85,569	29,211	114,780
Long-term portion debt, net	1,016,890	—	1,016,890
Construction liability	6,900	(6,900)	—
Financing obligation	10,250	(10,250)	—
Operating lease liability	—	680,186	680,186
Financing lease liability	1,015	(104)	911
Long-term deferred tax liability	20,013	6,561	26,574
Long-term deferred rent	39,665	(39,665)	—
Other long-term liabilities	33,374	(33,345)	29
Total liabilities	1,213,676	625,694	1,839,370
Stockholders' (deficit) equity:			
Common stock, \$0.01 par value, 3,250 and 3,250 shares authorized, 2,727 and 2,705 shares outstanding at December 31, 2019 and 2018, respectively	27	—	27
Additional paid-in capital	92,951	—	92,951
Retained (deficit) ⁽¹⁾	(156,580)	19,798	(136,782)
Total stockholders' (deficit) equity	(63,602)	19,798	(43,804)
Total liabilities and stockholders' (deficit) equity	<u>\$ 1,150,074</u>	<u>\$ 645,492</u>	<u>\$ 1,795,566</u>

- (1) Primarily composed of an increase of \$25,869 for deferred sale-leaseback gains no longer amortizable and a \$6,561 decrease for the deferred tax impact of the cumulative effect adjustments.

In April 2020, the FASB issued a Staff Question-and-Answer to clarify whether lease concessions related to the effects of COVID-19 require the application of the lease modification guidance under the new lease standard, which the Company adopted on January 1, 2020. The Company has elected to apply the temporary practical expedient and not treat changes to certain leases due to the effects of COVID-19 as modifications for leases where the total payments were substantially the same as the existing leases.

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3. Prepaid and Other Current Assets

Prepaid and other current assets consisted of the following at December 31:

	<u>2019</u>	<u>2020</u>
Spare Parts	\$2,323	\$1,953
Uniforms	983	1,121
Income taxes receivable	819	1,042
Prepaid Insurance	801	911
IT	559	655
Prepaid Rent	230	190
Other	896	196
Total prepaid and other current assets	<u>\$6,611</u>	<u>\$6,068</u>

4. Property and Equipment, Net

Property and equipment consisted of the following at December 31:

	<u>2019</u>	<u>2020</u>
Land	\$ 18,047	\$ 28,316
Buildings & Improvements	33,322	55,250
Finance Lease	11,916	16,497
Leasehold Improvements	77,100	83,561
Vehicles & Equipment	120,303	143,435
Furniture, Fixtures & Equipment	47,702	61,350
Construction in Progress	31,859	13,187
Total property and equipment	340,249	401,596
Less accumulated depreciation	(105,744)	(138,238)
Less accumulated depreciation—Fin. Lease	(931)	(324)
Total property and equipment, net	<u>\$ 233,574</u>	<u>\$ 263,034</u>

Depreciation expense was \$32,528 and \$38,010 for the years ended December 31, 2019 and 2020, respectively. Amortization expense on finance leases was \$541 and \$336 for the years ended December 31, 2019 and 2020, respectively.

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5. Other Intangible Assets, Net

Other intangibles assets, net consisted of the following:

	December 31,			
	2019		2020	
	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
Trade names and Trademarks	\$107,000	\$ —	\$107,000	\$ —
CPC Unity System	42,900	23,011	42,900	27,301
Customer relationships	7,600	6,018	7,600	7,376
Covenants not to compete	7,665	3,008	7,515	3,319
	<u>\$165,165</u>	<u>\$ 32,037</u>	<u>\$165,015</u>	<u>\$ 37,996</u>

The weighted average amortization period for CPC Unity System, Customer relationships, and Covenants not to compete are 10.0 years, 7.0 years and 6.3 years, respectively.

Amortization expense for finite-lived intangible assets was \$6,928 and \$6,943 for the years ended December 31, 2019 and 2020, respectively. Estimated future amortization expense as of December 31, 2020 was:

Fiscal Year Ending:	
2021	5,866
2022	5,572
2023	5,249
2024	3,222
2025	110
Thereafter	0
Total estimated future amortization expense	<u>\$ 20,018</u>

6. Goodwill

The changes in the carrying amount of goodwill for the years ended December 31, 2019 and 2020 are as follows:

	2019	2020
Balance at beginning of year	\$690,394	\$731,989
Current year acquisitions	41,882	21,467
Current year dispositions	—	(16,191)
Other provisional adjustments	(287)	150
Balance at end of year	<u>\$731,989</u>	<u>\$737,415</u>

Goodwill is generally deductible for tax purposes, except for the portion related to purchase accounting step-up goodwill.

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7. Income Taxes

The provision for income taxes was comprised of the following for the years ended December 31:

	<u>2019</u>	<u>2020</u>
Current provision:		
Federal	\$ —	\$ (9,748)
State	1,786	4,876
Total current provision (benefit)	1,786	(4,872)
Deferred expense (benefit):		
Federal	(4,488)	20,774
State	66	866
Total deferred provision (benefit)	(4,422)	21,640
Total provision (benefit)	<u>\$ (2,636)</u>	<u>\$ 16,768</u>
	<u>2019</u>	<u>2020</u>
Deferred tax assets:		
Lease liability	\$ —	\$ 179,280
Stock based compensation	3,977	4,350
Accrued compensation costs	1,034	1,102
Deferred revenue	951	673
Excess interest expense carryforward	8,939	567
Unamortized rent	11,945	0
Other	461	1,213
Net operating loss (NOL) carryforwards	13,230	14,289
Federal credit carryforward	2,100	2,650
Gross deferred tax assets	42,637	204,124
Less valuation allowance	(95)	0
Net deferred tax assets	42,542	204,124
Deferred tax liabilities:		
Right of use asset	—	(169,972)
Goodwill and other intangible assets	(36,907)	(41,400)
Property and equipment	(21,744)	(38,602)
Deferred favorable lease rent	(3,639)	—
Other	(265)	(232)
Gross deferred tax liabilities	(62,555)	(250,206)
Total deferred tax liabilities, net	<u>\$ (20,013)</u>	<u>\$ (46,082)</u>

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A reconciliation of the statutory income tax rate expense to the Company's provision (benefit) is as follows for the years ended December 31:

	<u>2019</u>	<u>2020</u>
Net expense at the statutory rate	\$ (360)	\$16,206
Increase (decrease) resulting from:		
Federal credits	(623)	(400)
State income taxes	1,691	4,813
Other nondeductible expenses	(676)	151
Valuation allowance adjustment	(2,688)	(95)
State credit adjustment	20	—
Provision to return reconciliation	—	(1)
Change in tax law (CARES Act)	—	(3,906)
Income tax provision (benefit)	<u><u>\$(2,636)</u></u>	<u><u>\$16,768</u></u>

The Company had a federal Net Operating Loss ("NOL") carryforward available of \$65,545 at December 31, 2020, which can be carried forward indefinitely. At December 31, 2020, the Company had state NOL carryforwards available of \$10,961 to offset future taxable income. A portion of the state NOLs will expire between 2034 and 2039 and \$3,704 can be carried forward indefinitely. The Company reduced the valuation allowance against its state NOLs by \$95 during 2020 and as of December 31, 2020, the Company does not believe a valuation allowance is needed against any remaining state NOLs.

On March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security ("CARES") Act. The CARES Act permits NOLs from the 2018, 2019 and 2020 tax years to be carried back to the previous 5 tax years and also enables taxpayers to offset 100% of taxable income with available NOLs, through the 2020 tax year. During 2020, the Company carried back its 2018 NOL resulting in the refund of \$9,748 of taxes paid in prior years. The carryback produced an income tax benefit of \$3,906 from the difference between the currently enacted tax rate of 21% applicable if the NOL were carried forward and the higher rate applicable to the Company's 2015, 2016 and 2017 tax years to which it was carried back.

The CARES Act also favorably adjusted a provision from the Tax Cuts and Jobs Act (the "TCJA") that was enacted in late 2017. Beginning in 2018, Section 163(j) limited the deduction of interest expense in excess of interest income plus 30% of a company's taxable earnings before interest, depreciation, amortization, and income taxes. Any such nondeductible amount is carried forward indefinitely and used in a year in which a company no longer has excess interest expense. The CARES Act adjusted the 30% threshold to 50% for the 2019 and 2020 tax years. As of December 31, 2020, the Company had federal and state excess interest expense carry forwards, tax effected, of \$0 and \$567, respectively.

The Company files income tax returns in the U.S. federal and various state tax jurisdictions and is subject to varying statutes of limitation in each jurisdiction. As of December 31, 2020, the Company is not under audit for federal or state income tax purposes. In general, the Company's federal tax return may be subject to examination for the 2017 through 2019 tax years, while for state purposes, the 2016 through 2019 years are generally open to examination, with some states having either a three- or four-year statute of limitations. The Company's usage of NOL carryovers also permits taxing authorities to adjust aspects of tax returns that may be outside of these statutes of limitation.

The Company's policy is to recognize interest and penalties related to income tax matters in income tax expense. The Company neither accrued for nor recognized any interest or penalties in income tax expense as of

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December 31, 2019 or 2020. The Company has not accrued for any uncertain tax positions as of December 31, 2019 or 2020 and believes that it is unlikely that there will be a material increase or decrease of any unrecognized tax benefits within the next twelve months.

8. Debt

The Company's long-term debt consists of the following at December 31:

	<u>2019</u>	<u>2020</u>
<i>Credit agreement</i>		
First lien term loan	\$ 796,000	\$ 827,600
Less: debt issuance costs	(7,559)	(4,849)
Less: current maturities of long-term debt	(8,000)	(8,400)
Term loan, net	<u>780,441</u>	<u>814,352</u>
Revolving line of credit	14,000	—
Credit facility, net	<u>\$ 794,441</u>	<u>\$ 814,352</u>
<i>Second lien credit agreement</i>		
Second lien term loan	\$ 225,000	\$ 242,673
Less: debt issuance costs	(2,551)	(2,205)
Second lien term loan, net	<u>\$ 222,449</u>	<u>\$ 240,468</u>
Total Long term debt	<u>\$ 1,016,890</u>	<u>\$ 1,054,820</u>

Annual maturities of long-term debt as of December 31, 2020, are as follows:

2021	\$ 8,400
2022	8,400
2023	8,400
2024	8,400
2025	8,400
Thereafter	<u>1,028,273</u>
Total	<u>\$ 1,070,273</u>

Credit Agreement

On August 21, 2014, the Company entered into a credit agreement ("Credit Agreement") which was originally comprised of a term loan ("Term Loan") and a revolving commitment ("Revolving Commitment"). The Credit Agreement was collateralized by substantially all personal property (including cash, inventory, equipment, and intangibles), real property and equity interests owned by the Company.

Under the Term Loan, the Company had the option of selecting either a Base Rate interest rate plus fixed margin (or spread) of 2.25% or a Eurodollar (LIBOR) interest rate for one, two, three or six months plus a fixed margin (or spread) of 3.25%. Regarding the Revolving Commitment, as of December 31, 2017, the Company had the option of selecting either a Base Rate interest rate plus a variable margin based on the Company's First Lien Net Debt Leverage Ratio (ranging from 2.5% to 3.0%) or a Eurodollar Rate interest rate for one, two, three or six months plus a variable margin based on the Company's First Lien Net Leverage Ratio (ranging from 3.5% to 4.0%).

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Term Loan

On March 29, 2019, Incremental Amendment No. 6 increased the Term Loan by an additional \$60,000 from \$609,667 to \$669,667 and increased the quarterly principal payment to \$1,753.

On May 14, 2019, the Company entered into the Amended and Restated First Lien Credit Agreement (“First Lien Credit Agreement”) whereby the previous Credit Agreement was completely amended and restated. Under the terms of the First Lien Credit Agreement, the previous Term Loan was increased by \$131,929 to \$800,000 with principal payable at \$2,000 per quarter and the balance due on May 14, 2026. Interest is payable either each one, two or three months but no less frequent than quarterly depending on the type of interest rate selected. The interest rate spread changed from a fixed margin to a variable margin based on the Company’s First Lien Net Leverage Ratio. The interest rate converts (or changes) every one, two, three or six months based on the type (term) of interest rate selected. The Company has the option of selecting either a Base Rate interest rate plus a variable margin based on the Company’s First Lien Net Leverage Ratio (ranging from 2.25% to 2.5%) or a Eurodollar Rate interest rate for one, two, three or six months plus a variable margin based on the Company’s First Lien Net Leverage Ratio (ranging from 3.25% to 3.5%). In conjunction with the amendment, the Company expensed \$9,169 of previously unamortized deferred financing fees as loss on extinguishment of debt in the consolidated statements of operations and comprehensive income.

Additionally, the First Lien Credit Agreement added a Delayed Draw facility on the Term Loan where the Company can borrow up to \$40,000 for up to two years from the closing date. If borrowings take place under the Delayed Draw facility, the quarterly principal payments under the Term Loan would increase by 1/4 of 1% per quarter of the additional principal borrowed. There was no amount borrowed under the Delayed Draw feature in 2019. The Delayed Draw facility includes a Delayed Draw Ticking Fee payable on the average daily undrawn portion of the Commitment. The Delayed Draw Ticking Fee Rate was 0% from the closing date of the First Lien Credit Agreement (May 14, 2019) through June 28, 2019, 1.75% from June 28, 2019 until August 12, 2019 and 3.50% from August 12, 2019 until the expiration of the Commitment (May 14, 2021).

On February 5, 2020, the Company entered into Amendment No. 1 to Amended and Restated First Lien Credit Agreement (“First Lien Credit Agreement”) whereby the previous Credit Agreement was amended and restated. The interest rate spread changed so that the Company has the option of selecting either a Base Rate interest rate plus a variable margin based on the Company’s First Lien Net Leverage Ratio, ranging from 2.0% to 2.25% (previously 2.25% to 2.5%) or a Eurodollar Rate interest rate for one, two, three or six months plus a variable margin based on the Company’s First Lien Net Leverage Ratio, ranging from 3.0% to 3.25% (previously 3.25% to 3.5%). In conjunction with the amendment, the Company expensed \$1,918 of previously unamortized deferred financing fees as loss on extinguishment of debt in the consolidated statements of operations and comprehensive income.

Additionally, the Company utilized the Delayed Draw facility on the Term Loan on February 13, 2020 to borrow an additional \$30,000, and again on March 18, 2020 to borrow an additional \$10,000, taking advantage of the full \$40,000 available. As the result of the additional borrowings under the Delayed Draw feature, the quarterly principal payments increased from \$2,000 to \$2,100. There was no amount borrowed under the Delayed Draw feature in 2019.

The amount of debt outstanding under the Term Loan was \$796,000 and \$827,600 as of December 31, 2019 and December 31, 2020, respectively. The interest rate on the Term Loan at December 31, 2019 and 2020, was 5.41% and 3.40%, respectively. The debt agreement requires the Company to maintain compliance with regards to a First Lien Net Leverage Ratio. At December 31, 2020, the Company was in compliance with the financial covenant First Lien Net Leverage Ratio of the Amended and Restated First Lien Credit Agreement.

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Revolving Credit Agreement

On May 14, 2019, as a part of the Amended and Restated First Lien Credit Agreement, the Revolving Commitment was increased from \$50,000 to \$75,000 and the expiration date was changed from August 21, 2019 to May 14, 2024. The Company had the option of selecting either a Base Rate interest rate plus a variable margin based on the Company's First Lien Net Leverage Ratio (ranging from 2.0% to 2.5%) or a Eurodollar Rate interest rate for one, two, three or six months plus a variable margin based on the Company's First Lien Net Leverage Ratio (ranging from 3.0% to 3.5%).

As of December 31, 2019 and 2020, the amount outstanding under the Revolving Commitment was \$14,000 and \$0, respectively. The unused portion of the credit limit was \$60,531 and \$75,000 at December 31, 2019 and 2020, respectively. In addition, based on the Company's First Lien Net Leverage Ratio, a fee is payable on the average of the unused Revolving Credit Agreement. At December 31, 2019 and 2020, the unused commitment fee was 0.375% and 0.5%, respectively.

Standby Letters of Credit

Under the Revolving Commitment facility of the First Lien Credit Agreement, the Company has available standby letters of credit in the amount of \$10,000 as of December 31, 2020 provided that the total utilization of revolving commitments under the Revolving Credit Agreement does not exceed \$75,000 subsequent to the First Lien Credit Agreement. Any letter of credit issued under this Credit Agreement has an expiration date which is the earlier of no later than 12 months from the date of issuance or 5 business days prior to the May 14, 2024 Revolving Commitment Maturity Date. There was a \$469 letter of credit outstanding as of December 31, 2019 and 2020.

Second Lien Credit Agreement

On May 14, 2019, the Company entered into a Second Lien Credit Agreement which was comprised of a \$225,000 Second Lien Term Loan. The Second Lien Term Loan is interest only over the term of agreement and due and payable in full in 8 years (May 14, 2027). Interest is payable quarterly, in arrears, at the rate of 10% per annum. The Second Lien Term Loan is collateralized by substantially all personal property (including cash, inventory, equipment, and intangibles), real property and equity interests owned by the Company only after the collateral requirements are met by holders of the Company's debt under the First Lien Credit Agreement.

On March 31, 2020, the Company entered into the First Amendment to Second Lien Credit Agreement ("First Amendment"). The First Amendment provided for an incremental term loan to the Company in an aggregate amount of \$5,625 under the same terms as the Second Lien Term Loan. The incremental amount is an investment from a related party. See Note 17-Related-Party Transactions. It also allowed the Company to make its quarterly interest payments due on the Second Lien Term Loan via payment-in-kind ("PIK") by adding such amount to the outstanding principal amount of the Second Lien Term Loan. The Company made PIK additions in its outstanding principal amounts in the amounts of \$5,906 and \$6,142 for the first and second quarters of 2020, respectively.

The First Amendment also increased the interest rate of the Second Lien Term Loan to 10.5% effective January 1, 2020 to June 30, 2020.

The amount of debt outstanding under the Second Lien Term Loan was \$225,000 as of December 31, 2019 and \$242,673 as of December 31, 2020. At December 31, 2020, the Company was in compliance with the financial covenant of the Second Lien Credit Agreement.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Consolidated Financial Statements
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9. Fair Value Measurements

The following table presents assets and liabilities which are measured at fair value on a recurring basis as of December 31, 2020:

	Fair Value Measurements			
	Total	Level 1	Level 2	Level 3
Liabilities:				
Interest rate swap	\$1,488	\$ —	\$1,488	\$ —

The Company measures the fair value of its financial assets and liabilities using the highest level of inputs that are available as of the measurement date. The carrying amounts of cash, accounts receivable and accounts payable approximate their fair value due to the immediate or short-term maturity of these financial instruments. See Note 10-Interest Rate Swap for additional information on the Swap.

The Company's first lien term loan approximates fair value to the debt's variable interest rate terms. The fair value of the Company's variable rate debt approximated its carrying value at December 31, 2019 and 2020.

10. Interest Rate Swap

In May 2020, the Company entered into a Swap to mitigate variability in forecasted interest payments on \$550,000 of the Company's variable rate term loan facility. The Company designated the interest rate swap as a pay-fixed, receive-floating interest rate swap instrument and is accounting for this derivative as a cash flow hedge.

Details regarding the Company's Swap as of December 31, 2020 are as follows:

Notional Amount	Fair Value	Pay Fixed	Receive Floating	Maturity Date
\$550,000	\$1,488	0.308%	0.15%	October 20, 2022

The fair value of the Swap includes a current portion of \$931 and a long-term portion of \$557. The current portion is in other accrued expenses and the long-term portion is in other long-term liabilities on the accompanying consolidated balance sheets. Amounts reported in other comprehensive income (loss) are net of tax of \$371.

11. Leases

The Company's incremental borrowing rate for a lease is the rate of interest it expects to pay on a collateralized basis to borrow an amount equal to the lease payments under similar terms. To determine the incremental borrowing rates used to discount the lease payments, the Company estimated its synthetic credit rating and utilized market data for similarly situated companies.

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Balance sheet information related to leases as of December 31, 2020 consisted of the following:

Lease Balance Sheet Classification Disclosures

	Classification	Amount
Assets		
Operating	Operating right of use assets, net	\$ 681,538
Finance	Property and equipment, net	16,173
Total lease assets		<u>\$ 697,711</u>
Liabilities		
Current		
Operating	Current maturities of operating lease liabilities	\$ 33,485
Finance	Current maturities of finance lease liability	495
Long-term		
Operating	Operating lease liability	685,479
Finance	Financing lease liability	15,917
Total lease liabilities		<u>\$ 735,376</u>

Components of total lease cost, net, consisted of the following for the year ended December 31, 2020:

Operating lease expense ⁽¹⁾	\$ 78,261
Finance lease expense	
Amortization of lease assets	324
Interest on lease liabilities	408
Short-term lease expense	23
Variable lease expense ⁽²⁾	9,818
Total	<u>\$ 88,834</u>

- (1) Operating lease expense includes an immaterial amount of sublease income and is included in equipment and facilities and general and administrative on the consolidated statement of operating and comprehensive income.
- (2) Variable lease costs consist primarily of property taxes, property insurance, and common area or other maintenance costs for the Company's building leases.

Rental expense for operating leases was \$74,114 for the year ended December 31, 2019.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
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(Dollar amounts in thousands, except per share data)

The following includes supplemental information:

Cash paid for amounts included in the measurement of lease liabilities:

Operating cash flows from operating leases	\$76,012
Operating cash flows from finance leases	\$ 408
Financing cash flows from finance leases	\$ 223
Operating lease liabilities arising from obtaining ROU assets	\$37,996
Finance lease liabilities arising from obtained ROU assets	\$15,597
Weighted-average remaining operating lease term	15.01
Weighted-average remaining finance lease term	18.17
Weighted-average operating lease discount rate	6.27%
Weighted-average finance lease discount rate	7.33%

Lease obligation maturities as of December 31, 2020 were as follows:

<u>Fiscal Year</u>	<u>Operating Leases</u>	<u>Finance Leases</u>
2021	\$ 77,533	\$ 1,659
2022	77,535	1,683
2023	77,139	1,715
2024	76,298	1,741
2025	76,118	1,766
Thereafter	<u>744,836</u>	<u>23,883</u>
Total future minimum obligations	1,129,459	32,447
Less: Present value discount	(410,495)	(16,035)
Present value of net future minimum lease obligations	718,964	16,412
Less: current portion	(33,485)	(495)
Long-term obligations	<u>\$ 685,479</u>	<u>\$ 15,917</u>

The aggregate minimum annual lease rentals as of December 31, 2019, under non-cancelable operating, capital and financial obligation leases under ASC 840 were as follows:

	<u>Financial Obligations</u>	<u>Capital Leases</u>	<u>Operating Leases</u>	<u>Total Leases</u>
2020	\$ 1,443	\$ 217	\$ 74,042	\$ 75,702
2021	1,464	221	73,669	75,354
2022	1,485	225	73,126	74,836
2023	1,508	229	72,559	74,296
2024	1,531	233	71,885	73,649
Thereafter	<u>23,110</u>	<u>2,589</u>	<u>733,037</u>	<u>758,736</u>
Total Future Minimum Lease Payments	<u>\$ 30,541</u>	<u>\$3,714</u>	<u>\$1,098,318</u>	<u>\$1,132,573</u>

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
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Forward Starting Leases

As of December 31, 2019, the Company had entered into four lease arrangements that in accordance with build-to-suit accounting guidance under ASC 840, *Leases*, the Company assumed certain risks of construction cost overages and was deemed to be the accounting owner of the facility during the construction period. As the accounting owner during the construction period, \$6,900 was recognized on as construction liability on the consolidated balance sheet as of December 31, 2019. Upon transition to ASC 842, *Leases*, these arrangements were reassessed and concluded that the Company does not control the properties during the construction period, and therefore derecognized the construction liability on January 1, 2020.

As of December 31, 2020, the Company has entered into 10 leases that have not yet commenced related to build-to-suit leases for car wash locations. These leases will commence in 2021 or 2022 with initial lease terms of 5 to 20 years.

Sale-leaseback Transactions

During the year ended December 31, 2019, the Company completed the sale and leaseback of ten car wash locations with aggregate consideration of \$44,144, resulting in a deferred net gain of \$20,554. Contemporaneously with the closing of the sale, the Company entered into lease agreements for each of the properties for initial 20-year terms. The cumulative initial annual rent for the properties was approximately \$2,923, subject to annual escalations. Under the previous lease accounting standard, the deferred gains were being amortized over the respective lease periods and, upon adoption of ASC 842, the related unamortized deferred gains were recognized as a transitional adjustment to retained (deficit) earnings.

During the year ended December 31, 2020, the Company completed seven sale-leaseback transactions related to car wash locations with aggregate consideration of \$24,069, resulting in a net gain of \$8,536, which is included in (gain) loss on sale of assets on the consolidated statement of operations and comprehensive income. Contemporaneously with the closing of the sale, the Company entered into leases agreements for each of the properties for initial 20-year terms. The cumulative initial annual rent for the properties is approximately \$1,432, subject to annual escalations. These leases are accounted for as operating leases.

12. Stockholders' Equity

As of December 31, 2019, there were 3,250,000 shares of common stock authorized, 2,755,864 shares of common stock issued, and 2,726,554 shares of common stock outstanding. At December 31, 2020, there were 3,250,000 shares of common stock authorized, 2,757,789 shares of common stock issued, and 2,728,205 shares of common stock issued and outstanding.

The Company uses the cost method to account for treasury stock. Treasury stock is included in the Additional paid-in capital line on the consolidated balance sheets. As of December 31, 2019 and 2020, the Company had 29,310 shares and 29,584 shares, respectively, of treasury stock.

13. Stock-Based Compensation

Under the 2014 Stock Option Plan of Hotshine Holdings, Inc. ("2014 Plan"), the Company may grant non-qualified options to purchase shares of Hotshine Holdings, Inc. to certain employees and Directors. The exercise prices per share for options granted under the 2014 Plan were determined by the Board of Directors and were not less than the fair market value of the common stock of the Company on the grant date.

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(Dollar amounts in thousands, except per share data)

All options granted under the 2014 Plan have a contractual life of ten years. Under the 2014 Plan, 60% of the options vest over a five-year period (“Time Vesting Options”). The remaining 40% are exercisable 50% if the Principal Stockholders receive the Target Proceeds at the Measurement Date and 50% if the Principal Stockholders receive the Maximum Amount at the Measurement Date (“Performance Vesting Options”). Principal Stockholders is defined as Green Equity Investors VI, L.P., Green Equity Investors Side VI, L.P., LGP Associates VI-A, LLC, LGP Associates VI-B LLC, and the affiliates of the foregoing entities. Measurement Date is defined as the date of a change in control or an initial public offering, whichever comes first. The Target Proceeds and Maximum Amount are defined and are measured either by multiples of invested capital or percent return on investment. The 60% of Time Vesting Options were valued using the Black-Scholes method and the 40% of Performance Vesting Options were valued using a Monte Carlo Simulation and barrier-adjusted Black-Scholes Option model.

The Company reserved 386,979 shares of common stock for issuance under the 2014 Plan. Stock options to purchase 344,100 and 346,877 shares were outstanding as of December 31, 2019 and 2020, respectively. A summary of the Company’s stock option activity for the year ended December 31, 2020 is as follows:

	Time Vesting Options	Performance Vesting Options	Total Number of Shares	Weighted- Average Exercise Price
Options outstanding, December 31, 2019	205,348	138,752	344,100	\$ 72.40
Granted	4,117	2,744	6,861	\$ 221.00
Exercised	(232)	—	(232)	\$ 114.00
Forfeited	(1,336)	(2,516)	(3,852)	\$ 123.84
Options outstanding, December 31, 2020	<u>207,897</u>	<u>138,980</u>	<u>346,877</u>	<u>\$ 74.74</u>
Vested or expected to vest	<u>200,575</u>	<u>—</u>	<u>200,575</u>	<u>\$ 77.50</u>
Exercisable at December 31, 2020	<u>171,953</u>	<u>—</u>	<u>171,953</u>	<u>\$ 67.05</u>

The number and weighted average grant-date fair value of stock options during 2020 is as follows:

	Number of Shares		Weighted-Average Fair Value	
	Time Vesting Options	Performance Vesting Options	Time Vesting Options	Performance Vesting Options
Non-vested at December 31, 2019	57,440	138,751	\$ 75.96	\$ 53.48
Non-vested at December 31, 2020	35,944	138,980	\$ 92.05	\$ 55.96
Granted during the year	4,117	2,744	\$ 64.84	\$ 121.61
Vested during the year	16,145	—	\$ 85.47	—
Forfeited/canceled during the year	1,336	2,516	\$ 85.75	\$ 68.14

The total grant date fair value of Time Vesting Options and Performance Vesting Options granted during 2020 was approximately \$267 and \$334, respectively. The total intrinsic value of options exercised during the years ended December 31, 2019 and 2020 was \$439 and \$25, respectively.

Compensation expense for the Time Vesting Options (excluding the expense related to the modification), which is recognized using the tranche method (on a straight-line basis as if the award was in substance multiple awards), was calculated using the Black-Scholes option pricing model and was approximately \$1,621 and \$1,493

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(Dollar amounts in thousands, except per share data)

for the years ended December 31, 2019 and 2020, respectively. No compensation expense has been recognized for the Performance Vesting Options as it has been determined that achievement of a Measurement Date is not yet probable. Upon successful completion of an initial public offering, the measurement date would be probable and compensation expense will be recorded.

In May 2019, the exercise prices for awards granted in 2016, 2017 and 2018 were modified. The additional compensation expense recognized in 2019 in connection with the modification of time vesting options was \$755.

The weighted-average fair value of time vesting options granted in 2019 and 2020, estimated on the dates of grant using the Black-Scholes option pricing model, was \$105.13 and \$64.84, respectively. The fair value of time vesting options under the 2014 Plan was estimated on the grant dates using the following weighted-average assumptions:

	<u>2019</u>	<u>2020</u>
Expected volatility	51.0%	26.62% - 30.84%
Risk-free interest rate	2.01%	0.43% - 1.00%
Expected life of options (in years)	6.5	6.5
Expected dividend yield	None	None

The Company determined the expected life of the time vesting options using the “simplified method,” an expected term based on the midpoint between the vesting date and the end of the contractual term. This method was chosen because the options granted under the 2014 Plan have all the features of “plain vanilla” options.

Under the 2014 Plan, at December 31, 2020, 171,953 stock options with a fair value of \$14,169 and an intrinsic value of \$26,472 were vested and exercisable.

Compensation cost not yet recognized as of December 31, 2020 for non-vested awards expected to vest was \$1,222 over the weighted average period of .73 years.

The weighted-average remaining contractual life of options outstanding under the 2014 Plan was approximately 4.89 years at December 31, 2020. The Company estimated a forfeiture rate of 13.7% on all outstanding stock options.

14. Employee Retirement Savings Plan

In January 2011, the Company established a defined contribution 401(k) plan to benefit certain of its employees. The 401(k)-plan sponsor is a wholly owned subsidiary of the Company. Employees are eligible to participate if they are at least 18 years of age, have worked for the Company for at least one year and have completed at least 1,000 hours of service during the eligibility computation period. The Company may make discretionary matching contributions. For the years ended December 31, 2019 and 2020, the Company made \$853 and \$638, respectively, of matching contributions.

The Company maintains a nonqualified deferred compensation plan for certain management employees. Under the deferred compensation plan, a participant may elect to defer up to 90% of their base salary, 90% of their annual bonus, and/or 100% of 401(k) contributions fail the top-heavy testing for highly compensated employees. The Company may make discretionary matching contributions. The deferred compensation liability under this plan was \$2,167 and \$2,956 as of December 31, 2019 and 2020, respectively.

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(Dollar amounts in thousands, except per share data)

15. Business Combinations

From time to time, the Company may pursue acquisitions of conveyORIZED car wash and related automotive services that either strategically fit with the Company's business; or expand the Company's presence in new and attractive markets.

The Company accounts for business combinations under the acquisition method of accounting. The assets acquired, and liabilities assumed in connection with business acquisitions are recorded at the date of acquisition at their estimated fair values, with any excess of the purchase price over the estimated fair values of the net assets acquired and intangible assets assigned, recorded as goodwill. Significant judgment is required in estimated the fair value of assets acquired and liabilities assumed and in assigning their respective useful lives. Accordingly, the Company may engage third-party valuation specialists to assist in these determinations. The fair value estimates are based on available historical information and on future expectations and assumptions deemed reasonable my management; but are inherently uncertain.

The consolidated financial statements reflect the operations of an acquired business starting from the effective date of the acquisition. The Company expensed \$1,908 and \$545 of acquisition related costs for the years ended December 31, 2019 and 2020 respectively. These costs are recognized as incurred and are included in the accompanying consolidated statements of operations and comprehensive income in general and administrative.

At December 31, 2019 and 2020, the amount of acquired goodwill that is not deductible for income tax purposes is \$17,782 and \$5,312, respectively.

2019 Acquisitions

In 2019, the Company acquired the assets and liabilities of thirty-three car washes in fifteen separate acquisitions for total consideration of \$82,495, which was paid in cash. These acquisitions resulted in the recognition during 2019, finalized in 2020, of \$41,850 of goodwill, \$34,288 of property and equipment and \$2,304 of intangible assets related to covenants not to compete, the remainder of the total consideration is in other current assets and liabilities.

These acquisitions are located in the following markets:

<u>Location (Seller)</u>	<u>Number of Washes</u>	<u>Month Acquired</u>
Georgia (Wash Rocket)	1	February
Wisconsin (Royal Car Care)	1	February
California (Merced & 16 th / Prime Shine)	1	March
Michigan (Firehouse)	8	March
New Mexico (Clean Machine/Valencia)	1	April
Colorado (Patriot)	1	April
Florida (Top Shelf)	2	April
Michigan (Soapy Joes)	2	May
Wisconsin (American)	2	June
Wisconsin (Full-Service CW)	1	July
Michigan (Ride the Tide)	1	August
California (Waterdrops)	7	October
Georgia (Wash Factory)	2	October
Florida (Car Wash Express)	2	November
Michigan (Pickard)	1	December

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Notes to Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)

2020 Acquisitions

In 2020, the Company acquired the assets and liabilities of ten car washes in four separate acquisitions for total consideration of approximately \$33,584 which was paid in cash. These acquisitions resulted in the preliminary recognition during 2020 of \$21,467 of goodwill, \$9,463 of property and equipment, \$830 of intangible assets related to covenants not to compete and \$1,824 in other assets and liabilities.

These acquisitions are located in the following markets:

<u>Location (Seller)</u>	<u>Number of Washes</u>	<u>Month Acquired</u>
Florida (Love)	1	January
Washington (Bush)	7	September
Texas (Soapbox Express)	1	November
Florida (Avatar)	1	December

The Company is still finalizing the valuations for 2020 acquisitions.

16. Dispositions

On December 1, 2020, the Company entered into an Asset Purchase Agreement to sell 27 quick lube facilities for \$55,386 to an unrelated third party, subject to certain inventory value adjustments. The sale of the quick lube facilities is in line with the Company's focus on growing its car wash business. The sale was effective on December 11, 2020. The disposition of the quick lube facilities did not meet the criteria to be reported as a discontinued operation and accordingly, its results of operations have not been reclassified. A gain totaling \$29,773 was recognized on the sale during the year ended December 31, 2020, which is recorded as (gain) loss on sale of assets in the accompanying consolidated statement of operations and comprehensive income.

As part of the sale and sublease of the quick lube facilities, the Company agreed to indemnify the buyer/subtenant for certain liabilities if they occurred or arose prior to or on the closing date, subject to a specified cap in some instances. The Company is not aware of any such liabilities or attendant indemnification obligations that require accrual at December 31, 2020.

17. Related-Party Transactions

For various advisory and monitoring services provided to the Company, Leonard Green Partners, the majority owner of the Company, receives \$1,000 annually. During the COVID-19 pandemic, these fees were waived for the remainder of the year. Total fees and expenses paid by the Company to Leonard Green were \$1,000 and \$250 for the years ended December 31, 2019 and 2020, respectively.

Leonard Green Partners is one of the creditors in the Second Lien Credit Agreement with a \$5,625 investment allowed through the First Amendment.

18. Commitments and Contingencies

Litigation

From time to time, the Company is party to pending or threatened lawsuits arising out of or incident to the ordinary course of business. The Company carries professional and general liability insurance coverage and other

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(Dollar amounts in thousands, except per share data)

insurance coverages. In the opinion of management and upon consultation with legal counsel, none of the pending or threatened lawsuits will have a material effect upon the consolidated financial position, operations or cash flows of the Company.

Insurance

The Company carries a broad range of insurance coverage, including general and business auto liability, commercial property, workers' compensation, cyber risk and a general umbrella policy. The Company accrued \$2,063 and \$2,467 for assessments on insurance claims filed as of December 31, 2019 and 2020, respectively which is included in other accrued expenses in the consolidated balance sheet. As of December 31, 2019, the Company recorded \$1,701 in receivables from its non-healthcare insurance company related to these claims and \$2,052 as of December 31, 2020. These receivables are included in prepaid expenses and other in the consolidated balance sheets. The receivables are paid when the claim is finalized and reserved amounts on these claims are expected to be paid within one year.

Environmental Matters

Operations at certain facilities currently or previously owned or leased by the Company utilize, or in the past have utilized, hazardous substances generally in compliance with applicable law. Periodically, the Company has had minor claims asserted against it by regulatory agencies or private parties for environmental matters relating to the handling of hazardous substances by the Company, and it has incurred obligations for investigations or remedial actions with respect to certain of these matters. There can be no assurances that activities at these facilities, or future facilities owned or operated by the Company, may not result in additional environmental claims being asserted against the Company or additional investigations or remedial actions being required. The Company is not aware of any significant remediation matters at December 31, 2020. Because of various factors including the difficulty of identifying the responsible parties for any particular site, the complexity of determining the relative liability among them, the uncertainty as to the most desirable remediation techniques and the amount of damages and clean-up costs and the time period during which such costs may be incurred, the Company is unable to reasonably estimate the ultimate cost of claims asserted against the Company related to environmental matters; however, the Company does not believe such costs will be material to its consolidated financial statements.

In addition to potential claims asserted against the Company, there are certain regulatory obligations associated with these facilities. The Company also has third-party specialist to review the sites subject to these regulations annually, for the purpose of assigning future cost. A third party has conducted a preliminary assessment of site restoration provisions arising from these regulations and the Company has recognized a provisional amount. As of December 31, 2020, the Company recorded an Environmental Remediation accrual of \$68.

Warranties

The Company has provided certain standard pre-closing warranties in connection with the sale of its quick lube facilities, which closed on December 11, 2020. The pre-closing warranties made by the Company in the related Asset Purchase Agreement survive for six months following the closing date. The Company is not aware of any warranty liabilities with respect to the former quick lube facilities that require accrual at December 31, 2020.

19. Subsequent Events

The Company has evaluated subsequent events through the date of issuance, April 2, 2021, and concluded that no subsequent events have occurred that would require recognition in the consolidated financial statements or disclosure in the notes to the consolidated financial statements that are not already recorded or disclosed.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Condensed Consolidated Balance Sheets
(Amounts in thousands, except share and per share data)
(Unaudited)

	As of	
	December 31, 2020	March 31, 2021
Assets		
Current assets:		
Cash and cash equivalents	\$ 114,647	\$ 135,263
Restricted cash	3,227	3,158
Accounts receivable, net	4,613	5,191
Inventory	6,415	6,127
Prepaid expenses and other current assets	6,068	7,375
Total current assets	134,970	157,114
Property and equipment, net	263,034	270,885
Operating lease right of use assets, net	681,538	682,282
Other intangible assets, net	127,019	125,581
Goodwill	737,415	737,034
Other assets	4,477	4,677
Total assets	<u>\$ 1,948,453</u>	<u>\$ 1,977,573</u>
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	\$ 24,374	\$ 17,280
Accrued payroll and related expenses	11,424	15,413
Other accrued expenses	20,264	20,229
Current maturities of debt	8,400	8,400
Current maturities of operating lease liability	33,485	34,311
Current maturities of finance lease liability	495	511
Deferred revenue	24,505	25,759
Total current liabilities	122,947	121,903
Long-term portion of debt, net	1,054,820	1,053,043
Operating lease liability	685,479	685,764
Financing lease liability	15,917	15,783
Long-term deferred tax liability	46,082	53,287
Other long-term liabilities	6,558	6,197
Total liabilities	1,931,803	1,935,977
Commitments and contingencies (Note 17)		
Stockholders' equity:		
Common stock, \$0.01 par value, 3,250,000 and 3,250,000 shares authorized, 2,728,205 and 2,733,494 shares outstanding as of December 31, 2020 and March 31, 2021, respectively	27	28
Additional paid-in capital	94,118	94,160
Accumulated other comprehensive loss	(1,117)	(798)
Accumulated deficit	(76,378)	(51,794)
Total stockholders' equity	16,650	41,596
Total liabilities and stockholders' equity	<u>\$ 1,948,453</u>	<u>\$ 1,977,573</u>

See accompanying notes to unaudited condensed consolidated financial statements.

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Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Condensed Consolidated Statements of Operations and Comprehensive Income
(Amounts in thousands, except share and per share data)
(Unaudited)

	Three Months Ended March 31,	
	2020	2021
Revenues, net	\$ 155,252	\$ 175,508
Cost of labor and chemicals	57,570	51,749
Other store operating expenses	58,473	61,083
General and administrative	12,959	14,961
Loss on sale of assets	343	790
Total costs and expenses	<u>129,345</u>	<u>128,583</u>
Operating income	25,907	46,925
Other expense:		
Interest expense, net	17,195	13,959
Loss on extinguishment of debt	1,918	—
Total other expense	<u>19,113</u>	<u>13,959</u>
Income before taxes	6,794	32,966
Income tax (benefit) provision	<u>(2,066)</u>	<u>8,382</u>
Net income	<u>\$ 8,860</u>	<u>\$ 24,584</u>
Other comprehensive income, net of tax:		
Gain on interest rate swap	—	319
Total comprehensive income	<u>\$ 8,860</u>	<u>\$ 24,903</u>
Net income per share:		
Basic	<u>\$ 3.25</u>	<u>\$ 9.00</u>
Diluted	<u>\$ 3.11</u>	<u>\$ 8.48</u>
Weighted-average common shares outstanding:		
Basic	<u>2,726,535</u>	<u>2,730,741</u>
Diluted	<u>2,853,390</u>	<u>2,899,527</u>

See accompanying notes to unaudited condensed consolidated financial statements.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Condensed Consolidated Statements of Stockholders' (Deficit) Equity
(Amounts in thousands, except share and per share data)
(Unaudited)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Stockholders' (Deficit) Equity
	Shares	Amount				
Balance as of December 31, 2019	2,726,554	\$ 27	\$ 92,951	\$ —	\$ (156,580)	\$ (63,602)
Adoption of new accounting standards, net of tax	—	—	—	—	19,798	19,798
Stock-based compensation expense	—	—	387	—	—	387
Shares repurchased	(49)	—	(324)	—	—	(324)
Net income	—	—	—	—	8,860	8,860
Balance as of March 31, 2020	<u>2,726,505</u>	<u>\$ 27</u>	<u>\$ 93,014</u>	<u>\$ —</u>	<u>\$ (127,922)</u>	<u>\$ (34,881)</u>
	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Stockholders' Equity
	Shares	Amount				
Balance as of December 31, 2020	2,728,205	\$ 27	\$ 94,118	\$ (1,117)	\$ (76,378)	\$ 16,650
Stock-based compensation expense	—	—	310	—	—	310
Exercise of stock options	7,171	1	266	—	—	267
Shares repurchased	(1,882)	—	(534)	—	—	(534)
Gain on interest rate swap	—	—	—	319	—	319
Net income	—	—	—	—	24,584	24,584
Balance as of March 31, 2021	<u>2,733,494</u>	<u>\$ 28</u>	<u>\$ 94,160</u>	<u>\$ (798)</u>	<u>\$ (51,794)</u>	<u>\$ 41,596</u>

See accompanying notes to unaudited condensed consolidated financial statements.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Condensed Consolidated Statements of Cash Flows
(Amounts in thousands)
(Unaudited)

	Three Months Ended March 31,	
	2020	2021
Cash flows from operating activities:		
Net income	\$ 8,860	\$ 24,584
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	10,957	11,650
Stock-based compensation	387	310
Loss on disposal of property and equipment	343	790
Loss on extinguishment of debt	1,918	—
Amortization of deferred financing fees	414	356
Non-cash lease expense	9,508	8,613
Deferred income tax	5,998	7,099
Changes in assets and liabilities:		
Accounts receivable	2,024	(579)
Inventory	182	289
Prepaid expenses and other current assets	(7,952)	(243)
Accounts payable	2,525	3,144
Accrued expenses	(7,560)	2,799
Deferred revenue	(1,753)	1,254
Operating lease liability	(8,175)	(8,245)
Other noncurrent assets and liabilities	45	(232)
Net cash provided by operating activities	<u>\$ 17,721</u>	<u>\$ 51,589</u>
Cash flows from investing activities:		
Purchases of property and equipment	(20,475)	(32,301)
Acquisition of car wash operations, net of cash acquired	(5,991)	—
Proceeds from sale of property and equipment	3,692	3,591
Net cash used in investing activities	<u>\$ (22,774)</u>	<u>\$ (28,710)</u>
Cash flows from financing activities:		
Proceeds from exercise of stock options	—	121
Payments for repurchases of common stock	(324)	(199)
Proceeds from debt borrowings	45,625	—
Proceeds from revolving line of credit	111,681	—
Payments on debt borrowings	(2,100)	(2,100)
Payments on revolving line of credit	(51,150)	—
Principal payments on finance lease obligations	(30)	(119)
Payment of deferred offering costs	—	(35)
Net cash provided by (used in) financing activities	<u>\$ 103,702</u>	<u>\$ (2,332)</u>
Net change in cash and cash equivalents during period	98,649	20,547
Cash and cash equivalents, and restricted cash at beginning of period	6,705	117,874
Cash and cash equivalents, and restricted cash at end of period	<u>\$ 105,354</u>	<u>\$ 138,421</u>
Supplemental disclosure of cash flow information:		
Cash paid for interest	\$ 21,573	\$ 14,149
Cash paid for income taxes	\$ 110	\$ 109
Supplemental disclosure of non-cash investing and financing activities:		
Property and equipment in accounts payable	\$ 2,623	\$ 6,363
Repurchase of common stock in other accrued expenses	\$ —	\$ 15
Deferred offering costs in accounts payable and other accrued expenses	\$ —	\$ 1,030

See accompanying notes to unaudited condensed consolidated financial statements.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)
(Unaudited)

1. Nature of Business

Hotshine Holdings, Inc., a Delaware corporation based in Tucson, Arizona and provider of conveyORIZED car wash services changed its name to Mister Car Wash, Inc. (the “Company”) in March 2021. The Company operates two location formats: Express Exterior Locations, which offer express exterior cleaning services, and Interior Cleaning Locations, which offer both express exterior and interior cleaning services. As of December 31, 2020, the Company closed or sold all of its quick lube facilities. As of March 31, 2021, the Company operated 344 car washes in 21 states.

To ensure the safety of its team members and customers and in compliance with local regulations, the Company temporarily suspended operations at more than 300 of its locations due to the COVID-19 pandemic beginning the end of March 2020 and through the first part of April 2020. During this period, safety protocols were upgraded, and the Company modified its operating model by temporarily removing all interior cleaning services from locations offering those services. The washes were closed for, on average, 34 days. As the Company opened washes, only exterior cleaning services were offered until July 2020, when interior clean services became available at select locations. In August 2020, all Interior Cleaning Locations were offering interior cleaning services again. As a result of the temporary suspension of operations, the Company furloughed approximately 5,500 team members, reduced the pay for the remaining team members, and amended nearly all leases to allow for up to three months of rent deferrals. None of the amendments resulted in remeasurements. As of December 31, 2020, all back pay for reduced salaries and deferred lease payments had been repaid.

2. Summary of Significant Accounting Policies

The accompanying unaudited condensed consolidated financial statements as of March 31, 2021 and for the three months ended March 31, 2020 and March 31, 2021 have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) and pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”) for interim financial statements. Certain information and note disclosures normally included in financial statements prepared in accordance with U.S. GAAP have been condensed or omitted pursuant to such rules and regulations. These unaudited condensed consolidated financial statements should be read in conjunction with the Company’s audited consolidated financial statements and the notes thereto for the year ended December 31, 2020.

The unaudited condensed consolidated financial statements have been prepared on the same basis as the audited consolidated financial statements included elsewhere in this prospectus. In the opinion of management, the included disclosures are adequate, and the accompanying unaudited condensed consolidated financial statements contain all adjustments which are necessary for a fair presentation of the Company’s consolidated financial position as of March 31, 2021, consolidated results of operations and comprehensive income for the three months ended March 31, 2020 and 2021, and consolidated cash flows for the three months ended March 31, 2020 and 2021. Such adjustments are of a normal and recurring nature. The consolidated results of operations for the three months ended March 31, 2021 are not necessarily indicative of the consolidated results of operations that may be expected for the year ending December 31, 2021.

Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company. All material intercompany balances and transactions have been eliminated in consolidation.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)
(Unaudited)

Use of Estimates

The preparation of the unaudited condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenue and expenses during the periods reported. Some of the significant estimates that the Company has made pertain to the determination of deferred tax assets and liabilities; estimates utilized to determine the fair value of assets acquired and liabilities assumed in business combinations and the related goodwill and intangibles; and certain assumptions used related to the evaluation of goodwill, intangibles, and property and equipment asset impairment. Actual results could differ from those estimates.

Cash and Cash Equivalents, and Restricted Cash

As of March 31, 2021, the Company has \$158 in restricted cash for the funding of various maintenance expenses. See Note 5-Dispositions for additional balances classified in restricted cash in the unaudited condensed consolidated balance sheets as of December 31, 2020 and March 31, 2021.

Accounts Receivable, Net

Accounts receivable are presented net of an allowance for doubtful accounts of \$197 and \$104 as of December 31, 2020 and March 31, 2021, respectively. The activity in the allowance for doubtful accounts was immaterial for the three months ended March 31, 2020 and 2021.

Inventory

Inventory consists primarily of chemical washing solutions and is stated at the lower of cost or net realizable value using the average cost method. The activity in the reserve for obsolescence was immaterial for the three months ended March 31, 2020 and 2021.

Inventory for the periods presented is as follows:

	As of	
	December 31, 2020	March 31, 2021
Chemical washing solutions	\$ 6,490	\$ 6,177
Other	52	73
Total inventory, gross	6,542	6,250
Reserve for obsolescence	(127)	(123)
Total inventory, net	\$ 6,415	\$ 6,127

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)
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Revenue Recognition

The following table summarizes the composition of the Company's revenue, net for the periods presented:

	Three Months Ended March 31,	
	2020	2021
Recognized over time	\$ 84,537	\$ 108,270
Recognized at a point in time	69,595	66,322
Other revenue	1,120	916
Revenue, net	<u>\$ 155,252</u>	<u>\$ 175,508</u>

Sales and Marketing

Advertising costs were approximately \$1,302 and \$919 for the three months ended March 31, 2020 and 2021, respectively, and are included in other store operating expenses in the unaudited condensed consolidated statements of operations and comprehensive income.

Net Income Per Share

Basic net income per share is computed by dividing net income by the weighted-average number of common shares outstanding for the period. Diluted net income per share is computed by dividing net income by the weighted-average shares outstanding for the period and includes the dilutive impact of potential new shares issuable upon vesting and exercise of stock options. Potentially dilutive securities are excluded from the computation of diluted net income per share if their effect is antidilutive. A reconciliation of the numerators and denominators of the basic and diluted net income per share calculations is as follows:

	Three Months Ended March 31,	
	2020	2021
Numerator:		
Net income	<u>\$ 8,860</u>	<u>\$ 24,584</u>
Denominator:		
Weighted-average common shares outstanding - basic	2,726,535	2,730,741
Effect of potentially dilutive securities:		
Stock options	<u>126,855</u>	<u>168,786</u>
Weighted-average common shares outstanding - diluted	<u>2,853,390</u>	<u>2,899,527</u>
Net income per share - basic	<u>\$ 3.25</u>	<u>\$ 9.00</u>
Net income per share - diluted	<u>\$ 3.11</u>	<u>\$ 8.48</u>

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
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The following potentially dilutive shares were excluded from the computation of diluted net income per share for the three months ended March 31, 2020 and 2021 because including them would have been antidilutive:

	Three Months Ended March 31,	
	2020	2021
Stock options	18,961	4,772

Deferred Offering Costs

The Company capitalizes certain legal, accounting, and other third-party fees that are directly related to the Company's in-process equity financings, including a planned initial public offering, until such financings are consummated. After consummation of an equity financing, these costs are recorded as a reduction of the proceeds received as a result of the financing. Should a planned equity financing be abandoned, terminated, or significantly delayed, the deferred offering costs are immediately written off to operating expenses. As of March 31, 2021, the Company recorded deferred offering costs \$1,065, respectively, in the accompanying unaudited condensed consolidated balance sheets and are included in prepaid expenses and other current assets. As of March 31, 2020, there were no deferred offering costs capitalized.

Recently Adopted Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2016-02, *Leases (Topic 842)* ("ASU No. 2016-02") and issued the following subsequent amendments to ASU No. 2016-02: ASU No. 2017-13, ASU No. 2018-01, ASU No. 2018-10, ASU No. 2018-11, ASU No. 2018-20, ASU No. 2019-01, ASU No. 2019-10, and ASU No. 2020-02. Under the new guidance, lessees are required to recognize a lease liability, which represents the discounted obligation to make future minimum lease payments, and a corresponding right-of-use asset on the balance sheets for most leases. The guidance retains the historical accounting for lessors and does not make significant changes to the recognition, measurement, and presentation of expenses and cash flows by a lessee. Enhanced disclosures are also required to give financial statement users the ability to assess the amount, timing and uncertainty of cash flows arising from leases. The Company adopted ASU No. 2016-02 on January 1, 2020, along with related clarifications and improvements.

The Company elected the following practical expedients:

Practical expedient package

The Company has elected the practical expedient packages and has not: (i) reassessed whether any expired or existing contracts are, or contain, leases, (ii) reassessed the lease classification for any expired or existing leases, or (iii) reassessed initial direct costs for any expired or existing leases.

Land easements practical expedient

The Company has not reassessed whether any existing or expired land easements that were not previously accounted for as a lease are considered a lease under the new guidance.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
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The Company did not elect the following practical expedients:

Hindsight Practical Expedient

The Company has not elected the hindsight practical expedient, which permits the use of hindsight when determining lease term, including option periods, and impairment of operating lease assets.

The Company's policy elections related to the adoption of ASUNo. 2016-02 were as follows:

Separation of lease and non-lease components

The Company elected to account for lease and non-lease components as a single component.

Short-term policy

The Company elected the short-term lease recognition exemption for all classes of underlying assets. Leases with an initial term of 12 months or less and that do not include an option to purchase the underlying asset that the Company is reasonably certain to exercise are not recorded on the consolidated balance sheets. Expense for short-term leases is recognized on a straight-line basis over the lease term.

The impact on the Company's opening unaudited condensed consolidated balance sheets was as follows:

	December 31, 2019	Topic 842 Adjustments	January 1, 2020
Assets			
Current assets:			
Cash and cash equivalents	\$ 6,405	\$ —	\$ 6,405
Restricted cash	300	—	300
Accounts receivable, net	5,125	2,002	7,127
Construction receivable	6,900	(6,900)	—
Inventory	7,760	—	7,760
Prepaid expenses and other current assets	6,611	(830)	5,781
Total current assets	<u>33,101</u>	<u>(5,728)</u>	<u>27,373</u>
Property and equipment, net	233,574	(12,074)	221,500
Operating right of use assets, net	—	677,618	677,618
Other intangible assets, net	133,128	—	133,128
Goodwill	731,989	—	731,989
Other assets	18,282	(14,324)	3,958
Total assets	<u>\$ 1,150,074</u>	<u>\$ 645,492</u>	<u>\$ 1,795,566</u>

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
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	December 31, 2019	Topic 842 Adjustments	January 1, 2020
Liabilities and stockholders' (deficit) equity			
Current liabilities:			
Accounts payable	\$ 15,792	\$ —	\$ 15,792
Accrued payroll and related expenses	19,193	—	19,193
Other accrued expenses	21,041	(2,273)	18,768
Current maturities of debt	8,000	—	8,000
Current maturities of financing obligations	262	(262)	—
Current maturities of operating lease liability	—	31,642	31,642
Current maturities of finance lease liability	23	104	127
Deferred revenue	21,258	—	21,258
Total current liabilities	85,569	29,211	114,780
Long-term portion of debt, net	1,016,890	—	1,016,890
Construction liability	6,900	(6,900)	—
Financing obligations	10,250	(10,250)	—
Operating lease liability	—	680,186	680,186
Financing lease liability	1,015	(104)	911
Long-term deferred tax liability	20,013	6,561	26,574
Long-term deferred rent	39,665	(39,665)	—
Other long-term liabilities	33,374	(33,345)	29
Total liabilities	1,213,676	625,694	1,839,370
Stockholders' (deficit) equity:			
Common stock, \$0.01 par value	27	—	27
Additional paid-in capital	92,951	—	92,951
Accumulated (deficit) ⁽¹⁾	(156,580)	19,798	(136,782)
Total stockholders' (deficit) equity	(63,602)	19,798	(43,804)
Total liabilities and stockholders' (deficit) equity	\$ 1,150,074	\$ 645,492	\$ 1,795,566

(1) Primarily composed of an increase of \$25,869 for deferred sale-leaseback gains no longer amortizable and a decrease of \$6,561 for the deferred tax impact of the cumulative effect adjustments.

In April 2020, the FASB issued a Staff Question-and-Answer to clarify whether lease concessions related to the effects of the COVID-19 pandemic require the application of the lease modification guidance under the new lease standard. The Company has elected to apply the temporary practical expedient and not treat changes to certain leases due to the effects of the COVID-19 pandemic as modifications for leases where the total payments were substantially the same as the existing leases.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles – Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment* (“ASU No. 2017-04”). ASU No. 2017-04 removes the requirement to compare the implied fair value of goodwill with its carrying amount as part of step two of the goodwill impairment test. As a result, under ASU No. 2017-04, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount and should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value; however, the impairment

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
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loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. The Company adopted ASU No. 2017-04 on January 1, 2020 and the adoption of this standard did not have an impact on the Company's unaudited condensed consolidated financial statements or disclosures.

Recently Issued Accounting Pronouncements Not Yet Adopted

In June 2016, the FASB issued ASUNo. 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* (“ASU No. 2016-13”), which replaces the existing incurred loss impairment model with an expected credit loss model and requires a financial asset measured at amortized cost to be presented at the net amount expected to be collected. The guidance will be effective for the Company beginning January 1, 2023, and interim periods therein. Early adoption is permitted. The Company is currently evaluating the effect that ASU No. 2016-13 will have on its unaudited condensed consolidated financial statements and related disclosures.

In December 2019, the FASB issued ASUNo. 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes* (“ASU No. 2019-12”), which simplifies the accounting for income taxes by removing a variety of exceptions within the framework of ASC 740. The guidance will be effective for the Company beginning January 1, 2022, and interim periods in fiscal years beginning January 1, 2023. Early adoption is permitted. The Company is currently evaluating the effect that ASU No. 2019-12 will have on its unaudited condensed consolidated financial statements and related disclosures.

In March 2020, the FASB issued ASUNo. 2020-04, *Reference Rate Reform (Topic 848)* (“ASU No. 2020-04”) and issued the following subsequent amendments to ASU No. 2020-04: ASU No. 2021-01. The new guidance is intended to ease the potential burden in accounting for (or recognizing the effects of) reference rate reform on financial reporting. Reference rate reform is necessary due to the phase out of the London Interbank Offered Rate (“LIBOR”) at the end of 2021. The adoption of this guidance is optional and provides relief around modification and hedge accounting as it specifically arises from changing reference rates, in addition to optional expedients for cash flow hedges. The guidance will be effective from March 12, 2020 through December 31, 2022. The Company is currently evaluating the impacts of the transition away from LIBOR on the Company. If ASU No. 2020-04 and related clarifications and improvements are adopted, the Company does not expect that the adoption will have an impact on the Company's unaudited condensed consolidated financial statements and related disclosures.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)
(Unaudited)

3. Prepaid and Other Current Assets

Prepays and other current assets consisted of the following for the periods presented:

	As of	
	December 31, 2020	March 31, 2021
Spare parts	\$ 1,953	\$ 1,686
Uniforms	1,121	1,210
Income taxes receivable	1,042	1,043
Prepaid insurance	911	444
Information technology	655	1,198
Prepaid rent	190	113
Deferred offering costs	—	1,065
Other	196	616
Total prepaid and other current assets	<u>\$ 6,068</u>	<u>\$ 7,375</u>

4. Property and Equipment, Net

Property and equipment, net consisted of the following for the periods presented:

	As of	
	December 31, 2020	March 31, 2021
Land	\$ 28,316	\$ 26,180
Buildings and improvements	55,250	54,905
Finance leases	16,497	16,497
Leasehold improvements	83,561	84,902
Vehicles and equipment	143,435	146,220
Furniture, fixtures and equipment	61,350	63,929
Construction in progress	<u>13,187</u>	<u>26,254</u>
Property and equipment, gross	401,596	418,887
Less: accumulated depreciation	(138,238)	(147,436)
Less: accumulated depreciation — finance leases	(324)	(566)
Property and equipment, net	<u>\$ 263,034</u>	<u>\$ 270,885</u>

For the three months ended March 31, 2020 and 2021, depreciation expense was \$9,121 and \$9,971, respectively.

For the three months ended March 31, 2020 and 2021, amortization expense on finance leases was \$28 and \$242, respectively.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)
(Unaudited)

5. Other Intangible Assets, Net

Other intangibles assets, net consisted of the following as of the periods presented:

	December 31, 2020		March 31, 2021	
	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
Trade names and Trademarks	\$107,000	\$ —	\$107,000	\$ —
CPC Unity System	42,900	27,301	42,900	28,374
Customer relationships	7,600	7,376	7,600	7,427
Covenants not to compete	7,515	3,319	7,515	3,633
	\$165,015	\$ 37,996	\$165,015	\$ 39,434

The weighted-average amortization periods for CPC Unity System, Customer relationships, and Covenants not to compete are 10.0 years, 7.0 years, and 6.3 years, respectively.

For the three months ended March 31, 2020 and 2021, amortization expense associated with the Company's finite-lived intangible assets was \$1,808 and \$1,437, respectively.

As of March 31, 2021, estimated future amortization expense was as follows:

Fiscal Year Ending:	
2021 (remaining nine months)	\$ 4,591
2022	5,816
2023	5,008
2024	3,056
2025	110
Thereafter	—
Total estimated future amortization expense	\$ 18,581

6. Goodwill

Goodwill consisted of the following for the periods presented:

	As of	
	December 31, 2020	March 31, 2021
Balance at beginning of period	\$ 731,989	\$ 737,415
Current year acquisitions	21,467	—
Current year dispositions	(16,191)	—
Other provisional adjustments	150	(381)
Balance at end of period	\$ 737,415	\$ 737,034

Goodwill is generally deductible for tax purposes, except for the portion related to purchase accounting step-up goodwill.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
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7. Income Taxes

The effective income tax rate on continuing operations for the three months ended March 31, 2020 was 30.4%. The year-to-date provision for income taxes included taxes on earnings at an anticipated annual effective tax rate of 23.1% and a favorable tax impact of \$3,634 related primarily to the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) that was enacted into law in March 2020.

The CARES Act permitted the Company to carry back federal net operating losses to earlier tax years where the highest federal statutory income tax rate was 35.0%, resulting in an increase in the tax benefit originally computed at 21.0% of the expected net operating loss carryforward.

For the three months ended March 31, 2020, the effective tax rate differed from the U.S. federal statutory income tax rate primarily due to the tax benefit resulting from the CARES Act discussed above.

The effective income tax rate on continuing operations for the three months ended March 31, 2021 was 25.4%. The provision for income taxes included taxes on earnings at an anticipated annual effective tax rate of 25.4% and adjustments related to discrete activity during the quarter.

For the three months ended March 31, 2021, the effective tax rate differed from the U.S. federal statutory income tax rate primarily due to state income taxes and non-deductible expenses.

For the three months ended March 31, 2020 and 2021, the Company has not recorded any unrecognized tax benefits or interest and penalties related to any uncertain tax positions.

8. Debt

The Company’s long-term debt consists of the following as of the periods presented:

	As of	
	December 31, 2020	March 31, 2021
<i>Credit agreement</i>		
First lien term loan	\$ 827,600	\$ 825,500
Less: debt issuance costs	(4,849)	(4,612)
Less: current maturities of long-term debt	(8,400)	(8,400)
First lien term loan, net	<u>814,352</u>	<u>812,488</u>
Revolving commitment	—	—
Credit agreement, net	<u>\$ 814,352</u>	<u>\$ 812,488</u>
<i>Second lien credit agreement</i>		
Second lien term loan	\$ 242,673	\$ 242,673
Less: debt issuance costs	(2,205)	(2,118)
Second lien credit agreement, net	<u>\$ 240,468</u>	<u>\$ 240,555</u>
Total Long-term debt, net	<u>\$ 1,054,820</u>	<u>\$ 1,053,043</u>

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As of March 31, 2021, annual maturities of debt are as follows:

Fiscal Year Ending:	
2021 (remaining nine months)	\$ 6,300
2022	8,400
2023	8,400
2024	8,400
2025	8,400
Thereafter	<u>1,028,273</u>
Total maturities of debt	<u>\$ 1,068,173</u>

As of December 31, 2020 and March 31, 2021, unamortized deferred financing costs were \$7,494 and \$7,138, respectively, and accumulated amortization of deferred financing costs was approximately \$3,057 and \$3,413, respectively.

For the three months ended March 31, 2020 and 2021, the amortization of deferred financing costs in interest expense, net in the unaudited condensed consolidated statements of operations and comprehensive income was approximately \$414 and \$356, respectively.

Credit Agreement

On August 21, 2014, the Company entered into a credit agreement (“Credit Agreement”) which was originally comprised of a term loan (“Term Loan”) and a revolving commitment (“Revolving Commitment”). The Credit Agreement was collateralized by substantially all personal property (including cash, inventory, equipment, and intangibles), real property, and equity interests owned by the Company.

Under the Credit Agreement and with respect to the Term Loan, the Company had the option of selecting either (i) a Base Rate interest rate plus fixed margin of 2.25% or (ii) a Eurodollar (LIBOR) interest rate for one, two, three or six months plus a fixed margin of 3.25%.

Under the Credit Agreement and with respect to the Revolving Commitment, the Company had the option of selecting either (i) a Base Rate interest rate plus a variable margin of 2.50% to 3.00%, based on the Company’s First Lien Net Debt Leverage Ratio, or (ii) a Eurodollar (LIBOR) interest rate for one, two, three or six months plus a variable margin of 3.50% to 4.00%, based on the Company’s First Lien Net Leverage Ratio.

Term Loan

In March 2019, entered into the Incremental Amendment No. 6 to the Term Loan, which increased the borrowing capacity under the Term Loan by an additional \$60,000, from \$609,667 to \$669,667, and increased the quarterly principal payment under the Term Loan to \$1,753.

In May 2019, the Company entered into the Amended and Restated First Lien Credit Agreement (“First Lien Credit Agreement”) which amended and restated the entirety of the Credit Agreement. Under the First Lien Credit Agreement, the borrowings under the Term Loan were increased by \$131,929 to \$800,000 with quarterly principal payments payable of \$2,000 and the remaining unpaid balance due on May 14, 2026. Interest on the Term Loan under the First Lien Credit Agreement is payable either each one, two or three months but no less frequent than quarterly depending on the type of interest rate selected. Under the First Lien Credit Agreement,

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the interest rate spreads changed from a fixed margin to a variable margin based on the Company's First Lien Net Leverage Ratio and the interest rate changes every one, two, three or six months based on the type of interest rate selected. The Company has the option of selecting either (i) a Base Rate interest rate plus a variable margin of 2.25% to 2.50%, based on the Company's First Lien Net Leverage Ratio, or (ii) a Eurodollar Rate interest rate for one, two, three or six months plus a variable margin of 3.25% to 3.50%, based on the Company's First Lien Net Leverage Ratio. Additionally, the First Lien Credit Agreement added a Delayed Draw facility on the Term Loan that enabled the Company to borrow up to \$40,000 for up to two years from May 2019. Borrowings under the Delayed Draw facility would increase the quarterly principal payments under the Term Loan by one-fourth of 1.00% per quarter of the additional principal borrowed under the Delayed Draw facility. The Delayed Draw facility includes a Delayed Draw Ticking Fee payable on the average daily unused portion of the Delayed Draw facility. The Delayed Draw Ticking Fee Rate was 0.00% from May 14, 2019 through June 28, 2019, 1.75% from June 28, 2019 through August 12, 2019, and 3.50% from August 12, 2019 through May 14, 2021.

In February 2020, the Company entered into Amendment No. 1 to Amended and Restated First Lien Credit Agreement ("Amended First Lien Credit Agreement") which amended and restated the First Lien Credit Agreement. The Amended First Lien Credit Agreement changed the interest rate spreads associated with the First Lien Credit Agreement where (i) the variable margin associated with the Base Rate interest rate plus a variable margin based on the Company's First Lien Net Leverage Ratio changed from 2.25% to 2.50% to 2.00% to 2.25% and (ii) the variable margin associated with the Eurodollar Rate interest rate for one, two, three or six months plus a variable margin based on the Company's First Lien Net Leverage Ratio changed from 3.25% to 3.50% to 3.00% to 3.25%. In connection with the Amended First Lien Credit Agreement, the Company expensed \$1,918 of previously unamortized deferred financing costs as a loss on extinguishment of debt in the unaudited condensed consolidated statements of operations and comprehensive income in the three months ended March 31, 2020.

In February 2020 and March 2020, the Company borrowed \$30,000 and \$10,000, respectively, under the Delayed Draw facility on the Term Loan, utilizing the full \$40,000 available under the Delayed Draw facility. As the result of the additional borrowings under the Delayed Draw facility, the quarterly principal payments associated with the Term Loan increased from \$2,000 to \$2,100.

As of December 31, 2020 and March 31, 2021, the interest rate on the Term Loan was 3.40% and 3.36%, respectively.

The First Lien Credit Agreement requires the Company to maintain compliance with a First Lien Net Leverage Ratio. As of March 31, 2021, the Company was in compliance with the First Lien Net Leverage Ratio financial covenant of the First Lien Credit Agreement.

Revolving Commitment

In May 2019 and in connection with the First Lien Credit Agreement, the borrowing capacity of the Revolving Commitment was increased from \$50,000 to \$75,000 and the expiration date of the Revolving Commitment was changed from August 21, 2019 to May 14, 2024. The Company had the option of selecting either (i) a Base Rate interest rate plus a variable margin of 2.00% to 2.50%, based on the Company's First Lien Net Leverage Ratio, or (ii) a Eurodollar Rate interest rate for one, two, three or six months plus a variable margin of 3.00% to 3.50%, based on the Company's First Lien Net Leverage Ratio.

As of December 31, 2020 and March 31, 2021, the unused borrowing capacity of the Revolving Commitment was \$75,000 and \$75,000, respectively.

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In addition, an unused commitment fee based on the Company's First Lien Net Leverage Ratio is payable on the average of the unused borrowing capacity under the Revolving Commitment. As of December 31, 2020 and March 31, 2021, the unused commitment fee was 0.50% and 0.50%, respectively.

Standby Letters of Credit

As of March 31, 2021, the Company has available standby letters of credit of \$10,000 under the Revolving Commitment, provided that the total utilization of revolving commitments under the Revolving Commitment does not exceed \$75,000 subsequent to the First Lien Credit Agreement. Any letter of credit issued under the Credit Agreement has an expiration date which is the earlier of (i) no later than 12 months from the date of issuance or (ii) 5 business days prior to the maturity date of the Revolving Commitment on May 14, 2024. As of December 31, 2020 and March 31, 2021, the amounts associated with outstanding letters of credit were \$469 and \$469, respectively.

Second Lien Credit Agreement

In May 2019, the Company entered into a Second Lien Credit Agreement that provided for a \$225,000 Second Lien Term Loan. The Second Lien Term Loan is interest-only over the term of the Second Lien Credit Agreement and is due and payable in full on May 14, 2027. Interest on the Second Lien Term Loan is payable quarterly, in arrears, at a rate of 10.00% per annum. The Second Lien Term Loan is collateralized by substantially all personal property (including cash, inventory, equipment, and intangibles), real property, and equity interests owned by the Company only after the collateral requirements are met by holders of the Company's debt under the First Lien Credit Agreement.

In March 2020, the Company entered into the First Amendment to Second Lien Credit Agreement ("Amended Second Lien Credit Agreement"). The Amended Second Lien Credit Agreement provided for an incremental term loan to the Company in an aggregate amount of \$5,625 under the same terms as the Second Lien Term Loan. The incremental term loan under the Amended Second Lien Credit Agreement is an investment from a related party (see Note 17-Related-Party Transactions). The Amended Second Lien Credit Agreement also allowed the Company to make its quarterly interest payments on the Second Lien Term Loan via payment-in-kind ("PIK") by adding such amount to the outstanding principal amount of the Second Lien Term Loan. The Company made PIK additions to its outstanding principal amounts in the amounts of \$5,906 and \$6,142 in March 2020 and June 2020, respectively. The Amended Second Lien Credit Agreement also increased the interest rate of the Second Lien Term Loan to 10.50% effective January 1, 2020 to June 30, 2020.

As of December 31, 2020 and March 31, 2021, the interest rate on the Second Lien Term Loan was 10.00% and 10.00%, respectively.

9. Fair Value Measurements

The following table presents financial liabilities which are measured at fair value on a recurring basis as of December 31, 2020:

	Fair Value Measurements			
	Total	Level 1	Level 2	Level 3
Liabilities:				
Interest rate swap	\$1,488	\$ —	\$1,488	\$ —

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The following table presents financial liabilities which are measured at fair value on a recurring basis as of March 31, 2021:

	Fair Value Measurements			
	Total	Level 1	Level 2	Level 3
Liabilities:				
Interest rate swap	\$1,090	\$ —	\$1,090	\$ —

The Company measures the fair value of its financial assets and liabilities using the highest level of inputs that are available as of the measurement date. The carrying amounts of cash, accounts receivable, and accounts payable approximate their fair value due to the immediate or short-term maturity of these financial instruments. See Note 10-Interest Rate Swap for additional information on the interest rate swap.

The Company's Term Loan under the Amended First Lien Credit Agreement approximates fair value to the Term Loan's variable interest rate terms. As of December 31, 2020 and March 31, 2021, the fair value of the Company's variable rate debt approximated its carrying value.

As of December 31, 2020 and March 31, 2021, there were no Level 3 financial assets or financial liabilities measured at fair value on a recurring basis.

During the three months ended March 31, 2020 and 2021, there were no transfers between fair value measurement levels.

10. Interest Rate Swap

In May 2020, the Company entered into a pay-fixed, receive-floating interest rate swap (the "Swap") to mitigate variability in forecasted interest payments on an amortizing notional of \$550,000 of the Company's variable-rate Term Loan. The Company designated the Swap as a cash flow hedge.

As of March 31, 2021, information pertaining to the Company's Swap is as follows:

Notional Amount	Fair Value	Pay-Fixed	Receive-Floating	Maturity Date
\$548,604	\$ 1,090	0.308%	0.11%	October 20, 2022

As of December 31, 2020 and March 31, 2021, the current portion of the fair value of the Swap was \$931 and \$894, respectively, and is included in other accrued expenses in the accompanying unaudited condensed consolidated balance sheets.

As of December 31, 2020 and March 31, 2021, the long-term portion of the fair value of the Swap was \$557 and \$196, respectively, and is included in other long-term liabilities in the accompanying unaudited condensed consolidated balance sheets.

For the three months ended March 31, 2020 and 2021, amounts reported in other comprehensive income in the accompanying unaudited condensed consolidated statements of operations and comprehensive income are net of tax of \$0 and \$106, respectively.

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11. Leases

The Company's incremental borrowing rate for a lease is the rate of interest it expects to pay on a collateralized basis to borrow an amount equal to the lease payments under similar terms. To determine the incremental borrowing rates used to discount the lease payments, the Company estimated its synthetic credit rating and utilized market data for similarly situated companies.

Balance sheet information related to leases consisted of the following for the periods presented:

	Classification	As of	
		December 31, 2020	March 31, 2021
Assets			
Operating	Operating right of use assets, net	\$ 681,538	\$682,282
Finance	Property and equipment, net	16,173	15,931
Total lease assets		<u>\$ 697,711</u>	<u>\$698,213</u>
Liabilities			
Current			
Operating	Current maturities of operating lease liability	\$ 33,485	\$ 34,311
Finance	Current maturities of finance lease liability	495	511
Long-term			
Operating	Operating lease liability	685,479	685,764
Finance	Financing lease liability	15,917	15,783
Total lease liabilities		<u>\$ 735,376</u>	<u>\$736,369</u>

Components of total lease cost, net, consisted of the following for the periods presented:

	Three Months Ended March 31,	
	2020	2021
Operating lease expense ⁽¹⁾	\$ 19,471	\$ 19,125
Finance lease expense		
Amortization of lease assets	15	242
Interest on lease liabilities	24	294
Short-term lease expense	11	4
Variable lease expense ⁽²⁾	3,109	3,924
Total	<u>\$ 22,630</u>	<u>\$ 23,589</u>

- (1) Operating lease expense includes an immaterial amount of sublease income and is included in other store operating expenses and general and administrative expenses in the accompanying unaudited condensed consolidated statements of operations and comprehensive income.
- (2) Variable lease costs consist primarily of property taxes, property insurance, and common area or other maintenance costs for the Company's leases of buildings.

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The following includes supplemental information for the periods presented:

	Three Months Ended	
	March 31,	
	2020	2021
Operating cash flows from operating leases	\$18,690	\$19,527
Operating cash flows from finance leases	\$ 24	\$ 294
Financing cash flows from finance leases	\$ 30	\$ 119
Operating lease liabilities arising from obtaining ROU assets	\$ 3,271	\$ 9,357
Finance lease liabilities arising from obtaining ROU assets	\$ —	\$ —
Weighted-average remaining operating lease term	15.25	14.87
Weighted-average remaining finance lease term	15.15	17.95
Weighted-average operating lease discount rate	6.25%	6.26%
Weighted-average finance lease discount rate	8.98%	7.33%

As of March 31, 2021, lease obligation maturities were as follows:

Fiscal Year	Operating Leases	Finance Leases
2021 (remaining nine months)	\$ 58,779	\$ 1,246
2022	78,307	1,683
2023	77,918	1,716
2024	77,054	1,741
2025	76,862	1,766
Thereafter	757,250	23,883
Total future minimum obligations	\$1,126,170	\$ 32,035
Less: Present value discount	(406,095)	(15,741)
Present value of net future minimum lease obligations	\$ 720,075	\$ 16,294
Less: current portion	(34,311)	(511)
Long-term obligations	<u>\$ 685,764</u>	<u>\$ 15,783</u>

Forward-Starting Leases

As of December 31, 2020, the Company entered into 10 leases that have not yet commenced related to build-to-suit arrangements for car wash locations. These leases will commence in 2021 or 2022 with initial lease terms of 5 to 20 years.

As of March 31, 2021, the Company entered into 11 leases that have not yet commenced related to build-to-suit arrangements for car wash locations. These leases will commence in 2021 or 2022 with initial lease terms of 5 to 20 years.

Sale-Leaseback Transactions

During the three months ended March 31, 2020, the Company completed one sale-leaseback transaction related to its car wash locations with aggregate consideration of \$3,805, resulting in a net loss of \$198, which is included in loss on sale of assets in the accompanying unaudited condensed consolidated statements of operations and comprehensive income. Contemporaneously with the closing of the sale, the Company entered into a lease

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agreement for the property for an initial 20-year term. The cumulative initial annual rent for the property is approximately \$248, subject to annual escalations. This lease is accounted for as an operating lease.

During the three months ended March 31, 2021, the Company completed one sale-leaseback transaction related to its car wash locations with aggregate consideration of \$3,667, resulting in a net loss of \$270, which is included in loss on sale of assets in the accompanying unaudited condensed consolidated statements of operations and comprehensive income. Contemporaneously with the closing of the sale, the Company entered into a lease agreement for the property for an initial 20-year term. The cumulative initial annual rent for the property is approximately \$228, subject to annual escalations. This lease is accounted for as an operating lease.

12. Stockholders' Equity

As of December 31, 2020, there were 3,250,000 shares of common stock authorized, 2,757,789 shares of common stock issued, and 2,728,205 shares of common stock outstanding.

As of March 31, 2021, there were 3,250,000 shares of common stock authorized, 2,764,960 shares of common stock issued, and 2,733,494 shares of common stock outstanding.

The Company uses the cost method to account for treasury stock. Treasury stock is included in additional paid-in capital in the accompanying unaudited condensed consolidated balance sheets. As of December 31, 2020 and March 31, 2021, the Company had 29,584 shares and 31,466 shares, respectively, of treasury stock.

13. Stock-Based Compensation

The 2014 Plan

Under the 2014 Stock Option Plan of Hotshine Holdings, Inc. (the "2014 Plan"), the Company may grant incentive stock options or nonqualified stock options to purchase shares of Hotshine Holdings, Inc. to its employees, directors, officers, outside advisors and non-employee consultants.

The 2014 Plan is administered by the Company's board of directors (the "Board") or, at the discretion of the Board, by a committee thereof. The exercise prices, vesting and other restrictions are determined at the discretion of the Board, or its committee if so delegated. The Board values the Company's common stock, taking into consideration the most recently available valuation thereof performed by third parties, as well as additional factors which may have changed since the date of the most recent contemporaneous valuation through the date of grant. The exercise prices per share for options granted were not less than the fair market value of the common stock of the Company on the date of grant.

All options granted under the 2014 Plan have a contractual life of ten years. Under the 2014 Plan, 60% of the shares in a grant contain service-based vesting conditions and vest ratably over a five-year period ("Time Vesting Options") and 40% of the shares in a grant contain performance-based vesting conditions ("Performance Vesting Options"). The condition for the Performance Vesting Options is a change in control or an initial public offering, where (i) 50% of the Performance Vesting Options vest and become exercisable if the Principal Stockholders receive the Target Proceeds at the Measurement Date and (ii) the remaining 50% of the Performance Vesting Options vest and become exercisable if the Principal Stockholders receive the Maximum Amount at the Measurement Date. Principal Stockholders is defined in the 2014 Plan as (a) Green Equity Investors VI, L.P., (b) Green Equity Investors Side VI, L.P., (c) LGP Associates VI-A, LLC, (d) LGP Associates VI-B LLC, and (e) the

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affiliates of the foregoing entities. Measurement Date is defined as the date of a change in control or an initial public offering, whichever comes first. The Target Proceeds and Maximum Amount are defined and measured by either multiples of invested capital or an annual compounded pre-tax internal rate of return on investment.

As of March 31, 2021, the Company reserved 386,979 shares of common stock for issuance under the 2014 Plan. As of March 31, 2021, 3,832 shares were available for future grants of the Company's common stock under the 2014 Plan.

Stock Option Valuation

The grant-date fair value of Time Vesting Options granted is determined using the Black-Scholes option-pricing model. The grant-date fair value of Performance Vesting Options is determined using a Monte Carlo simulation model and a barrier-adjusted Black-Scholes option-pricing model.

The following table presents, on a weighted-average basis, the assumptions used in the Black-Scholes option-pricing model to determine the grant-date fair value of Time Vesting Options:

	Three Months Ended
	March 31, 2021
Expected volatility	40.83%
Risk-free interest rate	0.90%
Expected term (in years)	6.5
Expected dividend yield	0.00%

The following table presents, on a weighted-average basis, the assumptions used in the barrier-adjusted Black-Scholes option-pricing model and Monte Carlo simulation model to determine the grant-date fair value of Performance Vesting Options:

	Three Months Ended
	March 31, 2021
Expected volatility	60.00%
Risk-free interest rate	0.63%
Expected term (in years)	5.2
Expected dividend yield	0.00%

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Stock Options

The following table summarizes the Company's stock option activity since December 31, 2020:

	<u>Time Vesting Options</u>	<u>Performance Vesting Options</u>	<u>Total Number of Shares</u>	<u>Weighted- Average Exercise Price</u>
Outstanding as of December 31, 2020	207,897	138,980	346,877	\$ 74.74
Granted	11,689	7,791	19,480	\$ 471.44
Exercised	(2,327)	—	(2,327)	\$ 62.50
Forfeited	(581)	(387)	(968)	\$ 221.00
Outstanding as of March 31, 2021	<u>216,678</u>	<u>146,384</u>	<u>363,062</u>	\$ 95.71
Options vested or expected to vest as of March 31, 2021	<u>206,660</u>	<u>—</u>	<u>206,660</u>	\$ 92.54
Options exercisable as of March 31, 2021	<u>171,610</u>	<u>—</u>	<u>171,610</u>	\$ 68.03

The number and weighted-average grant date fair value of stock options during the periods presented is as follows:

	<u>Number of Shares</u>		<u>Weighted-Average Grant Date Fair Value</u>	
	<u>Time Vesting Options</u>	<u>Performance Vesting Options</u>	<u>Time Vesting Options</u>	<u>Performance Vesting Options</u>
Non-vested as of December 31, 2020	35,944	138,980	\$ 75.96	\$ 53.48
Non-vested as of March 31, 2021	45,073	146,384	\$ 110.63	\$ 575.75
Granted during the period	11,689	7,791	\$ 195.58	\$ 215.99
Vested during the period	1,984	—	\$ 89.85	\$ —
Forfeited/canceled during the period	581	387	\$ 69.75	\$ 121.61

The total grant date fair value of Time Vesting Options and Performance Vesting Options granted during the three months ended March 31, 2021 was approximately \$2,286 and \$3,895, respectively.

The fair value of stock options vested during the three months ended March 31, 2021 was \$1,935.

As of March 31, 2021, the weighted-average remaining contractual life of Time Vesting Options outstanding under the 2014 Plan was approximately 4.94 years.

Stock-Based Compensation Expense

The Company estimated a forfeiture rate of 13.7% for awards granted based on historical experience and future expectations of the vesting of stock options. The Company used this historical rate as an assumption in calculating stock-based compensation expense.

For the three months ended March 31, 2020 and 2021, the Company recognized stock-based compensation expense for Time Vesting Options of approximately \$387 and \$310, respectively, which is included in general and administrative expenses in the accompanying unaudited condensed consolidated statements of operations and comprehensive income.

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For the three months ended March 31, 2020 and 2021, the Company did not recognize stock-based compensation expense for the Performance Vesting Options as the performance condition is not yet probable of achievement. The Company will recognize stock-based compensation expense associated with the Performance Vesting Options when the performance condition is considered probable of achievement, which is upon a change in control or an initial public offering, whichever comes first.

As of March 31, 2021, total unrecognized compensation expense related to unvested Time Vesting Options was \$2,371, which is expected to be recognized over the weighted-average period of 2.33 years.

As of March 31, 2021, total unrecognized compensation expense related to unvested Performance Vesting Options was \$84,277, which includes the impact of the March 2021 modification disclosed below of \$75,217 and is expected to be recognized when the vesting conditions are considered probable of being achieved.

Modification of Stock Options

In March 2021, the Company modified a total of 82,024 shares of Performance Vesting Options for 12 grantees to provide for an additional service-based vesting condition related to the acceleration of vesting in connection with a grantees' death. The Company did not recognize current incremental stock-based compensation expense in connection with the modification during the three months ended March 31, 2021 because the grants will vest upon the earlier of a performance condition or a service condition, neither of which are probable of occurring until the condition is met. The modification resulted in an increase to unrecognized compensation expense related to unvested Performance Vesting Options of \$75,217 during the three months ended March 31, 2021.

14. Business Combinations

From time to time, the Company may pursue acquisitions of conveyORIZED car wash and related automotive services that either strategically fit with the Company's business or expand the Company's presence in new and attractive markets.

The unaudited condensed consolidated financial statements reflect the operations of an acquired business starting from the effective date of the acquisition. The Company expensed \$53 and \$149 of acquisition-related costs for the three months ended March 31, 2020 and 2021, respectively. These costs are recognized as incurred and are included in general and administrative expenses in the accompanying unaudited condensed consolidated statements of operations and comprehensive income.

For the year ended December 31, 2020 and the three months ended March 31, 2021, the amount of acquired goodwill that is not deductible for income tax purposes was \$5,312 and \$0, respectively.

2020 Acquisitions

For the year ended December 31, 2020, the Company acquired the assets and liabilities of ten car washes in four separate acquisitions for total consideration of approximately \$33,584, which was paid in cash. These acquisitions resulted in the preliminary recognition of \$21,467 of goodwill, \$9,463 of property and equipment, \$830 of intangible assets related to covenants not to compete, and \$1,824 in other assets and liabilities.

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The acquisitions were located in the following markets:

Location (Seller)	Number of Washes	Month Acquired
Florida (Love)	1	January
Washington (Bush)	7	September
Texas (Soapbox Express)	1	November
Florida (Avator)	1	December

2021 Acquisitions

The Company has not consummated any acquisitions during the three months ended March 31, 2021.

15. Dispositions

In December 2020, the Company entered into an Asset Purchase Agreement to sell 27 quick lube facilities for \$55,386 to an unrelated third party, subject to certain inventory value adjustments. The sale of the quick lube facilities is consistent with the Company's focus on growing its car wash business. The sale was effective on December 11, 2020. The disposition of the quick lube facilities did not meet the criteria to be reported as a discontinued operation and accordingly, its results of operations have not been reclassified. A gain totaling \$29,773 was recognized on the sale during the year ended December 31, 2020, which was recorded in loss (gain) on sale of assets in the audited consolidated statements of operations and comprehensive income. The Company allocated \$16,191 of goodwill to the quick lube facilities disposed of in December 2020.

As part of the sale and sublease of the quick lube facilities, the Company agreed to indemnify the buyer/subtenant for certain liabilities if they occurred or arose prior to or on the closing date, subject to a specified cap in some instances. The Company is not aware of any such liabilities or attendant indemnification obligations that require accrual as of March 31, 2021.

Upon the sale of the quick lube facilities in December 2020, the purchaser deposited \$3,000 into an escrow account held by an escrow agent on behalf of the Company for the purpose of any indemnification that may become due to purchaser pursuant to the purchase agreement. The funds will remain in the escrow account until August 2021, at which time the escrow period will have ended. As of March 31, 2021, the \$3,000 in escrow associated with the disposition of the quick lube facilities was recorded in restricted cash in the unaudited condensed consolidated balance sheets.

The Company has not consummated any significant dispositions during the three months ended March 31, 2021.

16. Related-Party Transactions

Leonard Green Partners, the majority owner of the Company, receives \$1,000 annually for various advisory and monitoring services provided to the Company. During the COVID-19 pandemic, these fees were waived for the remainder of 2020. For the three months ended March 31, 2020 and 2021 total fees and expenses paid by the Company to Leonard Green Partners were \$250 and \$250, respectively, and are included general and administrative expenses in the accompanying unaudited condensed consolidated statements of operations and comprehensive income.

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Leonard Green Partners is one of the Company's creditors under the Second Lien Credit Agreement with an investment of \$5,625 allowed through the Amended Second Lien Credit Agreement.

17. Commitments and Contingencies

Litigation

From time to time, the Company is party to pending or threatened lawsuits arising out of or incident to the ordinary course of business. The Company carries professional and general liability insurance coverage and other insurance coverages. In the opinion of management and upon consultation with legal counsel, none of the pending or threatened lawsuits will have a material effect upon the consolidated financial position, operations or cash flows of the Company.

Insurance

The Company carries a broad range of insurance coverage, including general and business auto liability, commercial property, workers' compensation, cyber risk, and a general umbrella policy. As of December 31, 2020 and March 31, 2021, the Company accrued \$2,467 and \$2,269, respectively, for assessments on insurance claims filed, which are included in other accrued expenses in the accompanying unaudited condensed consolidated balance sheets. As of December 31, 2020 and March 31, 2021, the Company recorded \$2,052 and \$1,716, respectively, in receivables from its non-healthcare insurance company related to these insurance claims, which are included in prepaid expenses and other current assets in the accompanying unaudited condensed consolidated balance sheets. The receivables are paid when the claim is finalized and the reserved amounts on these claims are expected to be paid within one year.

Environmental Matters

Operations at certain facilities currently or previously owned or leased by the Company utilize, or in the past have utilized, hazardous substances generally in compliance with applicable law. Periodically, the Company has had minor claims asserted against it by regulatory agencies or private parties for environmental matters relating to the handling of hazardous substances by the Company, and it has incurred obligations for investigations or remedial actions with respect to certain of these matters. There can be no assurances that activities at these facilities, or future facilities owned or operated by the Company, may not result in additional environmental claims being asserted against the Company or additional investigations or remedial actions being required. The Company is not aware of any significant remediation matters as of March 31, 2021. Because of various factors including the difficulty of identifying the responsible parties for any particular site, the complexity of determining the relative liability among them, the uncertainty as to the most desirable remediation techniques and the amount of damages and clean-up costs and the time period during which such costs may be incurred, the Company is unable to reasonably estimate the ultimate cost of claims asserted against the Company related to environmental matters; however, the Company does not believe such costs will be material to its consolidated financial statements.

In addition to potential claims asserted against the Company, there are certain regulatory obligations associated with these facilities. The Company also has third-party specialist to review the sites subject to these regulations annually, for the purpose of assigning future cost. A third party has conducted a preliminary assessment of site restoration provisions arising from these regulations and the Company has recognized a provisional amount. As of March 31, 2021, the Company recorded an environmental remediation accrual of \$76, which is included in other accrued expenses in the accompanying unaudited condensed consolidated balance sheets.

Mister Car Wash, Inc. and Subsidiaries (f/k/a Hotshine Holdings, Inc.)
Notes to Condensed Consolidated Financial Statements
(Dollar amounts in thousands, except per share data)
(Unaudited)

Warranties

The Company has provided certain standard pre-closing warranties in connection with the sale of its quick lube facilities, which closed in December 2020. The pre-closing warranties made by the Company in the related Asset Purchase Agreement survive for six months following the closing date. The Company is not aware of any warranty liabilities with respect to the former quick lube facilities that require accrual as of March 31, 2021.

18. Subsequent Events

The Company has evaluated all subsequent events through May 11, 2021, the date these unaudited condensed consolidated financial statements were available for issuance and concluded that no subsequent events have occurred that would require recognition in the unaudited condensed consolidated financial statements or disclosure in the notes to the unaudited condensed consolidated financial statements that are not already recorded or disclosed.



Shares

Mister Car Wash, Inc.

Common Stock



BofA Securities

Morgan Stanley

Goldman Sachs & Co. LLC

Jefferies

(in alphabetical order)

BMO Capital Markets

UBS Investment Bank

Co-Managers

Nomura

Piper Sandler

Guzman & Company

Loop Capital Markets

Mischler Financial Group, Inc.

R. Seelaus & Co., LLC

Through and including _____, 2021 (the 25th day after the date of this prospectus), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to unsold allotments or subscriptions.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth all the costs and expenses, other than underwriting discounts, payable in connection with the sale of the shares of common stock being registered hereby. Except as otherwise noted, the Registrant will pay all of the costs and expenses set forth in the following table. All amounts shown below are estimates, except the SEC registration fee, the FINRA filing fee and the stock exchange listing fee:

	<u>Amount</u>
SEC registration fee	\$ 10,910
FINRA filing fee	\$ 15,500
Stock exchange listing fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Transfer agent and registrar fees	*
Miscellaneous expenses	*
Total	<u> *</u>

* To be filed by amendment.

Item 14. Indemnification of Directors and Officers

Section 102 of the DGCL allows a corporation to eliminate the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except in cases where the director breached his or her duty of loyalty to the corporation or its stockholders, failed to act in good faith, engaged in intentional misconduct or a knowing violation of the law, willfully or negligently authorized the unlawful payment of a dividend or approved an unlawful stock redemption or repurchase or obtained an improper personal benefit. Our certificate of incorporation contains a provision which eliminates directors' personal liability as set forth above.

Our certificate of incorporation and bylaws provide in effect that we shall indemnify our directors and officers to the extent permitted by Delaware law. Section 145 of the DGCL provides that a Delaware corporation has the power to indemnify its directors, officers, employees and agents in certain circumstances. Subsection (a) of Section 145 of the DGCL empowers a corporation to indemnify any director, officer, employee or agent, or former director, officer, employee or agent, who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding provided that such director, officer, employee or agent acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action or proceeding, provided that such director, officer, employee or agent had no reasonable cause to believe that his or her conduct was unlawful.

Subsection (b) of Section 145 of the DGCL empowers a corporation to indemnify any director, officer, employee or agent, or former director, officer, employee or agent, who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, against expenses (including attorneys' fees) actually and reasonably incurred in connection with the

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defense or settlement of such action or suit provided that such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery shall determine that despite the adjudication of liability such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

Section 145 further provides that to the extent that a director or officer or employee of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsections (a) and (b) or in the defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith; that indemnification provided by Section 145 shall not be deemed exclusive of any other rights to which the party seeking indemnification may be entitled; and the corporation is empowered to purchase and maintain insurance on behalf of a director, officer, employee or agent of the corporation against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such whether or not the corporation would have the power to indemnify him or her against such liabilities under Section 145; and that, unless indemnification is ordered by a court, the determination that indemnification under subsections (a) and (b) of Section 145 is proper because the director, officer, employee or agent has met the applicable standard of conduct under such subsections shall be made by (1) a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (2) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (3) by the stockholders.

We have in effect insurance policies for general officers' and directors' liability insurance covering all of our officers and directors. In addition, we have entered into indemnification agreements with our directors and officers. These indemnification agreements may require us, among other things, to indemnify each such director or officer for certain expenses, including attorneys' fees, judgments, fines and settlement amounts incurred by such director or officer in any action or proceeding arising out of his or her service as one of our directors or officers.

Item 15. Recent Sales of Unregistered Securities

During the three years preceding the filing of this registration statement, we have issued the following securities which were not registered under the Securities Act of 1933, as amended:

- Since January 1, 2018, we have granted stock options to employees, directors and consultants, covering an aggregate of 85,875 shares of our common stock under our 2014 Plan, at exercise prices ranging from \$114.00 to \$471.44 per share, and have issued 9,989 shares of common stock upon exercise of stock options under our 2014 Plan with an aggregate exercise price of \$636,984.60.

We expect to issue shares of our common stock to certain of our employees exercising options in connection with this offering.

The issuances of the securities in the transactions described above were deemed to be exempt from registration under the Securities Act in reliance upon Section 4(a)(2) of the Securities Act or Rules 506 and 701 promulgated thereunder. The securities were issued directly by the registrant and did not involve a public offering or general solicitation. The recipients of such securities represented their intentions to acquire the securities for investment purposes only and not with a view to, or for sale in connection with, any distribution thereof.

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Item 16. Exhibits and Financial Statement Schedules

(a) Exhibits.

<u>Exhibit No.</u>	<u>Exhibit Description</u>
1.1*	Form of Underwriting Agreement
3.2*	Form of Amended and Restated Certificate of Incorporation of the Company, to be effective upon the consummation of this offering
3.4*	Form of Amended and Restated Bylaws of the Company, to be effective upon the consummation of this offering
5.1*	Opinion of Latham & Watkins LLP
10.1	<u>Amended and Restated First Lien Term Loan Agreement, dated May 14, 2019, by and among Mister Car Wash Holdings, Inc. and the parties thereto named therein</u>
10.1(a)	<u>First Amendment to the Amended and Restated First Lien Term Loan Agreement, dated February 5, 2020, by and among Mister Car Wash Holdings, Inc. and the parties thereto named therein</u>
10.2	<u>Second Lien Term Loan Agreement, dated May 14, 2019, by and among Mister Car Wash Holdings, Inc. and the parties thereto named therein</u>
10.2(a)	<u>First Amendment to the Second Lien Term Loan Agreement, dated March 31, 2020, by and among Mister Car Wash Holdings, Inc. and the parties thereto named therein</u>
10.3+	<u>2014 Stock Option Plan of Hotshine Holdings, Inc.</u>
10.3(a)+	<u>Form of Option Agreement under the 2014 Stock Option Plan of Hotshine Holdings, Inc.</u>
10.4+*	Mister Car Wash, Inc. 2021 Incentive Award Plan
10.5+*	Non-Employee Director Compensation Policy
10.6+*	Form of Indemnification Agreement
10.7+*	Employment Agreement with John Lai
10.8*	Form of Amended and Restated Stockholder Agreement
10.9*	Employment Agreement, dated March 4, 2014, by and between Car Wash Partners, Inc. and John Lai
10.10+*	Form of Option Agreement under the Mister Car Wash, Inc. 2021 Incentive Award Plan
10.11+*	Form of RSU Agreement under the Mister Car Wash, Inc. 2021 Incentive Award Plan
10.12+*	Mister Car Wash, Inc. 2021 Employee Stock Purchase Plan
21.1	<u>List of subsidiaries of Mister Car Wash, Inc.</u>
23.1	<u>Consent of Deloitte & Touche LLP, independent registered public accounting firm</u>
23.2*	Consent of Latham & Watkins LLP (included in Exhibit 5.1)
24.1	<u>Power of Attorney (included on signature page)</u>

* To be filed by amendment.

+ Management arrangement

(b) Financial Statement Schedules.

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or the notes thereto.

Item 17. Undertakings

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

- (1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.
- (2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Tucson, State of Arizona on this 1st day of June, 2021.

MISTER CAR WASH

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Chief Financial Officer

POWER OF ATTORNEY

We, the undersigned officers and directors of Mister Car Wash, Inc. hereby severally constitute and appoint John Lai and Jedidiah Gold, and each of them, with full power of substitution and resubstitution and full power to act without the other, as his or her true and lawful attorney-in-fact and agent to act in his or her name, place and stead and to execute in the name and on behalf of each person, individually and in each capacity stated below, and to sign any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them or their or his substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ John Lai</u> John Lai	Chief Executive Officer and Director (principal executive officer)	June 1, 2021
<u>/s/ Jedidiah Gold</u> Jedidiah Gold	Chief Financial Officer (principal financial and accounting officer)	June 1, 2021
<u>/s/ John Danhakl</u> John Danhakl	Director	June 1, 2021
<u>/s/ Jonathan Seiffer</u> Jonathan Seiffer	Director	June 1, 2021
<u>/s/ J. Kristofer Galashan</u> J. Kristofer Galashan	Director	June 1, 2021
<u>/s/ Jeffrey Suer</u> Jeffrey Suer	Director	June 1, 2021

AMENDED AND RESTATED FIRST LIEN CREDIT AGREEMENT

dated as of May 14, 2019

by and among

MISTER CAR WASH HOLDINGS, INC.,
as Borrower

HOTSHINE INTERMEDIATECO, INC.,
as Holdings

JEFFERIES FINANCE LLC,
as Administrative Agent and Collateral Agent

and

THE LENDERS PARTY HERETO

Jefferies Finance LLC, BMO Capital Markets Corp., UBS Securities LLC and Nomura Securities
International, Inc.,
as Joint Lead Arrangers and Joint Bookrunners

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B-3	Swing Line Note
C	Compliance Certificate
D-1	Assignment and Assumption
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E	Guaranty
F	Security Agreement
G-1	Non-Bank Certificate (For Foreign Lenders That Are Not Partnerships or Pass-Thru Entities For U.S. Federal Income Tax Purposes)
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AMENDED AND RESTATED FIRST LIEN CREDIT AGREEMENT

This AMENDED AND RESTATED FIRST LIEN CREDIT AGREEMENT is entered into as of May 14, 2019, by and among MISTER CAR WASH HOLDINGS, INC., a Delaware corporation (the “**Borrower**”), HOTSHINE INTERMEDIATECO, INC., a Delaware corporation (“**Holdings**”), JEFFERIES FINANCE LLC (“**Jefferies Finance**”), as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”) and as collateral agent (in such capacity, including any successor thereto, the “**Collateral Agent**”) under the Loan Documents, each Issuing Bank from time to time party hereto, each financial institution listed on the signature pages hereto as an agent, Jefferies Finance, BMO CAPITAL MARKETS CORP. (“**BMOCM**”), UBS SECURITIES LLC (“**UBS**”) and NOMURA SECURITIES INTERNATIONAL, INC. (together with its affiliates, “**Nomura**”), as joint lead arrangers and joint bookrunners (collectively, the “**Lead Arrangers**”), and each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, a “**Lender**”).

PRELIMINARY STATEMENTS

The Borrower, the Administrative Agent and certain lenders are party to that certain First Lien Credit Agreement, dated as of August 21, 2014 (as amended by that certain Amendment No. 1 to Credit Agreement, dated as of September 25, 2014, as amended by that certain Incremental Amendment No. 1, dated as of June 30, 2016, as amended by that certain Second Incremental Amendment, dated as of December 14, 2016, as amended by the that certain Third Incremental Amendment to Credit Agreement, dated as of June 15, 2017, as amended by that certain Fourth Incremental Amendment, dated as of December 18, 2017, as amended by that certain Fifth Incremental Amendment, dated as of December 7, 2018, and as amended by that certain Sixth Incremental Amendment, dated as of March 29, 2019, the “**Existing Credit Agreement**”).

The parties hereto wish to completely amend, restate and modify (but not extinguish) the Existing Credit Agreement through the execution of this Agreement.

The Borrower has requested that (a) substantially simultaneously with the satisfaction of the conditions precedent set forth in Article IV below, the Lenders extend credit to the Borrower in the form of (i) \$800,000,000.00 of Initial Term Loans, (ii) \$40,000,000.00 of Delayed Draw Commitments on the Closing Date and \$75,000,000.00 of Revolving Commitments on the Closing Date as a first lien secured credit facility and (b) from time to time, the Revolving Lenders make Revolving Loans, the Swing Line Lender to make Swing Line Loans and the Issuing Banks issue Letters of Credit, pursuant to the terms of this Agreement.

On the Closing Date, the Borrower will enter into the Second Lien Credit Agreement pursuant to which the lenders party thereto will extend credit to the Borrower in the form of \$225,000,000.00 of Second Lien Term Loans.

The proceeds of the Initial Term Loans, together with the proceeds of the Second Lien Term Loans, will be used on the Closing Date (a) to repay the Existing Debt, (b) to pay the Transaction Expenses, (c) for working capital and other purposes permitted by this Agreement and (d) to make the Specified Dividend.

The applicable Lenders have indicated their willingness to lend, and each Issuing Bank has indicated its willingness to issue Letters of Credit, in each case on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
Definitions and Accounting Terms

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

“**Additional Lender**” means, at any time, any bank, other financial institution or institutional investor that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Loan in accordance with Section 2.16 or (b) Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.17; *provided* that each Additional Lender (other than any Person that is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender at such time) shall be subject to the approval of the Administrative Agent, the Swing Line Lender and/or the Issuing Banks (such approval not to be unreasonably withheld, conditioned or delayed), in each case to the extent any such consent would be required from the Administrative Agent, the Swing Line Lender and/or the Issuing Banks under Section 11.07(b)(iii)(B), (C), and/or (D), respectively, for an assignment of Loans to such Additional Lender.

“**Adjusted Eurocurrency Rate**” means, with respect to any Borrowing of Eurocurrency Rate Loans for any Interest Period, an interest rate *per annum* equal to (a) with respect to Eurocurrency Rate Loans denominated in any Alternative Currency, the Eurocurrency Rate based on clause (b) or (c) of the definition of “Eurocurrency Rate” for such Interest Period and (b) with respect to Eurocurrency Rate Loans denominated in Dollars, the Eurocurrency Rate based on clause (a) of the definition of “Eurocurrency Rate” for such Interest Period *multiplied by* the Statutory Reserve Rate; *provided* that, notwithstanding the foregoing, the “Adjusted Eurocurrency Rate” shall in no event be less than (1) 0.00% *per annum* with respect to (a) Initial Term Loans and the Delayed Draw Term Loans made to the Borrower pursuant to Section 2.01(a) and (b) all other Term Loans unless an alternate Eurocurrency Rate floor is specifically noted in the documentation with respect to such other Term Loans or such documentation with respect to such other Term Loans specifically provides that there shall be no Eurocurrency Rate floor and (2) 0.00% *per annum* with respect to all Revolving Loans. The Adjusted Eurocurrency Rate will be adjusted automatically as to all Borrowings of Eurocurrency Rate Loans then outstanding as of the effective date of any change in the Statutory Reserve Rate.

“**Administrative Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Affiliate**” means, with respect to any 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. “**Control**” means 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 ability to exercise voting power, by contract or otherwise. “**Controlled**” has the meaning correlative thereto. For the avoidance of doubt, none of the Lead Arrangers, the Agents or their respective lending affiliates shall be deemed to be an Affiliate of Holdings, the Borrower or any of their respective Subsidiaries. For purposes of this Agreement and the other Loan Documents, Jefferies LLC and its Affiliates shall be deemed to be Affiliates of Jefferies and its Affiliates.

“**Affiliated Debt Fund**” means (a) any Affiliate of a Sponsor that is a *bona fide* bank, debt fund, distressed asset fund, hedge fund, mutual fund, insurance company, financial institution or an investment vehicle that is engaged in the business of investing in, acquiring or trading commercial loans, bonds and similar extensions of credit in the ordinary course, in each case, that is not organized primarily for the purpose of making equity investments and (b) any investment fund or account of a Permitted Investor managed by third parties (including by way of a managed account, a fund or an index fund in which a Permitted Investor has invested) that is not organized or used primarily for the purpose of making equity investments, in each case of clauses (a) and (b), with respect to which neither the Sponsor, nor any other Permitted Investor, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity.

“**Affiliated Lender**” means, at any time, any Lender that is either the Sponsor or an Affiliate of the Sponsor, at such time, excluding in any case, (a) Holdings, (b) the Borrower, (c) any Subsidiary of the Borrower and (d) any natural person.

“**Affiliated Lender Term Loan Cap**” has the meaning specified in Section 11.07(h)(iii).

“**Agency Fee Letter**” means the Agency Fee Letter, dated May 14, 2019, among the Borrower, Holdings and Jefferies Finance, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms thereof.

“**Agent Parties**” has the meaning specified in Section 11.02(e).

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, shareholders, employees, agents, attorney-in-fact, partners, trustees, advisors and other representatives of such Persons and of such Persons’ Affiliates.

“**Agents**” means, collectively, the Administrative Agent, the Collateral Agent, the Joint Bookrunners, the Supplemental Administrative Agents (if any) and the Lead Arrangers.

“**Aggregate Commitments**” means the Commitments of all the Lenders.

“**Agreement**” means this First Lien Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“**All-In Yield**” means, as to any Indebtedness or Loans of any Class, the yield thereof, whether in the form of interest rate, margin, OID, upfront fees, a Eurocurrency Rate floor or Base Rate floor to the extent greater than 0.00% *per annum* or 1.00% *per annum*, respectively (with such increased amount being equated to interest margins for purposes of determining any increase to the Applicable Rate); *provided* that (a) OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of its incurrence of the applicable Indebtedness) and (b) “All-In Yield” shall not include any arrangement fees, structuring fees, underwriting fees, commitment fees, amendment fees, ticking fees or any other fees similar to the foregoing (regardless of how such fees are computed or to whom paid).

“**Alternative Currencies**” means, (a) in the case of Revolving Loans and Letters of Credit, Euros, Pounds Sterling and any other currency agreed to by the Administrative Agent, the Borrower and each Revolving Lender (and, solely in the case of Letters of Credit, the applicable Issuing Bank) and (b) in the case of any Incremental Term Facility, Incremental Term Loans, Refinancing Term Commitments or Refinancing Term Loans, any currency agreed to by the Administrative Agent, the Borrower and each Lender providing such Incremental Term Facility, Incremental Term Loans, Refinancing Term

Commitments or Refinancing Term Loans; *provided* that, in each case, each such other currency is a lawful currency that is readily available, freely transferable and not restricted, able to be converted into Dollars and available in the London interbank deposit market.

“**Annual Financial Statements**” means the audited consolidated balance sheets of the Borrower as of December 31, 2018 and December 31, 2017, and the related consolidated statements of operations, changes in stockholders’ equity and cash flows for the Borrower for the fiscal years (or partial fiscal years) then ended.

“**Applicable Commitment Fee**” means a percentage *per annum* that shall be equal to,

(a) from the Closing Date until the third Business Day after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 6.02(a) calculating the First Lien Net Leverage Ratio in respect of the first full fiscal quarter ending after the Closing Date, 0.50% *per annum*, and

(b) thereafter, the applicable rate *per annum* set forth below under the caption “Applicable Commitment Fee” based upon the First Lien Net Leverage Ratio as of the last day of the most recent Test Period as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

<u>First Lien Net Leverage Ratio</u>	<u>Applicable Commitment Fee</u>
Above 4.83 to 1.00	0.500%
Equal to or below 4.83 to 1.00, but above 4.33 to 1.00	0.375%
Equal to or below 4.33 to 1.00	0.250%

No change in the Applicable Commitment Fee shall be effective until three Business Days after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 6.02(a) calculating the First Lien Net Leverage Ratio. At any time the Borrower has not submitted to the Administrative Agent the applicable information as and when required under Section 6.02(a), the Applicable Commitment Fee shall be determined as if the First Lien Net Leverage Ratio were in excess of 4.83 to 1.00. Within one Business Day of receipt of the applicable information under Section 6.02(a), the Administrative Agent shall give each Lender telefacsimile or telephonic notice (confirmed in writing) of the Applicable Commitment Fee in effect from such date. In the event that any financial statement or certificate delivered pursuant to Section 6.02 is determined to be inaccurate (at a time prior to the satisfaction of the Termination Conditions), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Commitment Fee for any period (an “**Applicable Period**”) than the Applicable Commitment Fee applied for such Applicable Period, then (a) the Borrower shall promptly (and in any event within five Business Days) following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 6.02 for such Applicable Period, (b) the Applicable Commitment Fee 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) 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 amounts owing as a result of such increased Applicable Commitment Fee for such Applicable Period. Notwithstanding anything to the contrary set forth herein, the provisions of this paragraph may be amended or waived with the consent of only the Borrower and the Required Revolving Lenders.

“**Applicable Indebtedness**” has the meaning specified in the definition of “Weighted Average Life to Maturity.”

“**Applicable Period**” has the meaning specified in the definition of “Applicable Commitment Fee.”

“**Applicable Rate**” means:

(a) with respect to Initial Term Loans and Delayed Draw Term Loans, a percentage *per annum* equal to (i) for Eurocurrency Rate Loans, 3.50% and (ii) for Base Rate Loans, 2.50%; *provided* that from and after the third Business Day after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 6.02(a) calculating the First Lien Net Leverage Ratio in respect of the first full fiscal quarter ending after the Closing Date, the “Applicable Rate” for Initial Term Loans shall be the applicable rate *per annum* set forth below under the caption “Alternate Base Rate Spread” or “Eurodollar Rate Spread,” respectively, based upon the First Lien Net Leverage Ratio as of the last day of the most recent Test Period as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

First Lien Net Leverage Ratio	Alternate Base Rate Spread	Eurodollar Rate Spread
Above 4.83 to 1.00	2.50%	3.50%
Equal to or below 4.33 to 1.00	2.25%	3.25%

(b) with respect to Revolving Loans a percentage *per annum* equal to, (i) for Eurocurrency Rate Loans, 3.50% and (ii) for Base Rate Loans, 2.50%; *provided* that from and after the third Business Day after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 6.02(a) calculating the First Lien Net Leverage Ratio in respect of the first full fiscal quarter ending after the Closing Date, the “Applicable Rate” for Revolving Loans shall be the applicable rate *per annum* set forth below under the caption “Alternate Base Rate Spread” or “Eurodollar Rate Spread,” respectively, based upon the First Lien Net Leverage Ratio as of the last day of the most recent Test Period as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

First Lien Net Leverage Ratio	Alternate Base Rate Spread	Eurodollar Rate Spread
Above 4.83 to 1.00	2.50%	3.50%
Equal to or below 4.83 to 1.00, but above 4.33 to 1.00	2.25%	3.25%
Equal to or below 4.33 to 1.00	2.00%	3.00%

(c) with respect any Term Loans (other than Initial Term Loans and Delayed Draw Term Loans), as specified in the applicable Incremental Amendment, Extension Amendment or Refinancing Amendment.

No change in the Applicable Rate for Revolving Loans, Initial Term Loans or Delayed Draw Term Loans, as applicable, shall be effective until three Business Days after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 6.02(a) calculating the First Lien Net Leverage Ratio. At any time the Borrower has not submitted to the Administrative Agent the applicable information as and when required under Section 6.02(a), the Applicable Rate for Revolving Loans, Initial Term Loans and Delayed Draw Term Loans shall be determined as if the First Lien Net Leverage Ratio were in excess of 4.83 to 1.00. Within one Business Day of receipt of the applicable information under Section 6.02(a), the Administrative Agent shall give each Lender facsimile or telephonic notice (confirmed in writing) of the Applicable Rate in effect from such date. In the event that any financial statement or certificate delivered pursuant to Section 6.02 is determined to be inaccurate (at a time prior to the satisfaction of the Termination Conditions), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Rate for any period (an “**Applicable Period**”) than the Applicable Rate applied for such Applicable Period, then (a) the Borrower shall promptly (and in any event within five Business Days) following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 6.02 for such Applicable Period, (b) the Applicable Rate 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) 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 owing as a result of such increased Applicable Rate for such Applicable Period. Notwithstanding anything to the contrary set forth herein, the provisions of this paragraph may be amended or waived with respect to any Class with the consent of only the Borrower and the Required Lenders of such Class (or in the case of the rate specified in the preceding sentence, all affected Lenders of such Class).

“**Appropriate Lender**” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

“**Approved Fund**” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“**Asset Sale Prepayment Percentage**” means (a) 100%, if the Borrower’s First Lien Net Leverage Ratio at the end of the immediately preceding fiscal year equals or exceeds the Closing Date First Lien Net Leverage Ratio less 0.50 to 1.00, (b) 50%, if such First Lien Net Leverage Ratio is less than the Closing Date First Lien Net Leverage Ratio less 0.50 to 1.00, but equals or exceeds the Closing Date First Lien Net Leverage Ratio less 1.00 to 1.00, and (c) 0%, if such First Lien Net Leverage Ratio is less than the Closing Date First Lien Net Leverage Ratio less 1.00 to 1.00.

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D-1 or any other form approved by the Administrative Agent.

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

“**Attributable Indebtedness**” means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“**Auction Agent**” means (a) the Administrative Agent or (b) any other financial institution or advisor employed by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Loan Prepayment; *provided* that the Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); *provided, further*, neither the Borrower nor any of its Affiliates may act as the Auction Agent.

“**Auto-Renewal Letter of Credit**” has the meaning specified in Section 2.04(b)(iii).

“**Available Amount**” means, at any time (the “**Reference Date**”) with respect to the applicable Available Amount Reference Period, a cumulative amount equal to the sum of, without duplication:

(a) the greater of (A) 50% of Closing Date EBITDA and (B) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination; *plus*

(b) an amount equal to, at the option of the Borrower at the time of determination, either:

(i) the sum of (x) the cumulative amount of Excess Cash Flow for such Available Amount Reference Period; *provided* that when measuring such amount (A) Excess Cash Flow will be deemed not to be less than zero in any fiscal year and (B) Excess Cash Flow for any fiscal year will be deemed to be zero until the financial statements required to be delivered pursuant to Section 6.01(a) for such fiscal year, and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a) for such fiscal year, have been received by the Administrative Agent, *minus* (y) the portion of such Excess Cash Flow that has been (or is required to be) applied to the prepayment of Term Loans in accordance with Section 2.07(b)(i); or

(ii) 50% of cumulative Consolidated Net Income for such Available Amount Reference Period; *provided* that when measuring such amount (A) Consolidated Net Income will be deemed not to be less than zero in any fiscal year and (B) Consolidated Net Income for any fiscal year will be deemed to be zero until the financial statements required to be delivered pursuant to Section 6.01(a) for such fiscal year, and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a) for such fiscal year, have been received by the Administrative Agent; *plus*

(c) new public or private Permitted Equity Issuances made in return for cash or other assets and cash and Cash Equivalents to the Borrower (with non-cash contributions and Permitted Equity Issuances in exchange for assets other than cash measured at the fair market value of such non-cash contributions and Permitted Equity Issuances at the time they were made), or Net Cash Proceeds from Permitted Equity Issuances received by the Borrower during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date and, in each case, to the extent Not Otherwise Applied; *plus*

(d) to the extent not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the aggregate amount of all cash dividends and other cash distributions received by the Borrower or any Restricted Subsidiary from any Minority Investments or Unrestricted Subsidiaries during the period from and including the

Business Day immediately following the Closing Date through and including the Reference Date in respect of Investments in such Unrestricted Subsidiary or Minority Investments made by the Borrower or any Restricted Subsidiary made in reliance on the Available Amount; plus

(e) to the extent not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the Investments of the Borrower and its Restricted Subsidiaries in any Unrestricted Subsidiary that has been re-designated as a Restricted Subsidiary or that has been merged or consolidated with or into the Borrower or any of its Restricted Subsidiaries (up to the lesser of (i) the fair market value of such investments of the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary at the time of such re-designation or merger or consolidation and (ii) the fair market value of such investments by the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary at the time they were made); plus

(f) to the extent not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment or required to be applied to prepay Term Loans in accordance with Section 2.07(b)(ii), the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the sale, transfer or other disposition of its ownership interest in any Minority Investment or Unrestricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date, in each case, to the extent that the original Investments in such Unrestricted Subsidiary or Minority Investments were made in reliance on the Available Amount; plus

(g) to the extent (i) not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment and (ii) not in excess of the fair market value of such Investment at the time it was made, the returns (including repayments of principal and payments of interest), profits, distributions and similar amounts received in cash or Cash Equivalents by the Borrower and its Restricted Subsidiaries on Investments made by the Borrower or any Restricted Subsidiary in reliance on the Available Amount; plus

(h) any amount of mandatory prepayments required to be prepaid pursuant to Section 2.07(b) that have been declined by Lenders and retained by the Borrower in accordance with Section 2.07(b)(vii) (but only to the extent also declined by lenders of (i) the Second Lien Term Loans under the Second Lien Credit Documents, (ii) any Second Lien Credit Agreement Refinancing Indebtedness, (iii) any incremental facility permitted under the Second Lien Credit Agreement (including any Incremental Equivalent Debt (as defined in the Second Lien Credit Agreement)), (iv) any other senior secured Indebtedness of the Borrower, and (v) any Permitted Refinancing in respect of the foregoing, in each case to the extent required to be applied to offer to repurchase or otherwise prepay such Indebtedness); plus

(i) any amount of Net Cash Proceeds from Dispositions or Casualty Events not required to be applied to a mandatory prepayment pursuant to Section 2.07(b)(ii); minus

(j) the aggregate amount of any Investments made pursuant to Section 7.02(e)(ii), any Restricted Payments made pursuant to Section 7.06(o)(ii) and any payment made pursuant to Section 7.10(a)(v)(B) during the period commencing on the Closing Date and ending on the Reference Date (and, for purposes of this clause (j), without taking account of the intended usage of the Available Amount on such Reference Date in the contemplated transaction).

Notwithstanding anything to the contrary, to the extent any Excess Cash Flow is not applied to make a prepayment pursuant to Section 2.07(b)(i) by virtue of the application of Section 2.07(b)(vi), such Excess Cash Flow shall not under any circumstances increase the Available Amount.

“**Available Amount Reference Period**” means, with respect to any Reference Date, the period commencing on (i) with respect to the calculation of clause (b) of the definition of “Available Amount,” the first Business Day of fiscal year 2020 and ending on the last day of the most recent fiscal year for which financial statements required to be delivered pursuant to Section 6.01(a), and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a), have been received by the Administrative Agent and (ii) with respect to the calculation of “Available Amount” (other than clause (b) of the definition thereof) the day after the Closing Date through and including the Reference Date.

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

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

“**Base Rate**” means for any day a fluctuating rate *per annum* equal to the highest of (a) the Federal Funds Rate *plus* 1/2 of 1%, (b) the rate of interest *per annum* last quoted by The Wall Street Journal or, if The Wall Street Journal ceases to quote such rate, the highest *per annum* interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent) as being the “Prime Rate” in the United States for such day or, if more than one rate is published as the “Prime Lending Rate”, the highest of such rates, and (c) the Adjusted Eurocurrency Rate on such day for an Interest Period of one month *plus* 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day); *provided* that, notwithstanding the foregoing, the “Base Rate” (1) with respect to any Initial Term Loans and the Delayed Draw Term Loans shall in no event be less than 1.00% *per annum*, (2) with respect to any Revolving Loans shall in no event be less than 1.00% *per annum* and (3) shall not be available as to any Alternate Currency.

“**Base Rate Loan**” means a Loan that bears interest based on the Base Rate.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

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

“**Benefit Plan**” means 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”.

“**BMOCM**” has the meaning specified in the introductory paragraph to this Agreement.

“**Board of Directors**” means, as to any Person, the board of directors, board of managers or other governing body of such Person, or if such Person is owned or managed by a single entity, the board of

directors, board of managers or other governing body of such entity, and the term “directors” means members of the Board of Directors.

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

“**Borrower Materials**” has the meaning specified in [Section 6.02](#).

“**Borrowing**” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Rate Loans, having the same Interest Period.

“**Business Day**” means (a) any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the jurisdiction where the Administrative Agent’s Office is located (which, as of the date of this Agreement, is New York, New York) and if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market and (b) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan or Letter of Credit denominated in an Alternative Currency, any fundings, settlements, payments and disbursements in such Alternative Currency, or any other dealings in such Alternative Currency to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan or Letter of Credit, means any such day described in clause (a) above which is also a day on which dealings in deposits in such Alternative Currency are conducted by and between banks in the London interbank market and (other than any date that relates to any interest rate setting in respect of such Alternative Currency) any such day on which banks are open for foreign exchange business in the principal financial center of the country of such Alternative Currency.

“**Capital Expenditures**” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Leases) by the Borrower and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of the Borrower and the Restricted Subsidiaries.

“**Capitalized Lease Obligation**” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“**Capitalized Leases**” means all capital and finance leases that have been or are required to be, in accordance with GAAP as in effect on the Closing Date, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP as in effect on the Closing Date.

“**Captive Insurance Subsidiary**” means any Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Subsidiary thereof).

“**Cash Collateral Account**” means an account held at, and subject to the sole dominion and control of, the Collateral Agent.

“**Cash Collateralize**” means, in respect of an Obligation, to provide and pledge (as a first priority perfected security interest) cash collateral in Dollars, at a location and pursuant to documentation in form

and substance satisfactory to Administrative Agent, the Swing Line Lender or an Issuing Bank, as applicable (and “**Cash Collateralization**” has a corresponding meaning). “**Cash Collateral**” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“**Cash Equivalents**” means any of the following types of Investments (including for the avoidance of doubt, cash), to the extent owned by the Borrower or any Restricted Subsidiary:

- (a) Dollars and each Alternative Currency;
- (b) local currencies held by the Borrower or any Restricted Subsidiary from time to time in the ordinary course of business and not for speculation;
- (c) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 12 months or less from the date of acquisition;
- (d) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than \$500,000,000 (or the foreign currency equivalent thereof as of the date of such investment);
- (e) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clause (h) below entered into with any financial institution meeting the qualifications specified in clause (d) above;
- (f) commercial paper rated at least P-2 by Moody’s or at least A-2 by S&P (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and in each case maturing within 12 months after the date of creation thereof;
- (g) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);
- (h) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof, in each case having an Investment Grade Rating from either Moody’s or S&P (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition;
- (i) 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 neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

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- (j) investment funds investing substantially all of their assets in securities of the types described in clauses (a) through (i) above; and
 - (k) solely with respect to any Captive Insurance Subsidiary, any investment that a Captive Insurance Subsidiary is not prohibited to make in accordance with applicable law.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a jurisdiction outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (j) above in foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (j) above and in this paragraph. Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (a) or (b) above; *provided* that such amounts, except amounts used to pay obligations of the Borrower or any Restricted Subsidiary denominated in any currency other than Dollars or an Alternative Currency in the ordinary course of business, are converted into Dollars or an Alternative Currency as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

“Cash Management Bank” means any Person that is a Lender or Agent or an Affiliate of a Lender or Agent (a) on the Closing Date (with respect to any Cash Management Services entered into prior to the Closing Date), (b) at the time it initially provides any Cash Management Services to the Borrower or any Restricted Subsidiary, or (c) at the time that the Person to whom the Cash Management Services are provided is merged with the Borrower or becomes or is merged with a Restricted Subsidiary (with respect to any Cash Management Services entered into prior to the date of such merger or such Person becoming a Restricted Subsidiary), in each case whether or not such Person subsequently ceases to be a Lender or Agent or an Affiliate of a Lender or Agent.

“Cash Management Obligations” means obligations owed by the Borrower or any Restricted Subsidiary to any Cash Management Bank in respect of or in connection with any Cash Management Services and designated by the Cash Management Bank and the Borrower in writing to the Administrative Agent as “Cash Management Obligations.”

“Cash Management Services” means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

“Casualty Event” means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement), (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173), all Laws relating thereto, all interpretations and applications thereof and any compliance by a Lender with any and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith

or in implementation thereof or relating thereto and (ii) all requests, rules, guidelines, requirements or directives issued by any United States or foreign regulatory authority in connection with the implementation of the recommendations of the Bank for International Settlements or the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to be adopted subsequent to the date hereof and a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

“**Change of Control**” means the earliest to occur of:

(a) either:

(i) at any time prior to the consummation of a Qualifying IPO, the Permitted Holders ceasing to beneficially own (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), in the aggregate, directly or indirectly, a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Holdings (or Successor Holdings, if applicable); or

(ii) at any time upon or after the consummation of a Qualifying IPO, any Person (other than a Permitted Holder) or Persons (other than one or more Permitted Holders) constituting a “group” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person and its Subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becoming the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of Equity Interests representing more than thirty-five percent of the aggregate ordinary voting power represented by the then issued and outstanding Equity Interests of Holdings (or Successor Holdings, if applicable) and the percentage of aggregate ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests of Holdings (or Successor Holdings, if applicable) beneficially owned (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, in the aggregate by the Permitted Holders,

unless, in the case of either clause (a)(i) or (a)(ii) above, the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election 50% or more of the Board of Directors of Holdings or Successor Holdings, if applicable;

(b) after giving effect to the Transactions on the Closing Date, the Borrower ceasing to be a direct wholly owned Subsidiary of Holdings (or Successor Holdings, if applicable); and

(c) a Change of Control or similar event occurring under (i) the Second Lien Credit Agreement (or the documentation in respect of any Permitted Refinancing of the Second Lien Term Loans), (ii) the documentation in respect of any Credit Agreement Refinancing Indebtedness and/or (iii) any Junior Financing Documentation in respect of any Indebtedness or the documentation governing any Junior Lien Debt, in each case with respect to this clause (c), having an aggregate outstanding principal amount equal to or greater than the Threshold Amount.

“**Class**” when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Term Loans (including Initial Term Loans and any Delayed Draw Term Loans), Revolving Loans, Swing Line Loans, Incremental Term Loans, Incremental Revolving Loans, Refinancing Term Loans, Refinancing Revolving Loans, Extended Term Loans or Extended Revolving Loans, (b) any Commitment, refers to whether such Commitment is a Commitment in respect

of Term Loans (including Initial Term Loans and any Delayed Draw Term Loans) made to the Borrower pursuant to Section 2.01(a), Revolving Loans, Swing Line Loans, Refinancing Term Commitment (and, in the case of a Refinancing Term Commitment, the Class of Loans to which such commitment relates), Refinancing Revolving Commitment (and, in the case of a Refinancing Revolving Commitment, the Class of Loans to which such commitment relates) or a Commitment in respect of a Class of Loans to be made pursuant to an Incremental Amendment or an Extension Amendment and (c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Refinancing Term Commitments, Refinancing Revolving Commitments, Refinancing Term Loans, Refinancing Revolving Loans, Incremental Term Loans and Extended Term Loans that have different terms and conditions shall be construed to be in different Classes.

“**Closing Date**” means the first date on which all of the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 11.01 and the Term Loans are made to the Borrower pursuant to the first sentence of Section 2.01(a).

“**Closing Date EBITDA**” means \$150,000,000.

“**Closing Date First Lien Net Leverage Ratio**” means 5.33 to 1.00.

“**Closing Date Intercreditor Agreement**” means the Junior Lien Intercreditor Agreement, dated as of the Closing Date, by and among the Collateral Agent, as the initial first priority representative, the Second Lien Collateral Agent, as the initial second priority representative, and each additional representative from time to time party thereto, as acknowledged by the Loan Parties, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“**Closing Date Refinancing**” means the repayment of the Existing Debt, the termination of any related commitments thereunder and the termination, release or authorization to terminate or release all contractual Liens related thereto, in each case on or about the Closing Date.

“**Closing Date Secured Net Leverage Ratio**” means 7.00 to 1.00.

“**Closing Date Total Net Leverage Ratio**” means 7.25 to 1.00.

“**Closing Fee**” has the meaning specified in Section 2.11(e).

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“**Collateral**” means all the “Collateral” (or equivalent term) as defined in any Collateral Document, the Mortgaged Properties and all other property that is subject or purported to be subject to any Lien in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to any Collateral Document.

“**Collateral Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Collateral Documents**” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages, each of the collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Agents and the Lenders pursuant to Sections 4.01(a)(iii), 6.11, 6.12 or 6.15 or pursuant to the Existing Credit Agreement, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“**Commitments**” means the Revolving Commitments, the Delayed Draw Term Loan Commitments and the Term Loan Commitments.

“**Committed Loan Notice**” means a notice of a Borrowing pursuant to Article II, which, if in writing, shall be substantially in the form of Exhibit A-1.

“**Company**” has the meaning specified in the preliminary statements to this Agreement.

“**Compliance Certificate**” means a certificate substantially in the form of Exhibit C.

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

“**Consolidated Adjusted EBITDA**” means, with respect to any Person for any Test Period, the Consolidated Net Income of such Person for such Test Period:

(a) increased, without duplication, by the following items (solely to the extent deducted (and not excluded) in calculating Consolidated Net Income, other than in respect of the proviso in clause (i) below and clauses (ii)(B), (xi) and (xix) below) of such Person and its Restricted Subsidiaries for such Test Period determined on a consolidated basis in accordance with GAAP:

(i) interest expense, including (A) imputed interest on Capitalized Lease Obligations and Attributable Indebtedness (which, in each case, will be deemed to accrue at the interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligations or Attributable Indebtedness), (B) commissions, discounts and other fees, charges and expenses owed with respect to letters of credit securing financial obligations, bankers’ acceptance financing and receivables financings, (C) amortization and write-offs of deferred financing fees, debt issuance costs, debt discount, commissions, fees, premium and other expenses, as well as expensing of bridge, commitment or financing fees, (D) payments made in respect of hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, (E) cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than such Person or a wholly-owned Restricted Subsidiary) in connection with Indebtedness incurred by such plan or trust, (F) all interest paid or payable with respect to discontinued operations, (G) the interest portion of any deferred payment obligations, and (H) all interest on any Indebtedness that is (x) Indebtedness of others secured by any Lien on property owned or acquired by such Person or its Restricted Subsidiaries, whether or not the obligations secured thereby have been assumed, but limited to the fair market value of such property or (y) contingent obligations in respect of Indebtedness; *provided* that that such interest expense shall be calculated after giving effect to Hedge Agreements related to interest rates (including associated costs), but excluding unrealized gains and losses with respect to such Hedge Agreements; *plus*

(ii) taxes based on gross receipts, income, profits or capital, franchise, excise, commercial activity, unitary or similar taxes, and foreign withholding taxes, including (A) penalties and interest and (B) tax distributions made to any direct or indirect holders of Equity Interests of such Person in respect of any such taxes attributable to such Person and/or its Restricted Subsidiaries; *plus*

(iii) depreciation expense and amortization expense; plus

(iv) non-cash items (*provided* that if any such non-cash item represents an accrual or reserve for potential cash items in any future period, (x) the Borrower may determine not to add back such non-cash item in the current Test Period and (y) to the extent the Borrower decides to add back such non-cash expense or charge, the cash payment in respect thereof in such future period will be subtracted from Consolidated Adjusted EBITDA in such future period), including the following: (A) non-cash expenses in connection with, or resulting from, stock option plans, employee benefit plans or agreements or post-employment benefit plans or agreements, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other similar rights, (B) non-cash currency translation losses related to changes in currency exchange rates (including re-measurements of Indebtedness (including intercompany Indebtedness) and any net non-cash loss resulting from hedge agreements for currency exchange risk), (C) non-cash losses, expenses, charges or negative adjustments attributable to the movement in the mark-to-market valuation of hedge agreements or other derivative instruments, including the effect of FASB Accounting Standards Codification 815 and International Accounting Standard No. 9 and their respective related pronouncements and interpretations, (D) non-cash charges for deferred tax asset valuation allowances, (E) any non-cash impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long-lived assets, and Investments in debt and equity securities, (F) any non-cash charges or losses resulting from any purchase accounting adjustment or any step-ups with respect to re-valuing assets and liabilities in connection with the Transactions or any Investments, and (G) all non-cash losses from Investments recorded using the equity method; plus

(v) unusual, extraordinary or non-recurring items, whether or not classified as such under GAAP; plus

(vi) charges, costs, losses, expenses or reserves related to: (A) restructuring (including restructuring charges or reserves, whether or not classified as such under GAAP), severance, relocation, consolidation, integration or other similar items, (B) strategic initiatives, business optimization (including costs and expenses relating to business optimization programs) and new systems design and implementation, as well as consulting fees and any one-time expense relating to enhanced accounting function, (C) business or facilities (including greenfield facilities) start-up, opening, transition, consolidation, shut-down and closing, (D) signing, retention and completion bonuses, (E) severance, relocation or recruiting, (F) public company registration, listing, compliance, reporting and related expenses, (G) charges and expenses incurred in connection with litigation (including threatened litigation), any investigation or proceeding (or any threatened investigation or proceeding) by a regulatory, governmental or law enforcement body (including any attorney general), and (H) expenses incurred in connection with casualty events or asset sales outside the ordinary course of business; plus

(vii) all (A) costs, fees and expenses relating to the Transactions, (B) costs, fees and expenses (including diligence and integration costs) incurred in connection with (x) investments in any Person, acquisitions of the Equity Interests of any Person, acquisitions of all or a material portion of the assets of any Person or constituting a line of business of any Person, and financings related to any of the foregoing or to the capitalization of any Loan Party or any Restricted Subsidiary or (y) other transactions that are out of the ordinary course of business of such Person and its Restricted Subsidiaries (in each case, including

transactions considered or proposed but not consummated), including equity issuances, Investments, acquisitions, dispositions, recapitalizations, mergers, option buyouts and the incurrence, modification or repayment of Indebtedness (including all consent fees, premium and other amounts payable in connection therewith) and (C) non-operating professional fees, costs and expenses; plus

(viii) items reducing Consolidated Net Income to the extent (A) covered by a binding indemnification or refunding obligation or insurance to the extent actually paid or reasonably expected to be paid, (B) paid or payable (directly or indirectly) by a third party that is not a Loan Party or a Restricted Subsidiary (except to the extent such payment gives rise to reimbursement obligations) or with the proceeds of a contribution to equity capital of such Person by a third party that is not a Loan Party or a Restricted Subsidiary or (C) such Person is, directly or indirectly, reimbursed for such item by a third party; plus

(ix) the amount of management, monitoring, consulting and advisory fees (including termination fees) and related indemnities and expenses paid, payable or accrued in such Test Period to the extent permitted in such Test Period; plus

(x) the effects of purchase accounting, fair value accounting or recapitalization accounting (including the effects of adjustments pushed down to such Person and its Subsidiaries) and the amortization, write-down or write-off of any such amount; plus

(xi) proceeds of business interruption insurance actually received; plus

(xii) minority interest expense consisting of income attributable to Equity Interests held by third parties in any non-wholly-owned Restricted Subsidiary; plus

(xiii) all charges, costs, expenses, accruals or reserves in connection with the rollover, acceleration or payout of Equity Interests held by officers or employees and all losses, charges and expenses related to payments made to holders of options or other derivative Equity Interests of such Person or any direct or indirect parent thereof in connection with, or as a result of, any distribution being made to equity holders of such Person or any direct or indirect parent thereof, including (A) payments made to compensate such holders as though they were equity holders at the time of, and entitled to share in, such distribution, and (B) all dividend equivalent rights owed pursuant to any compensation or equity arrangement; plus

(xiv) expenses, charges and losses resulting from the payment or accrual of indemnification or refunding provisions, earn-outs and contingent consideration obligations, bonuses and other compensation paid to employees, directors or consultants, payments in respect of dissenting shares, and purchase price adjustments, in each case, made in connection with a permitted Investment or acquisition; plus

(xv) any losses from disposed or discontinued operations; plus

(xvi) any costs or expenses (including any payroll taxes) incurred by the Borrower or a Restricted Subsidiary in such Test Period pursuant to any management equity plan, profits interest or stock option plan or any other management or employee benefit plan or agreement (including (A) as a result of curtailments or modifications to pension and post-retirement employee benefit plans and (B) without limitation,

compensation arrangements with holders of unvested options entered into in connection with the Specified Dividend up to \$25,000,000) or any stock subscription, stockholders or partnership agreement and any payments in the nature of compensation or expense reimbursement made to independent board members; plus

(xvii) the amount of loss or discount on sale of receivables, Securitization Assets and related assets to any Securitization Subsidiary in connection with a Qualified Securitization Financing; plus

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

(xix) adjustments reflected in (A) the financial model for the Borrower and its Subsidiaries prepared by Sponsor and delivered to the Lead Arrangers prior to May 14, 2019 or (B) any quality of earnings report prepared by a nationally recognized accounting firm and furnished to the Administrative Agent, in connection with the Transactions or a Permitted Acquisition or other Investment consummated after the Closing Date; plus

(xx) the amount of “run rate” cost savings, operating expense reductions and other cost synergies that are projected by the Borrower in good faith to result from actions taken, committed to be taken or expected to be taken no later than 24 months after the end of such Test Period (which amounts will be determined by the Borrower in good faith and calculated on a pro forma basis as though such amounts had been realized on the first day of the Test Period for which Consolidated Adjusted EBITDA is being determined), net of the amount of actual benefits realized during such Test Period from such actions; *provided* that, in the good faith judgment of the Borrower such cost savings are reasonably identifiable, reasonably anticipated to be realized and factually supportable (it being agreed such determination need not be made in compliance with Regulation S-X or other applicable securities law); and

(b) decreased, without duplication, by the following items of such Person and its Restricted Subsidiaries for such Test Period determined on a consolidated basis in accordance with GAAP:

(i) any non-cash items increasing Consolidated Net Income, excluding any gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period (other than such cash charges that have been added back to Consolidated Net Income in calculating Consolidated Adjusted EBITDA in accordance with this definition); plus

(ii) any net income from disposed or discontinued operations; plus

(iii) any unusual, extraordinary or non-recurring gains.

Notwithstanding the foregoing, Consolidated Adjusted EBITDA (a) for the fiscal quarter ended June 30, 2018, will be deemed to be \$41,067,000, (b) for the fiscal quarter ended September 30, 2018, will be deemed to be \$36,538,000, (c) for the fiscal quarter ended December 31, 2018, will be deemed to be \$31,088,000, and (d) for the fiscal quarter ended March 31, 2018, will be deemed to be \$41,800,000, as such amounts may be adjusted pursuant to the foregoing provisions and other pro forma adjustments permitted by this Agreement.

“**Consolidated Current Assets**” means, as of any date of determination, the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.

“**Consolidated Current Liabilities**” means, as at any date of determination, the total liabilities of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding (a) the current portion of any Funded Debt, (b) the current portion of interest, (c) accruals for current or deferred taxes based on income or profits, (d) accruals of any costs or expenses related to restructuring reserves, (e) Revolving Loans, Swing Line Loans and Letter of Credit Obligations or any other revolving facility, (f) the current portion of any Capitalized Lease Obligation, (g) deferred revenue arising from cash receipts that are earmarked for specific projects, (h) liabilities in respect of unpaid earn-outs and (i) the current portion of any other long-term liabilities, and, furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transaction or any consummated acquisition.

“**Consolidated Interest Expense**” means, for any Test Period, the sum of:

(a) cash interest expense (including that attributable to Capitalized Leases), net of cash interest income, of the Borrower and the Restricted Subsidiaries with respect to all outstanding Indebtedness of the Borrower and the Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net costs under hedging agreements, plus

(b) non-cash interest expense resulting solely from the amortization of original issue discount from the issuance of Indebtedness of the Borrower and the Restricted Subsidiaries (excluding Indebtedness borrowed under this Agreement and the Second Lien Credit Agreement in connection with the Transactions) at less than par, plus

(c) pay-in-kind interest expense of the Borrower and the Restricted Subsidiaries payable pursuant to the terms of the agreements governing such debt for borrowed money;

but excluding, for the avoidance of doubt, (i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clause (b) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (ii) 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, (iii) any one-time cash costs associated with breakage in respect of hedging agreements for interest rates, (iv) commissions, discounts, yield, make whole premium and other fees and charges (including any interest expense) incurred in connection with any permitted receivables financing, (v) any “additional interest” owing pursuant to a registration rights agreement with respect to any securities, (vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions, (vii) penalties and interest relating to taxes, (viii) accretion or accrual of discounted liabilities not constituting Indebtedness, (ix) interest expense attributable to a direct or indirect parent entity resulting from push-down accounting, (x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting and (xi) 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 any Permitted Acquisition or similar Investment permitted hereunder, all as calculated on a consolidated basis in accordance with GAAP. For the avoidance of doubt, interest expense shall be determined after giving effect to any net payments made or received by the Borrower and its Restricted Subsidiaries in respect of Swap Contracts relating to interest rate protection.

“**Consolidated Net Debt**” means, as of any date of determination, (a) Consolidated Total Debt *minus* (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted.

“**Consolidated Net Income**” means, with respect to any Person for any Test Period, the Net Income of such Person and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP; *provided*, that there shall be excluded from such consolidated net income (to the extent otherwise included therein), without duplication:

(a) the Net Income for such Test Period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting; *provided* that the Borrower’s or any Restricted Subsidiary’s equity in the Net Income of such Person shall be included in the Consolidated Net Income of the Borrower for such Test Period up to the aggregate amount of dividends or distributions or other payments in respect of such equity that are actually paid in cash (or to the extent converted into cash) by such Person to the Borrower or a Restricted Subsidiary, in each case, in such Test Period, to the extent not already included therein (subject in the case of dividends, distributions or other payments in respect of such equity made to a Restricted Subsidiary to the limitations contained in clause (b) below);

(b) solely with respect to the calculation of Available Amount and Excess Cash Flow, the Net Income of any Subsidiary of such Person during such Test Period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of that income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or requirement of Law applicable to such Subsidiary during such Test Period; *provided* that Consolidated Net Income of such Person shall be increased by the amount of dividends or distributions or other payments that are actually paid to such Person or its Restricted Subsidiaries in respect of such Test Period;

(c) any gain (or loss), together with any related provisions for taxes on any such gain (or the tax effect of any such loss), realized by such Person or any of its Restricted Subsidiaries during such Test Period upon any asset sale or other disposition of any Equity Interests of any Person (other than any dispositions in the ordinary course of business) by such Person or any of its Restricted Subsidiaries;

(d) gains and losses due solely to fluctuations in currency values and the related tax effects determined in accordance with GAAP for such Test Period;

(e) earnings (or losses), including any impairment charge, resulting from any reappraisal, revaluation or write-up (or write-down) of assets during such Test Period;

(f) (i) unrealized gains and losses with respect to Hedge Agreements for such Test Period and the application of Accounting Standards Codification 815 (Derivatives and Hedging) and (ii) any after-tax effect of income (or losses) for such Test Period that result from the early extinguishment of (A) Indebtedness, (B) obligations under any Hedge Agreements or (C) other derivative instruments;

(g) any extraordinary, non-recurring or unusual gain (or extraordinary, non-recurring or unusual loss), together with any related provision for taxes on any such gain (or the tax effect of any such loss), recorded or recognized by such Person or any of its Restricted Subsidiaries during such Test Period;

(h) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such Test Period;

(i) after-tax gains (or losses) on disposal of disposed, abandoned or discontinued operations for such Test Period;

(j) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue, debt and unfavorable or favorable lease line items in such Person's consolidated financial statements pursuant to GAAP for such Test Period resulting from the application of purchase accounting in relation to the Transactions or any acquisition consummated prior to the Closing Date and any Permitted Acquisition or other Investment or the amortization or write-off of any amounts thereof, net of taxes, for such Test Period;

(k) any non-cash compensation charge or expense for such Test Period, including any such charge or expense arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights and any cash charges or expenses associated with the rollover, acceleration or payout of Equity Interests by, or to, management of such Person or any of its Restricted Subsidiaries in connection with the Transactions;

(l) (i) Transaction Expenses incurred during such Test Period and (ii) any fees and expenses incurred during such Test Period, or any amortization thereof for such Test Period, in connection with any acquisition (other than the Transactions), Investment, disposition, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt or equity instrument (in each case, including any such transaction whether consummated on, after or prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring costs incurred during such Test Period as a result of any such transaction;

(m) any expenses, charges or losses for such Test Period that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement, to the extent actually reimbursed, or, so long as the Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days); and

(n) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses for such Test Period with respect to liability or casualty events or business interruption.

“**Consolidated Secured Net Debt**” means, as of any date of determination, (a) Consolidated Total Debt outstanding under the Facilities, the Second Lien Credit Documents and any secured refinancing indebtedness or other debt that is secured by a Lien on any asset or property of the Borrower or any Subsidiary Guarantor outstanding as of such date *minus* (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted.

“**Consolidated Total Debt**” means, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, determined on a consolidated basis and as reflected on the face of a balance sheet prepared in accordance with GAAP (but excluding the effects of the application of purchase accounting in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, unreimbursed obligations in respect of drawn letters of credit (to the extent not cash collateralized), obligations in respect of Capitalized Leases and purchase money obligations and debt obligations evidenced by promissory notes or similar instruments; *provided*, that Consolidated Total Debt will not include Indebtedness in respect of (a) any Qualified Securitization Financing, (b) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (*provided*, that any unreimbursed amount under commercial letters of credit will not be counted as Consolidated Total Debt until three Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement will be counted)), (c) obligations under Hedge Agreements and (d) any lease obligations other than in respect of Capitalized Leases.

“**Consolidated Working Capital**” means, as of any date of determination, the excess of Consolidated Current Assets *over* Consolidated Current Liabilities.

“**Contract Consideration**” has the meaning specified in the definition of “Excess Cash Flow.”

“**Contractual Obligation**” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“**Control**” has the meaning specified in the definition of “Affiliate.”

“**Contribution Indebtedness**” means Indebtedness in an aggregate principal amount at the time of the incurrence thereof not to exceed an amount equal to 200% of the amount of (i) any (A) new public or private Permitted Equity Issuances made in return for cash or other assets and cash and Cash Equivalents to the Borrower (with non-cash contributions and Permitted Equity Issuances in exchange for assets other than cash measured at the fair market value of such non-cash contributions and Permitted Equity Issuances at the time they were made) or (B) Net Cash Proceeds from Permitted Equity Issuances or the fair market value of other assets received by Holdings and contributed to the Borrower as equity solely in exchange for common Equity Interests of the Borrower during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date that are Not Otherwise Applied and (ii) available dollar-based capacity under Section 7.06 to make Restricted Payments which for the avoidance of doubt shall reduce such dollar-based capacity under the relevant clause of Section 7.06.

“**Conversion/Continuation Notice**” means a notice of (a) a conversion of Loans from one Type to another or (b) a continuation of Eurocurrency Rate Loans, pursuant to Article II, which, if in writing, shall be substantially in the form of Exhibit A-3.

“**Credit Agreement Refinancing Indebtedness**” means secured or unsecured Indebtedness of the Borrower in the form of term loans or notes or revolving commitments; *provided* that:

(a) such Indebtedness is incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace, or refinance, in whole or part, Indebtedness that is either (i) Term Loans, (ii) Revolving Commitments or (iii) other Credit Agreement Refinancing Indebtedness (“**Refinanced Debt**”);

(b) such Indebtedness is in an original aggregate principal amount not greater than the principal amount of the Refinanced Debt being exchanged, extended, renewed, replaced or refinanced (plus (i) the amount of all unpaid, accrued, or capitalized interest, penalties, premiums (including tender premiums) and other amounts payable with respect to the Refinanced Debt and (ii) underwriting discounts, fees, commissions, costs, expenses and other amounts payable with respect to such Credit Agreement Refinancing Indebtedness);

(c) (i) the Weighted Average Life to Maturity of such Indebtedness is equal to or longer than the remaining Weighted Average Life to Maturity of the Refinanced Debt, and (ii) the final maturity date of such Credit Agreement Refinancing Indebtedness may not be earlier than the final maturity date of the Refinanced Debt;

(d) any mandatory prepayments (and with respect to any Credit Agreement Refinancing Indebtedness comprising revolving loans, to the extent commitments thereunder are permanently terminated) of,

(i) any Credit Agreement Refinancing Indebtedness that comprises junior lien or unsecured notes or loans may not be made except to the extent that prepayments are (A) permitted hereunder and (B) to the extent required hereunder or pursuant to the terms of any Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt, first made or offered to the Loans and any such Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt; and

(ii) any Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt shall be made on *pro rata* basis or less than *pro rata* basis with any corresponding mandatory prepayment of the Loans; *provided* this clause (ii) will not prohibit any repayment of such Credit Agreement Refinancing Indebtedness at maturity or with the proceeds of other Credit Agreement Refinancing Indebtedness;

(e) such Indebtedness is not guaranteed by any Subsidiary Loan Party other than a Subsidiary Guarantor (including any Subsidiary that becomes a Subsidiary Guarantor in connection therewith); and

(f) if such Indebtedness is secured:

(i) such Indebtedness is not secured by a Lien on any assets or property of a Loan Party that does not constitute Collateral (except (1) customary cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender, (2) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (3) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Term Loans);

(ii) a Debt Representative acting on behalf of the holders of such Indebtedness has become party to, or is otherwise subject to the provisions of, (A) if such Indebtedness is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (B) if such

Indebtedness is Junior Lien Debt, the Closing Date Intercreditor Agreement or another Junior Lien Intercreditor Agreement.

Credit Agreement Refinancing Indebtedness will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Cure Expiration Date**” has the meaning assigned to such term in Section 8.02.

“**Debt Representative**” means, with respect to any series of Indebtedness secured by a Lien permitted under Section 7.01(i) or (kk), Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing or Permitted Junior Secured Refinancing Debt, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

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

“**Default**” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“**Default Rate**” means an interest rate equal to (a) the Base Rate *plus* (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans *plus* (c) 2.00% *per annum*; *provided* that with respect to the outstanding principal amount of any Loan not paid when due, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.05(c)) *plus* 2.00% *per annum*, in each case, to the fullest extent permitted by applicable Laws.

“**Defaulting Lender**” means, subject to Section 2.19(b), any Lender that,

(a) has failed to (i) fund all or any portion of its Loans, including participations in respect of Letters of Credit or Swing Line Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (which conditions precedent, together with the applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Swing Line Lender, the Issuing Banks 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 Swing Line Loans) within two Business Days of the date when due,

(b) has notified the Borrower, the Administrative Agent, the Swing Line Lender or the Issuing Banks in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lenders’ obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with the applicable default, if any, shall be specifically identified in such writing or public statement) cannot be satisfied),

(c) has failed, within three 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) the Administrative Agent has received notification that such Lender is, or has a direct or indirect parent company that is, (i) insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, (ii) other than via an Undisclosed Administration, the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator, 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 Federal or state regulatory authority acting in such a capacity or the like has been appointed for such Lender or its direct or indirect parent company, or such Lender or its direct or indirect parent company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment 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 or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) 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 clauses (a) through (d) above shall be conclusive absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.19) upon delivery of written notice of such determination to the Borrower, the Swing Line Lender, the Issuing Banks and each Lender.

“**Delayed Draw Closing Date**” means the date of any Borrowing of Delayed Draw Term Loans in accordance with Sections 2.01(a) and 4.03.

“**Delayed Draw Commitment**” means, as to each Lender, its obligation to make a Delayed Draw Term Loan to the Borrower hereunder during the Delayed Draw Commitment Period, expressed as an amount representing the maximum principal amount of the Delayed Draw Term Loans to be made by such Lender under this Agreement, as such commitment may be (a) automatically reduced to \$0 on the Delayed Draw Commitment Termination Date, (b) reduced from time to time pursuant to Section 2.08 and (c) reduced or increased from time to time pursuant to (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Refinancing Amendment or (iii) an Extension. The initial amount of each Lender’s Delayed Draw Commitment is set forth on Schedule 2.01 under the caption “Delayed Draw Commitment” or, otherwise, in the Assignment and Assumption or Refinancing Amendment pursuant to which such Lender shall have assumed its Delayed Draw Commitment, as the case may be. The initial aggregate amount of the Delayed Draw Commitments is \$40,000,000.

“**Delayed Draw Commitment Period**” means the period from the Closing Date to and including the Delayed Draw Commitment Termination Date.

“**Delayed Draw Commitment Termination Date**” means the earliest to occur of (i) 5:00 p.m. New York City time on the date that is 24 months after the Closing Date (at which date and time all unfunded Delayed Draw Commitments shall automatically be reduced to \$0), (ii) the date on which all Delayed Draw Commitments then outstanding have been funded in one or more Borrowings pursuant to

Section 2.01(a) and (iii) the date on which all unfunded Delayed Draw Commitments have been reduced to \$0 pursuant to Section 2.08(c) or terminated by the Borrower pursuant to Section 9.02.

“**Delayed Draw Term Loan**” has the meaning assigned to such term in Section 2.01(a).

“**Delayed Draw Ticking Fee**” has the meaning assigned to such term in Section 2.11(h).

“**Delayed Draw Upfront Fee**” has the meaning assigned to such term in Section 2.11(e).

“**Designated Jurisdiction**” means any country or territory to the extent that such country or territory is the subject of any Sanctions.

“**Designated Non-Cash Consideration**” means the fair market value of any non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to the General Asset Sale Basket that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within one hundred eighty days following the consummation of the applicable Disposition).

“**Disposition**” or “**Dispose**” means the sale, transfer, license, lease or other disposition (excluding Liens, but including any sale leaseback transaction and any sale of Equity Interests in, or issuance of Equity Interests by, a Restricted Subsidiary) of any property by any Person.

“**Disqualified Equity Interests**” means any Equity Interest 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), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale as long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event is subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments and Cash Collateralization of all Letters of Credit),

(b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part,

(c) provides for the scheduled 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 each case, prior to the Latest Maturity Date of the Loans at the time of issuance; *provided* that if such Equity Interests are issued pursuant to a plan for the benefit of future, current or former employees, directors, or officers of Holdings, the Borrower or the Restricted Subsidiaries or by any such plan to such employees, directors or officers, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by Holdings, the Borrower or the Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, director’s or officer’s termination, death or disability.

“**Disqualified Lender**” means,

(a) the competitors of the Borrower and its Subsidiaries identified in writing by or on behalf of the Borrower (i) to the Lead Arrangers on or prior to the Closing Date, or (ii) from time to time after the Closing Date to the Administrative Agent (it being understood that a list was delivered),

(b) (i) any persons that are engaged as principals primarily in private equity or venture capital and (ii) those particular banks, financial institutions, other institutional lenders and other persons, in the case of each of clauses (i) and (ii), to the extent identified in writing by or on behalf of the Borrower to the Lead Arrangers on or prior to May 14, 2019 (it being understood that no such list was delivered and, therefore, there are no Disqualified Lenders pursuant to this clause (b)), and

(c) any affiliate of the entities described in the preceding clauses (a) or (b) (in each case, other than any affiliates that are banks, financial institutions, bona fide debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course (except to the extent separately identified under clause (a) above)), in each case, that are either reasonably identifiable as such on the basis of their name or are identified as such in writing by or on behalf of the Borrower (i) to the Lead Arrangers on or prior to the Closing Date, or (ii) after the Closing Date to the Administrative Agent from time to time;

provided that any Person that is a Lender and subsequently becomes a Disqualified Lender (but was not a Disqualified Lender on the Closing Date or at the time it became a Lender) shall be deemed to not be a Disqualified Lender hereunder with respect to any Loans held by it immediately prior to becoming a Disqualified Lender. The Administrative Agent shall make the list of Disqualified Lenders available to any Lender or prospective Lender upon request by such Lender or prospective Lender.

“**Division**” has the meaning specified in Section 1.02(e).

“**Dollar**”, “**\$**” and “**USD**” mean lawful money of the United States.

“**Dollar Amount**” means, at any time:

- (a) with respect to any Loan denominated in Dollars, the principal amount thereof then outstanding (or in which such participation is held);
- (b) with respect to any Loan denominated in any Alternative Currency, the principal amount thereof then outstanding in the relevant Alternative Currency converted to Dollars in accordance with Section 1.09;
- (c) with respect to any Letter of Credit Obligation (or any risk participation therein), (i) if denominated in Dollars, the amount thereof and (ii) if denominated in any Alternative Currency other than Dollars, the amount thereof converted to Dollars in accordance with Section 1.09; and
- (d) with respect to any other amount (i) if denominated in Dollars, the amount thereof and (ii) if denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent or the Issuing Bank, as applicable, on the basis of the Exchange Rate (determined in respect of the most recent relevant date of determination) for the purchase of Dollars with such currency.

“Domestic Subsidiary” means (i) any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia or (ii) any direct wholly-owned Subsidiary of the Borrower or of any Subsidiary described in clause (i) above that is disregarded for U.S. tax purposes.

“ECF Prepayment Percentage” means (a) 50%, if the Borrower’s First Lien Net Leverage Ratio at the end of the immediately preceding fiscal year equals or exceeds the Closing Date First Lien Net Leverage Ratio less 0.50 to 1.00, (b) 25%, if such First Lien Net Leverage Ratio is less than the Closing Date First Lien Net Leverage Ratio less 0.50 to 1.00, but equals or exceeds the Closing Date First Lien Net Leverage Ratio less 1.00 to 1.00, and (c) 0%, if such First Lien Net Leverage Ratio is less than the Closing Date First Lien Net Leverage Ratio less 1.00 to 1.00.

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

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

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

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 11.07(b)(iii) (including any consents that may be required thereunder) and (v); *provided* that neither (x) any Person that is or would be a Defaulting Lender nor (y) any Disqualified Lender shall be an Eligible Assignee.

“EMU” means the Economic and Monetary Union as contemplated in the EU Treaty.

“EMU Legislation” means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

“Engagement Letter” means that certain Engagement Letter, dated as of April 30, 2019, by and among Holdings, the Borrower, Jefferies Finance, BMOCO, UBS and Nomura as amended, restated, modified or supplemented from time to time in accordance with the terms thereof.

“Environmental Claim” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations by any Governmental Authority, or proceedings with respect to any Environmental Liability or pursuant to Environmental Law, including those (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (b) by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“Environmental Laws” means any and all Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under or issued pursuant to any Environmental Law.

“Equal Priority Intercreditor Agreement” means a “*pari passu*” intercreditor agreement substantially in the form attached hereto as Exhibit K-2 (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Agent and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be *Pari Passu* Lien Debt, another lien subordination arrangement reasonably satisfactory to the Administrative Agent, the Collateral Agent and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Collateral Agent will execute and deliver an Equal Priority Intercreditor Agreement with one or more Debt Representatives for secured Indebtedness that is permitted hereunder to be incurred as *Pari Passu* Lien Debt; *provided* that the Borrower will not make such request unless such Indebtedness and any related Liens do not violate (including with respect to priority) any provision of the Loan Documents.

“Equity Interests” means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in, including any limited or general partnership interest and any limited liability company membership interest) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

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

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA. For the avoidance of doubt, when any provision of this Agreement relates to a past event or period of time, the term “ERISA Affiliate” includes any Person who was, as to the time of such past event or period of time, an ERISA Affiliate within the meaning of the preceding sentence.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a) (2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability or written notification that a Multiemployer Plan is insolvent within the meaning of Title IV of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) the imposition of any liability under Title IV of ERISA, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA

Affiliates; (f) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan; (g) the application for a minimum funding waiver under Section 302(c) of ERISA with respect to a Pension Plan; (h) the imposition of a lien under Section 303(k) of ERISA with respect to any Pension Plan; or (i) a determination that any Pension Plan is in "at risk" status (within the meaning of Section 303 of ERISA).

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

"**EU Treaty**" means the Treaty on European Union.

"**Euro**" and "**€**" mean the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

"**Eurocurrency Rate**" means:

(a) for any Interest Period with respect to a Eurocurrency Rate Loan denominated in Dollars, the rate *per annum* equal to (i) the ICE LIBOR Rate ("**ICE LIBOR**"), as published on the applicable Thomson Reuters screen page (or such other commercially available source providing quotations of ICE LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period or (ii) if such rate is not available at such time for any reason, the rate *per annum* determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurocurrency Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by the Administrative Agent to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period;

(b) for any Interest Period with respect to a Eurocurrency Rate Loan denominated in an Alternative Currency, the rate *per annum* equal to (i) the rate, as published on the applicable Thomson Reuters screen page (or such other commercially available source providing quotations of LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in such Alternative Currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period or (ii) if such rate is not available at such time for any reason, the rate *per annum* determined by the Administrative Agent to be the rate at which deposits in such Alternative Currency for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurocurrency Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by the Administrative Agent to major banks in the London interbank market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period; and

(c) for any interest calculation with respect to a Base Rate Loan on any date, the rate *per annum* equal to (i) ICE LIBOR, at approximately 11:00 a.m., London time determined two Business Days prior to such date for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate *per annum* determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in Same Day Funds in the approximate amount of the Base Rate Loan being made or maintained and with a term equal to one

month would be offered by the Administrative Agent to major banks in the London interbank eurodollar market at their request at the date and time of determination.

“**Eurocurrency Rate Loan**” means a Loan, whether denominated in Dollars or any Alternative Currency, that bears interest at a rate based on clause (a) or (b), as applicable, of the definition of “Eurocurrency Rate.”

“**Event of Default**” has the meaning specified in Section 9.01.

“**Excess Cash Flow**” means, for any period, an amount equal to the excess of:

(a) the sum, without duplication, of:

- (i) Consolidated Net Income of the Borrower and the Restricted Subsidiaries for such period, plus
- (ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) for such period to the extent deducted in arriving at such Consolidated Net Income, but excluding any such non-cash charges representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period, plus
- (iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions or Dispositions by the Borrower and the Restricted Subsidiaries completed during such period, the application of purchase accounting or the reclassification of items from short term to long term or vice versa), plus
- (iv) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income, plus
- (v) the amount deducted as tax expense in determining Consolidated Net Income to the extent in excess of cash taxes paid in such period (including, without duplication, tax distributions pursuant to Section 7.06(g)(i)) and tax distribution reserves set aside or payable, plus
- (vi) cash receipts in respect of Hedge Agreements during such period to the extent not otherwise included in such Consolidated Net Income; over

(b) the sum, without duplication, of:

- (i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in clause (a)(ii) above) and cash charges excluded by virtue of clauses (a) through (l) (other than clause (g)) of the definition of “Consolidated Net Income”, plus
- (ii) without duplication of amounts deducted pursuant to clause (b)(xi) below or this clause (b)(ii) in prior periods, the amount of Capital Expenditures or acquisitions of

intellectual property accrued or made in cash during such period to the extent not financed with the proceeds of Funded Debt, *plus*

(iii) the aggregate amount of all principal payments of Indebtedness (including the principal component of payments in respect of Capitalized Leases) of the Borrower and the Restricted Subsidiaries to the extent such prepayments or repayments are not funded with the proceeds of Funded Debt, excluding (A) all payments of Indebtedness described in Section 2.07(b)(i)(B)(1)-(3) to the extent such payments reduce the repayment of Term Loans that would otherwise be required by Section 2.07(b)(i), (B) all payments of Indebtedness pursuant to and in accordance with Section 7.10(a)(v)(B), and (C) any prepayment of revolving loans to the extent there is not an equivalent permanent reduction in commitments thereunder, *plus*

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income and the net cash loss on Dispositions to the extent otherwise added to arrive at Consolidated Net Income, *plus*

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions or Dispositions by the Borrower and the Restricted Subsidiaries completed during such period, the application of purchase accounting or the reclassification of items from short term to long term or vice versa), *plus*

(vi) cash payments by the Borrower and the Restricted Subsidiaries actually made during such period to the extent not financed with the proceeds of Funded Debt in respect of any purchase price holdbacks, earn-out obligations, long-term liabilities of the Borrower and the Restricted Subsidiaries (other than Indebtedness) to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income for such period (and so long as there has not been any reduction in respect of such payments in arriving at Consolidated Net Income for such fiscal year), *plus*

(vii) without duplication of amounts deducted pursuant to clauses (viii) and (xi) below in prior periods, the amount of Permitted Investments made during such period pursuant to Section 7.02 (excluding Section 7.02(e)(ii)) to the extent that such Permitted Investments were not financed with the proceeds of Funded Debt, *plus*

(viii) the amount of Restricted Payments actually paid (and permitted to be paid) during such period pursuant to Section 7.06 (excluding Sections 7.06(a), 7.06(c) and 7.06(o)(ii)) to the extent such Restricted Payments were not financed with the proceeds of Funded Debt (including, without limitation, amounts paid in connection with compensations arrangements with holders of unvested options entered into in connection with the Specified Dividend), *plus*

(ix) the aggregate amount of expenditures actually made by the Borrower and its Restricted Subsidiaries to the extent not financed with the proceeds of Funded Debt during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such fiscal year or are not deducted in calculating Consolidated Net Income (and so long as there has not been any reduction in respect of such expenditures in arriving at Consolidated Net Income for such period), *plus*

(x) to the extent such were not deducted in calculating Consolidated Net Income for such period, the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by Holdings, the Borrower and the Restricted Subsidiaries during such period that are made in connection with any prepayment of any principal of Indebtedness to the extent such prepayment of principal reduced Excess Cash Flow pursuant to clause (b)(iii) above or reduced the mandatory prepayment required by Section 2.07(b)(i), plus

(xi) 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 Restricted Subsidiaries pursuant to binding contracts, commitments, or binding purchase orders (to the extent not financed with the proceeds of Funded Debt, the “**Contract Consideration**”) entered into prior to or during such period relating to Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), Capital Expenditures or acquisitions of intellectual property to be consummated; *provided* that, to the extent the aggregate amount actually utilized to finance such Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), Capital Expenditures or acquisitions of intellectual property during any period is less than the Contract Consideration that reduced Excess Cash Flow for the prior period, the amount of such shortfall shall be added to the calculation of Excess Cash Flow for such period, plus

(xii) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period, to the extent they exceed the amount of tax expense deducted in calculating Consolidated Net Income for such period, plus

(xiii) cash expenditures in respect of Hedge Agreements during such period to the extent not deducted in calculating Consolidated Net Income;

provided that, at the option of the Borrower, any item that meets the criteria of any sub-clause of this clause (b) after the end of the applicable period and prior to the applicable date of calculation of Excess Cash Flow for such period may, at the Borrower’s option, be included in the applicable period, but not in any calculation pursuant to this clause (b) for the subsequent calculation period if such election is made.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Exchange Rate**” means, on any date with respect to any currency, the rate at which such currency may be exchanged into any other currency, as set forth at approximately 11:00 a.m., London time, on such date on the applicable Bloomberg page for such currency. In the event that such rate does not appear on any Bloomberg page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying the exchange rates as may be selected by the Administrative Agent, or, in the event no such service is selected, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m., local time, on such date for the purchase of the relevant currency for delivery two Business Days later; *provided* that, if at the time of any such determination, for any reason no such spot rate is being quoted, the Administrative Agent, after consultation with the Borrower, may use any reasonable method that it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

“**Excluded Asset**” has the meaning specified in the Security Agreement.

“Excluded Equity Interests” has the meaning specified in the Security Agreement.

“Excluded Subsidiary” means:

- (a) any Subsidiary that is not a wholly owned Subsidiary of the Borrower or a Guarantor,
- (b) any Foreign Subsidiary of the Borrower or of any direct or indirect Domestic Subsidiary or Foreign Subsidiary,
- (c) any FSHCO,
- (d) any Domestic Subsidiary that is a direct or indirect Subsidiary of a Foreign Subsidiary,
- (e) any Subsidiary that is prohibited or restricted by applicable Law from providing a Guaranty or by a binding contractual obligation existing on the Closing Date or at the time of the acquisition of such Subsidiary (and not incurred in contemplation of such acquisition) from providing a Guaranty (*provided* that such contractual obligation is not entered into by the Borrower or its Restricted Subsidiaries principally for the purpose of qualifying as an “Excluded Subsidiary” under this definition) or if such Guaranty would require governmental (including regulatory) or third party (other than Holdings, the Borrower or a Restricted Subsidiary) consent, approval, license or authorization, unless such consent, approval, license or authorization has been obtained,
- (f) any special purpose securitization vehicle (or similar entity) including any Securitization Subsidiary created pursuant to a transaction permitted under this Agreement,
- (g) any Subsidiary that is a not-for-profit organization,
- (h) any Captive Insurance Subsidiary,
- (i) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent in consultation with the Borrower (confirmed in writing by notice to the Borrower), the cost or other consequences (including any material adverse tax consequences) of providing the Guaranty shall be excessive in view of the benefits to be obtained by the Lenders therefrom,
- (j) any other Subsidiary to the extent the provision of a guaranty by such Subsidiary would result in material adverse tax consequences to Holdings (or any parent of Holdings to the extent such material adverse tax consequences are related to its ownership of the Equity Interests in Holdings or the Borrower and its Restricted Subsidiaries), the Borrower or any of the Restricted Subsidiaries as reasonably determined by the Borrower in good faith in consultation with the Administrative Agent;
- (k) any Unrestricted Subsidiary, and
- (l) any Immaterial Subsidiary;

provided that the Borrower, in its sole discretion (or in the case of any Foreign Subsidiary, with the consent of the Administrative Agent not to be unreasonably withheld), may cause any Restricted Subsidiary that qualifies as an Excluded Subsidiary under clauses (a) through (l) above to become a Guarantor in

accordance with the definition thereof (subject to completion of “know your customer” and similar requirements of the Administrative Agent) and thereafter such Subsidiary shall not constitute an “Excluded Subsidiary” (unless and until the Borrower elects, in its sole discretion, to designate such Persons as an Excluded Subsidiary; *provided*, that such designation shall be treated as an Investment pursuant to Section 7.02 and shall be permitted solely to the extent such designation is permitted as an Investment under Section 7.02).

“**Excluded Taxes**” has the meaning specified in Section 3.01(a).

“**Existing Credit Agreement**” has the meaning specified in the preliminary statements to this Agreement.

“**Existing Debt**” means the Indebtedness of the Borrower and its Subsidiaries under (i) that certain Note Purchase Agreement, dated as of August 21, 2014 (as amended by that certain First Amendment to Note Purchase Agreement, dated as of December 14, 2016 and as further amended, restated, amended and restated, supplemented or otherwise modified prior to the date hereof), by and among Holdings, the Borrower, the subsidiary guarantor from time to time party thereto and the purchasers from time to time party thereto and (ii) the Existing Credit Agreement.

“**Extended Commitments**” means, collectively, Extended Revolving Commitments and Extended Term Commitments.

“**Extended Loans**” means, collectively, Extended Revolving Loans and Extended Term Loans.

“**Extended Revolving Commitments**” means the Revolving Commitments held by an Extending Lender.

“**Extended Revolving Loans**” means the Revolving Loans made pursuant to Extended Revolving Commitments.

“**Extended Term Commitments**” means the Term Loan Commitments held by an Extending Lender.

“**Extended Term Loans**” means the Term Loans made pursuant to Extended Term Commitments.

“**Extending Lender**” means each Lender accepting an Extension Offer.

“**Extension**” has the meaning specified in Section 2.18(a).

“**Extension Amendment**” has the meaning specified in Section 2.18(b).

“**Extension Offer**” has the meaning specified in Section 2.18(a).

“**Facility**” means the Term Loans made by the Lenders to the Borrower pursuant to Section 2.01(a) (including both Initial Term Loans and Delayed Draw Term Loans, which shall constitute a single Facility hereunder), the Delayed Draw Commitments, the Revolving Loans, the Swing Line Loans, any Extended Term Loans, any Extended Revolving Commitments and Extended Revolving Loans, any Incremental Term Loans, any Refinancing Term Loans or any Refinancing Revolving Loans, as the context may require.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to

comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing such Sections of the Code.

“FCPA” means the United States Foreign Corrupt Practices Act of 1977, as amended or modified from time to time.

“Federal Funds Rate” means, 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 on such day, as published by the Federal Reserve Bank 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* further that, the Federal Funds Rate, if negative, shall be deemed to be zero.

“Financial Covenant” has the meaning specified in Section 9.01(c).

“Financial Covenant Cross Default” has the meaning specified in Section 9.01(b).

“Financial Covenant Event of Default” has the meaning specified in Section 9.01(b).

“First Lien Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt under the Facilities and any Pari Passu Lien Debt outstanding as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“Fitch” means Fitch Ratings, Inc., and any successor thereto.

“Fixed Incremental Amount” means, as of the date of measurement, the sum of:

(a) the greater of (i) 100% of Closing Date EBITDA and (ii) 100% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, *plus*

(b) the aggregate principal amount of any voluntary prepayments (including those made through (i) debt buybacks (whether or not offered to all lenders) and in the case of below-par repurchases in an amount equal to the discounted amount actually paid in cash in respect of such below-par repurchase and (ii) “yank-a-bank” payments of Term Loans (including funded Delayed Draw Term Loans) made pursuant to Section 2.07 or 3.07, reductions in Delayed Draw Term Loan Commitments pursuant to Section 2.08, repayments of Revolving Loans made pursuant to Section 2.07(a) or 3.07 (if accompanied by a corresponding reduction of commitments), prepayments of Pari Passu Lien Debt, or prepayments of the Second Lien Term Loans and other Junior Lien Debt, in each case, to the extent not funded with the proceeds of Funded Debt; *minus*

(c) without duplication of any amounts incurred in reliance on this definition, the sum of:

(i) the aggregate amount of any Incremental Equivalent Debt incurred and then outstanding in reliance on the Fixed Incremental Amount, *plus*

- (ii) the aggregate amount of any “Incremental Loans” (as defined in the Second Lien Credit Agreement) incurred and then outstanding in reliance on the definition of “Fixed Incremental Amount” (or equivalent concept) in the Second Lien Credit Agreement, plus
- (iii) the aggregate amount of any “Incremental Equivalent Debt” (as defined in the Second Lien Credit Agreement) incurred and then outstanding in reliance on the definition of “Fixed Incremental Amount” (or equivalent concept) in the Second Lien Credit Agreement; plus
- (iv) the aggregate principal amount of Indebtedness incurred and then outstanding under Section 6.03(v)(ii).

“**Flood Insurance Certificate**” means with respect to each Mortgaged Property, a completed “Life-of-Loan” Federal Emergency Management Agency Standard Flood Hazard Determination.

“**Foreign Casualty Event**” has the meaning specified in Section 2.07(b)(vi)(A).

“**Foreign Disposition**” has the meaning specified in Section 2.07(b)(vi)(A).

“**Foreign Lender**” has the meaning specified in Section 3.01(b).

“**Foreign Plan**” means any material employee benefit plan, program or agreement maintained or contributed to by, or entered into with, Holdings or any Subsidiary of Holdings with respect to employees employed outside the United States (other than benefit plans, programs or agreements that are mandated by applicable Laws).

“**Foreign Subsidiary**” means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

“**FRB**” means the Board of Governors of the Federal Reserve System of the United States.

“**Fronted Delayed Draw Term Loans**” has the meaning specified in Section 2.01(b)(vi).

“**Fronting Exposure**” means, at any time there is a Defaulting Lender, (a) with respect to the Issuing Banks, such Defaulting Lender’s Pro Rata Share of the outstanding Letters of Credit Obligations other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to the Swing Line Lender, such Defaulting Lender’s Pro Rata Share of the outstanding Obligations with respect to Swing Line Loans extended by the Swing Line Lender other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“**FSHCO**” means any direct or indirect Subsidiary of Holdings (other than the Borrower) that has no material assets other than Equity Interests (or Equity Interests and Indebtedness) in one or more Foreign Subsidiaries or other FSHCOs.

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

“**Funded Debt**” means all Indebtedness of the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“**GAAP**” means generally accepted accounting principles in the United States, as in effect from time to time *provided, however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through the adoption of IFRS) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through the adoption of IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“**General Asset Sale Basket**” has the meaning specified in [Section 7.05\(j\)](#).

“**Global Intercompany Note**” means a promissory note substantially in the form of [Exhibit H](#) executed by Holdings, the Borrower and the wholly owned Restricted Subsidiaries.

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

“**Grant Event**” means the occurrence of any of the following: (a) the formation or acquisition of any new wholly owned Material Domestic Subsidiary by any Loan Party, (b) the designation in accordance with [Section 6.13](#) of any existing wholly owned Material Domestic Subsidiary of any Loan Party as a Restricted Subsidiary, (c) any Person becoming a wholly owned Material Domestic Subsidiary that is a Restricted Subsidiary of a Loan Party, in each case under clauses (a) – (c) other than an Excluded Subsidiary, or (d) any Restricted Subsidiary of a Loan Party ceasing to be an Excluded Subsidiary.

“**Granting Lender**” has the meaning specified in [Section 11.07\(g\)](#).

“**Guarantee**” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person 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 such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other

monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term "Guarantee" shall not include endorsements for collection or deposit, in either case 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 under 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 related primary obligation, or portion thereof, 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 the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guarantors" means Holdings and each Restricted Subsidiary that executed a counterpart to the Guaranty (or a joinder thereto) on the Closing Date or thereafter pursuant to Section 6.11, in each case, other than any Excluded Subsidiaries.

"Guaranty" means (a) the guaranty made by Holdings and the other Guarantors in favor of the Administrative Agent on behalf of the Secured Parties substantially in the form of Exhibit E and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

"Hazardous Materials" means any hazardous or toxic chemicals, materials, substances or waste which is listed, classified or regulated by any Governmental Authority as "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic wastes," "contaminants" or "pollutants," or words of similar import, under any Environmental Law, including petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and urea formaldehyde.

"Hedge Agreement" means any agreement with respect to (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a **"Master Agreement"**), including any such obligations or liabilities under any Master Agreement.

"Hedge Bank" means any Person that is an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing on the Closing Date (with respect to any Secured Hedge Agreement entered into on or prior to the Closing Date) or at the time it enters into a Secured Hedge Agreement, in its capacity as a party thereto, whether or not such Person subsequently ceases to be an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing; *provided*, at the time of entering into a Secured Hedge Agreement, no Hedge Bank shall be a Defaulting Lender.

"HMT" means Her Majesty's Treasury.

“**Holdings**” has the meaning specified in the preliminary statements to this Agreement, together with its successors and assigns permitted hereunder.

“**IFRS**” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.

“**Immaterial Subsidiary**” means any Subsidiary of the Borrower other than a Material Subsidiary.

“**Incremental Amendment**” has the meaning specified in Section 2.16(e).

“**Incremental Amount**” has the meaning specified in Section 2.16(c).

“**Incremental Equivalent Debt**” means secured or unsecured Indebtedness of the Borrower and its Subsidiary Guarantors in the form of term loans or notes; *provided that*:

(a) the aggregate principal amount of all Incremental Equivalent Debt on any date such Indebtedness is incurred shall not, together with any Incremental Revolving Facilities and/or Incremental Term Facilities then outstanding, exceed the Incremental Amount;

(b) any Incremental Equivalent Debt (i) that is Pari Passu Lien Debt shall not mature prior to the Latest Maturity Date of, and shall not have a Weighted Average Life to Maturity shorter than the remaining Weighted Average Life to Maturity of, the Initial Term Loans, or (ii) that is Junior Lien Debt or unsecured Indebtedness shall not mature, or have scheduled amortization, prior to the date that is 91 days following the Latest Maturity Date of the Initial Term Loans; *provided that this clause (b) shall not apply to the incurrence of any such Indebtedness pursuant to the Inside Maturity Exception;*

(c) (i) if such Incremental Equivalent Debt is guaranteed, such Indebtedness is not incurred or guaranteed by any Loan Party other than the Borrower and the Guarantors (including any Person required to be a Guarantor) (except (A) for guarantees by other Persons that are applicable only to periods after the Latest Maturity Date of the Term Loans or Revolving Loans, as applicable, at the time of incurrence and (B) any such Person incurring or guaranteeing such Incremental Term Facilities or Incremental Revolving Facilities, as applicable, that also guarantees the Term Loans or Revolving Loans, as applicable) and (ii) if such Incremental Equivalent Debt is secured, such Indebtedness is not secured by any Lien on any property or asset of the Borrower or any Guarantor that does not also secure the Term Loans or Revolving Loans, as applicable, at the time of such incurrence (except (A) customary cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender, (B) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Term Loans or Revolving Loans, as applicable, at the time of incurrence, (C) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Term Loans or Revolving Loans and (D) a Debt Representative acting on behalf of the holders of such Incremental Equivalent Debt has become party to, or is otherwise subject to the provisions of, (x) if such Incremental Equivalent Debt is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (y) if such Incremental Equivalent Debt is Junior Lien Debt, the Closing Date Intercreditor Agreement or another Junior Lien Intercreditor Agreement, as applicable;

(d) any mandatory prepayments of any Incremental Equivalent Debt:

(i) that is Pari Passu Lien Debt shall be made on a *pro rata* basis or less than *pro rata* basis with any corresponding mandatory prepayment of the Loans (but not on a greater than *pro*

rata basis, except for (A) any repayment of such Incremental Equivalent Debt at maturity and (B) any greater than *pro rata* repayment of such Incremental Equivalent Debt with the proceeds of a refinancing thereof); and

(ii) that comprises Junior Financing or unsecured notes or loans may not be made unless, to the extent required hereunder or pursuant to the terms of any Incremental Equivalent Debt that is Pari Passu Lien Debt, such prepayments are first made or offered to the Loans and any such Incremental Equivalent Debt that is Pari Passu Lien Debt on a *pro rata* basis; and

(e) if such Incremental Equivalent Debt is in the form of term loans and is Pari Passu Lien Debt, then the provisions of Section 2.16(h) shall apply as if such Incremental Equivalent Debt was Incremental Term Loans.

Incremental Equivalent Debt will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Incremental Facility**” has the meaning specified in Section 2.16(a).

“**Incremental Loans**” has the meaning specified in Section 2.16(a).

“**Incremental Revolving Facilities**” has the meaning specified in Section 2.16(a).

“**Incremental Revolving Facility Lender**” has the meaning specified in Section 2.16(i).

“**Incremental Revolving Loans**” has the meaning specified in Section 2.16(a).

“**Incremental Term Facilities**” has the meaning specified in Section 2.16(a).

“**Incremental Term Loan Commitment**” means the commitment of a Lender to make or otherwise fund an Incremental Term Loan and “Incremental Term Loan Commitments” means such commitments of all Lenders in the aggregate.

“**Incremental Term Loan Exposure**” means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Incremental Term Loans of such Lenders; *provided*, at any time prior to the making of the Incremental Term Loans, the Incremental Term Loan Exposure of any Lender shall be equal to such Lender’s Incremental Term Loan Commitment.

“**Incremental Term Loans**” has the meaning specified in Section 2.16(a).

“**Indebtedness**” means, with respect to any Person, without duplication,

(a) any indebtedness (including principal or premium) of such Person in respect of borrowed money, evidenced by bonds, notes, debentures, loan agreements or similar instruments, letters of credit or banker’s acceptances (or, without double counting, reimbursement agreements in respect thereof), representing Capital Lease Obligations or the balance deferred and unpaid of the purchase price of any property, except (i) any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business, or representing any Swap Obligations and (ii) any earn-out obligations until, after 30 days of becoming due and payable, has not been paid and such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and any purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the

seller, if and to the extent any of the foregoing indebtedness (other than letters of credit and Swap Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(b) to the extent not otherwise included, any guarantee obligation by such Person of the obligations of the type referred to in clause (a) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business;

(c) to the extent not otherwise included, the obligations of the type referred to in clause (a) of another Person secured by a Lien on any property owned by such Person, whether or not such obligations are assumed by such Person and whether or not such obligations would appear upon the balance sheet of such Person; *provided* that the amount of such Indebtedness for purposes of this clause (c) will be the lesser of the fair market value of such property at such date of determination and the amount of Indebtedness so secured;

(d) net obligations of such Person under any Hedge Agreement to the extent such obligations would appear as a net liability on a balance sheet of such Person (other than in the footnotes) prepared in accordance with GAAP; and

(e) all obligations of such Person in respect of Disqualified Equity Interests;

provided that, notwithstanding the foregoing, Indebtedness will be deemed not to include (1) contingent obligations incurred in the ordinary course of business unless and until such obligations are non-contingent or (2) indebtedness that constitutes "**Indebtedness**" merely by virtue of a pledge of the capital stock of an Unrestricted Subsidiary. For all purposes hereof, the Indebtedness of any Person shall in the case of Restricted Subsidiaries that are not Loan Parties, exclude loans and advances made by Loan Parties having a term not exceeding 364 days (inclusive of any roll over or extension of terms) and made in the ordinary course of business (such loans and advances, "**Short Term Advances**"). Indebtedness shall not include Indebtedness of any direct or indirect parent company appearing on the balance sheet of such Person solely by reason of push down accounting under GAAP. The amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Swap Termination Value thereof as of such date.

"**Indemnified Liabilities**" has the meaning specified in Section 11.05.

"**Indemnitees**" has the meaning specified in Section 11.05.

"**Independent Financial Advisor**" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and its Affiliates.

"**Information**" has the meaning specified in Section 11.08.

"**Initial Term Loan Commitment**" means, as to each Lender, its obligation to make an Initial Term Loan (other than a Delayed Draw Term Loan) to the Borrower hereunder on the Closing Date, expressed as an amount representing the maximum principal amount of the Initial Term Loans to be made by such Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Refinancing Amendment or (iii) an Extension. The initial amount of each Lender's Initial Term Loan Commitment is set forth on Schedule 2.01 under the

caption “Initial Term Loan Commitment” or, otherwise, in the Assignment and Assumption or Refinancing Amendment pursuant to which such Lender shall have assumed its Initial Term Loan Commitment, as the case may be. The aggregate amount of the Initial Term Loan Commitments is \$800,000,000.

“**Initial Term Loans**” has the meaning assigned to such term in Section 2.01(a).

“**Inside Maturity Exception**” means Indebtedness consisting of, at the Borrower’s option, any combination of Credit Agreement Refinancing Debt, Incremental Facilities, Incremental Equivalent Debt, Permitted Ratio Debt, Indebtedness incurred pursuant to Section 7.03(l)(iii) and Permitted Refinancing of the foregoing in an original principal amount not to exceed the greater of (a) \$75,000,000 and (b) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination.

“**Intellectual Property**” has the meaning specified in the Security Agreement.

“**Intellectual Property Security Agreements**” has the meaning specified in the Security Agreement.

“**Intercreditor Agreements**” means the Closing Date Intercreditor Agreement, any other Junior Lien Intercreditor Agreement and any Equal Priority Intercreditor Agreement, in each case that may be executed by the Collateral Agent from time to time.

“**Interest Coverage Ratio**” means, as of any date, the ratio of (a) Consolidated Adjusted EBITDA to (b) Consolidated Interest Expense, in each case for the Test Period as of such date.

“**Interest Payment Date**” means, (a) as to any Eurocurrency Rate Loan, the last day of each Interest Period applicable to such Eurocurrency Rate Loan and the applicable Maturity Date; *provided* that if any Interest Period for a Eurocurrency Rate 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, (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each fiscal quarter and the applicable Maturity Date and (c) to the extent necessary to create a fungible tranche of Term Loans, the date of the incurrence of any Delayed Draw Term Loans and/or Incremental Term Loans.

“**Interest Period**” means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, or to the extent consented to by each applicable Lender, twelve months (or such period of less than one month as may be consented to by each applicable Lender), as selected by the Borrower in its Committed Loan Notice; *provided* that:

- (a) 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 such Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;
- (b) any Interest Period (other than an Interest Period having a duration of less than one month) 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
- (c) no Interest Period shall extend beyond the applicable Maturity Date.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, including by means of (a) the purchase or other acquisition (including by merger or otherwise) of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, but excluding any Short Term Advances or (c) the purchase or other acquisition (in one transaction or a series of transactions, including by merger or otherwise) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of another Person. The amount of any Investment at any time shall be the amount of cash and the fair market value of other property actually invested (measured at the time made), without adjustment for subsequent changes in the value of such Investment, net of any return, whether a return of capital, interest, dividend or otherwise, with respect to such Investment.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Borrower.

“IRS” means Internal Revenue Service of the United States.

“Issuance Notice” means an Issuance Notice in respect of letters of credit substantially in the form of Exhibit A-2.

“Issuing Bank” means each of Jefferies Finance, Bank of Montreal, UBS AG, Stamford Branch and Nomura Corporate Funding Americas, LLC, each as an Issuing Bank hereunder, together with its permitted successors and assigns in such capacity, and any other Revolving Lender that becomes an Issuing Bank in accordance with Section 2.04(k) or (m). Any Issuing Bank may cause Letters of Credit to be issued by an Affiliate of such Issuing Bank or by another financial institution designated by such Issuing Bank, and all Letters of Credit issued by any such Affiliate or any such designated financial institution shall be treated as being issued by such Issuing Bank for all purposes under the Loan Documents.

“Jefferies Finance” has the meaning specified in the introductory paragraph to this Agreement.

“Joint Bookrunners” means Jefferies Finance, BMOCM, UBS and Nomura.

“Joint Venture” means (a) any Person which would constitute an “equity method investee” of the Borrower or any of the Restricted Subsidiaries and (b) any Person in whom the Borrower or any of the Restricted Subsidiaries beneficially owns any Equity Interest that is not a Restricted Subsidiary (other than an Unrestricted Subsidiary).

“Joint Venture Investments” means Investments in any Joint Venture or Unrestricted Subsidiary in an aggregate amount not to exceed the greater of (a) 25% of Closing Date EBITDA and (b) 25% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination.

“Junior Financing” means any Material Indebtedness that is contractually subordinated in right of payment to the Obligations expressly by its terms.

“Junior Financing Documentation” means any documentation governing any Junior Financing.

“Junior Lien Debt” means any Indebtedness that is secured by a Lien on Collateral that has a priority that is contractually junior to the Lien on such Collateral that secure the Obligations.

“Junior Lien Intercreditor Agreement” means an intercreditor agreement, substantially in the form attached hereto as Exhibit K-1 (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Agent and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be Junior Lien Debt, another lien subordination arrangement reasonably satisfactory to the Administrative Agent, the Collateral Agent and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Collateral Agent will execute and deliver a Junior Lien Intercreditor Agreement with one or more Debt Representatives for secured Indebtedness that is permitted to be incurred hereunder as Junior Lien Debt; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens do not violate (including with respect to priority) any provisions of the Loan Documents.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Loan, any Refinancing Term Loan, any Refinancing Revolving Loan, any Extended Term Loan or any Extended Revolving Commitment, in each case as extended in accordance with this Agreement from time to time.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“LCA Election” has the meaning specified in Section 1.08(f).

“LCA Test Date” has the meaning specified in Section 1.08(f).

“Lead Arrangers” means Jefferies Finance, BMOCM, UBS and Nomura.

“Lender” has the meaning specified in the introductory paragraph to this Agreement (and, for the avoidance of doubt, includes each Revolving Lender and each Term Loan Lender), and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” Each Additional Lender shall be a Lender to the extent any such Person has executed and delivered a Refinancing Amendment or an Incremental Amendment, as the case may be, and to the extent such Refinancing Amendment or Incremental Amendment shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender. Unless the context otherwise requires, the term “Lenders” includes the Issuing Banks and the Swing Line Lender. Notwithstanding the foregoing, no Disqualified Lender that purports to become a Lender hereunder (notwithstanding the provisions of this Agreement that prohibit Disqualified Lenders from becoming Lenders) shall be entitled to any of the rights or privileges enjoyed by the other Lenders (including with respect to voting, information and lender meetings) and shall be deemed for all purposes to be, at most, a Defaulting Lender (except for purposes of Section 2.19(d)) until such time as such Disqualified Lender no longer owns any Loans or Commitments.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“**Letter of Credit**” means a letter of credit issued or to be issued by any Issuing Bank pursuant to this Agreement, which letter of credit shall be (a) a standby letter of credit or (b) solely to the extent agreed by the applicable Issuing Bank in its sole discretion, a commercial or “trade” letter of credit.

“**Letter of Credit Advance**” means, as to any Revolving Lender, such Lender’s funding of its participation in any Letter of Credit Borrowing in accordance with its Pro Rata Share.

“**Letter of Credit Application**” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable Issuing Bank, together with an Issuance Notice.

“**Letter of Credit Borrowing**” means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed by the Borrower on the date when made or refinanced as a Revolving Loan Borrowing.

“**Letter of Credit Documents**” means, as to any Letter of Credit, each Letter of Credit Application and any other document, agreement and instrument entered into by the applicable Issuing Bank and the Borrower or in favor of such Issuing Bank and relating to such Letter of Credit.

“**Letter of Credit Expiration Date**” means the day that is five Business Days prior to the Revolving Commitment Maturity Date (or, if such day is not a Business Day, the immediately preceding Business Day).

“**Letter of Credit Extension**” means, with respect to any Letter of Credit, the issuance thereof or the extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“**Letter of Credit Obligations**” means, at any time, the aggregate of all liabilities at such time of any Loan Party to each Issuing Bank with respect to Letters of Credit, whether or not any such liability is contingent, including, without duplication, the sum of (a) the Reimbursement Obligations at such time and (b) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding.

“**Letter of Credit Percentage**” means, (a) initially with respect to (i) Jefferies Finance, 41.3%, (ii) Bank of Montreal, 36.0%, (iii) UBS AG, Stamford Branch, 11.7% and (iv) Nomura Corporate Funding Americas, LLC, 11.0% (in each case, as may be reduced to reflect any percentage allocated to another Issuing Bank pursuant to the immediately succeeding clause (b)) and (b) from time to time after the Closing Date with respect to any other Issuing Bank, a percentage to be agreed between the Borrower and such Issuing Bank.

“**Letter of Credit Sublimit**” means the greater of (a) \$10,000,000 and (b) such higher amount as the Borrower, the Revolving Lenders and the applicable Issuing Bank(s) may from time to time agree.

“**Letter of Credit Usage**” means, as of any date of determination, the sum of (a) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (b) the aggregate amount of all Reimbursement Obligations outstanding at such time.

“**Lien**” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement 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

Capitalized Lease having substantially the same economic effect as any of the foregoing); *provided* that in no event shall an operating lease in and of itself be deemed a Lien.

“**Limited Condition Acquisition**” means any Permitted Acquisition or other Investment permitted hereunder by the Borrower or one or more of its Restricted Subsidiaries whose consummation is not conditioned on the availability of, or on obtaining, third party financing.

“**Liquidity**” means, as of any date of determination, (a) cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries that are Domestic Subsidiaries on a consolidated basis that is not Restricted, *plus* (b) the amount by which revolving commitments extended to the Borrower and its Restricted Subsidiaries, including the Revolving Commitments, exceed the total utilization of such revolving commitments, including the Total Utilization of Revolving Commitments.

“**Loan**” means a Term Loan, a Delayed Draw Term Loan, a Revolving Loan and a Swing Line Loan made by a Lender to the Borrower under Article II (including Section 2.16).

“**Loan Documents**” means, collectively, (a) this Agreement, (b) the Notes, (c) any Refinancing Amendment, Incremental Amendment or Extension Amendment, (d) the Guaranty, (e) the Collateral Documents (f) the Intercreditor Agreements (if any), (g) the Global Intercompany Note and (h) the Agency Fee Letter.

“**Loan Parties**” means, collectively, the Borrower and the Guarantors.

“**L/C Fee**” has the meaning specified in Section 2.11(b)(ii).

“**Management Stockholders**” means (a) the members of management of Holdings, any direct or indirect parent of Holdings, or any of their respective Subsidiaries who are investors in Holdings or any direct or indirect parent of Holdings, (b) family members of any of the individuals identified in the foregoing clause (a), (c) trusts, partnerships or limited liability companies for the benefit of any of the individuals identified in the foregoing clause (a) or (b), and (d) heirs, executors, estates, successors and legal representatives of the individuals identified in the foregoing clause (a) or (b).

“**Margin Stock**” has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.

“**Market Capitalization**” means an amount equal to (a) the sum of (i) the total number of issued and outstanding shares of common stock of the Borrower or any direct or indirect parent of the Borrower on the date of the initial public offering of the shares of common stock of the Borrower or such direct or indirect parent of the Borrower, *plus* (ii) the total number of shares of common stock of the Borrower or any direct or indirect parent of the Borrower that are actually issued, if any, upon exercise of the “overallotment option” granted to the underwriters of such initial public offering, *multiplied by* (b) the initial public offering price of such shares of common stock.

“**Master Agreement**” has the meaning specified in the definition of “Hedge Agreement.”

“**Material Adverse Effect**” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party and (c) the rights and remedies of the Lenders, the Collateral Agent or the Administrative Agent under any Loan Document.

“Material Domestic Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each of the Borrower’s Domestic Subsidiaries (a) whose total assets at the last day of the most recent Test Period (when taken together with the total assets of the Subsidiaries of such Domestic Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of the consolidated total assets of the Borrower and the Restricted Subsidiaries as of the last day of such Test Period, in each case determined in accordance with GAAP or (b) whose revenues for such Test Period (when taken together with the revenues of the Subsidiaries of such Domestic Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; *provided* that if, at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), Domestic Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clause (a) or (b) comprise in the aggregate more than (when taken together with the total assets of the Subsidiaries of such Domestic Subsidiaries at the last day of the most recent Test Period) 10.0% of total assets of the Borrower and the Restricted Subsidiaries that are Domestic Subsidiaries as of the end of the most recently ended Test Period or more than (when taken together with the revenues of the Subsidiaries of such Domestic Subsidiaries for such Test Period) 10.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries that are Domestic Subsidiaries for such Test Period, then the Borrower shall, not later than sixty days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Domestic Subsidiaries as “Material Domestic Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 6.11 with respect to any such Subsidiaries.

“Material Foreign Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each of the Borrower’s Foreign Subsidiaries (a) whose total assets at the last day of the most recent Test Period (when taken together with the total assets of the Subsidiaries of such Foreign Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of the consolidated total assets of the Borrower and the Restricted Subsidiaries as of the last day of such Test Period, in each case determined in accordance with GAAP or (b) whose revenues for such Test Period (when taken together with the revenues of the Subsidiaries of such Foreign Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; *provided* that if, at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), Foreign Subsidiaries that are not Material Foreign Subsidiaries comprise in the aggregate more than (when taken together with the total assets of the Subsidiaries of such Foreign Subsidiaries at the last day of the most recent Test Period) 10.0% of total assets of the Borrower and the Restricted Subsidiaries that are Foreign Subsidiaries as of the end of the most recently ended Test Period or more than (when taken together with the revenues of the Subsidiaries of such Foreign Subsidiaries for such Test Period) 10.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries that are Foreign Subsidiaries for such Test Period, then the Borrower shall, not later than sixty days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Administrative Agent may agree in its reasonable discretion), designate in writing to the Administrative Agent one or more of such Foreign Subsidiaries as “Material Foreign Subsidiaries” to the extent required such that the foregoing condition ceases to be true.

“Material Indebtedness” means, as of any date, Indebtedness for borrowed money on such date of any Loan Party in an aggregate principal amount exceeding the Threshold Amount; *provided* that in no event shall any of the following be Material Indebtedness (a) Indebtedness under a Loan Document, (b) obligations in respect of a Permitted Receivables Financing, (c) capital lease obligations and (d) Indebtedness held by a Loan Party or any Indebtedness held solely by an Affiliate of a Loan Party.

“**Material Real Property**” means any real property owned in fee by the Borrower or any Restricted Subsidiary that is a Loan Party (or owned by any Person required to become a Loan Party hereunder) (a) with a book value in excess of \$7,500,000 and (b) not located in an area determined by the Federal Emergency Management Agency (or any successor agency) to be located in a special flood hazard area.

“**Material Subsidiary**” means any Material Domestic Subsidiary or any Material Foreign Subsidiary.

“**Maturity Date**” means:

(a) with respect to the Initial Term Loans and any Delayed Draw Term Loans, in each case, that have not been extended pursuant to Section 2.18, the date that is the earlier of (i) seven years after the Closing Date and (ii) the date such Term Loans are declared due and payable pursuant to Section 9.02.

(b) with respect to the Revolving Loans, the date that is the earlier of (i) five years after the Closing Date and (ii) the date Revolving Loans are declared due and payable pursuant to Section 9.02.

(c) with respect to any tranche of Extended Term Loans and/or Extended Revolving Commitments, the earlier of (i) the final maturity date as specified in the applicable Extension Amendment and (ii) the date such tranche of Extended Term Loans and/or Extended Revolving Commitments are terminated and/or declared due and payable pursuant to Section 9.02.

(d) with respect to any Refinancing Term Loans or Refinancing Revolving Loans, the earlier of (i) the final maturity date as specified in the applicable Refinancing Amendment and (ii) the date such Refinancing Term Loans or Refinancing Revolving Loans are declared due and payable pursuant to Section 9.02, and

(e) with respect to any Incremental Term Loans, the earlier of (i) the final maturity date as specified in the applicable Incremental Amendment and (ii) the date such Incremental Term Loans are declared due and payable pursuant to Section 9.02;

provided, in each case, that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately preceding such day.

“**Maximum Rate**” has the meaning specified in Section 11.10.

“**Minimum Collateral Amount**” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of the Issuing Banks with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of the Swing Line Lender with respect to Swing Line Loans outstanding at such time and (c) otherwise, an amount determined by the Administrative Agent and the Issuing Banks or the Swing Line Lender, as the case may be, in their sole discretion.

“**Minority Investment**” means any Person other than a Subsidiary in which the Borrower or any Restricted Subsidiary owns any Equity Interests.

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

“**Mortgage Policy**” and/or “**Mortgage Policies**” means an American Land Title Association Lender’s Extended Coverage title insurance policy covering such interest in the Mortgaged Property in an amount at least equal to the fair market value of such Mortgaged Property (or such lesser amount as shall be specified by the Collateral Agent) insuring the first priority Lien of each such Mortgage as a valid Lien on the property described therein, free of any other Liens except as expressly permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request and in form and substance reasonably satisfactory to the Collateral Agent.

“**Mortgaged Properties**” means the property on which Mortgages are required pursuant to Section 6.11.

“**Mortgages**” means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Collateral Agent for the benefit of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent, and any other mortgages, deeds of trust, trust deeds and hypothecs executed and delivered pursuant to Sections 6.11 or 6.12(b).

“**Multiemployer Plan**” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“**Net Cash Proceeds**” means, with respect to:

- (a) the Disposition of any asset by the Borrower or any Restricted Subsidiary or any Casualty Event, the excess, if any, of:
 - (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash and Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of the Borrower or any of the Restricted Subsidiaries), over
 - (ii) the sum of,
 - (A) the principal amount, premium or penalty, if any, interest, breakage costs and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and required to be repaid in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents, Pari Passu Lien Debt or Junior Lien Debt),
 - (B) the out-of-pocket fees and expenses (including attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and re-cording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event and restoration costs following a Casualty Event,
 - (C) taxes or distributions made pursuant to Section 7.06(g)(i) or 7.06(g)(iii) paid or reasonably estimated to be payable in connection therewith

(including taxes imposed on the distribution or repatriation of any such Net Cash Proceeds),

(D) in the case of any Disposition or Casualty Event by anon-wholly owned Restricted Subsidiary, the *pro rata* portion of the Net Cash Proceeds thereof (calculated without regard to this clause (D)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Restricted Subsidiary as a result thereof, and

(E) any reserve for adjustment in respect of (1) the sale price of such asset or assets established in accordance with GAAP and (2) any liabilities associated with such asset or assets and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, it being understood that "Net Cash Proceeds" shall include the amount of any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (E);

provided that (I) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Cash Proceeds unless such amount exceeds \$5,000,000 and (II) no such net cash proceeds shall constitute Net Cash Proceeds under this clause (a) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year exceeds \$10,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Cash Proceeds under this clause (a)); and

(b) the sale, incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary or any Permitted Equity Issuance by the Borrower, the excess, if any, of:

(i) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance *over*

(ii) taxes paid or reasonably estimated to be payable as a result thereof, fees (including investment banking fees, attorneys' fees, accountants' fees, underwriting fees and discounts), commissions, costs and other out-of-pocket expenses and other customary expenses, incurred by the Borrower or such Restricted Subsidiary in connection with such sale, incurrence or issuance; and

(c) any Permitted Equity Issuance by any direct or indirect parent of the Borrower, the amount of cash and Cash Equivalents from such Permitted Equity Issuance contributed to the capital of the Borrower.

"**Net Income**" means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP (determined, for the avoidance of doubt, on an unconsolidated basis) and before any reduction in respect of preferred stock dividends.

"**Netted Tax Amount**" has the meaning specified in Section 2.07(b)(vi).

"**Nomura**" has the meaning specified in the introductory paragraph to this Agreement.

"**Non-Bank Certificate**" has the meaning specified in Section 3.01(b).

“**Non-Consenting Lender**” has the meaning specified in the penultimate paragraph of Section 3.07.

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

“**Non-Loan Party**” means any Restricted Subsidiary of the Borrower that is not a Loan Party.

“**Nonrenewal Notice Date**” has the meaning specified in Section 2.04(b)(iii).

“**Not Otherwise Applied**” means, with reference to the amount of any capital contributions or Net Cash Proceeds from Permitted Equity Issuances that is proposed to be applied to a particular use or transaction, that such amount was not previously applied in determining the permissibility of a transaction under the Loan Documents (including, for the avoidance of doubt, any use of such amount to increase the Available Amount) where such permissibility was (or may have been) contingent on the receipt or availability of such amount.

“**Note**” means each of the Term Loan Notes, the Revolving Loan Notes and the Swing Line Note.

“**Notice of Intent to Cure**” has the meaning specified in Section 6.02(a).

“**Obligations**” means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding, (b) obligations of any Loan Party arising under any Secured Hedge Agreement and (c) Cash Management Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party and to provide Cash Collateral under any Loan Document.

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

“**OID**” means original issue discount.

“**Organization Documents**” means,

- (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);
- (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and
- (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation

or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Applicable ECF Indebtedness**” has the meaning specified in Section 2.07(b)(i).

“**Other Applicable Indebtedness**” has the meaning specified in Section 2.07(b)(ii)(B).

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

“**Other Taxes**” has the meaning specified in Section 3.01(f).

“**Overnight Rate**” means, for any day, (a) the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (b) with respect to any amount denominated in any Alternative Currency, the rate of interest per annum reasonably determined by the Administrative Agent to be its cost of funding such amount.

“**Pari Passu Lien Debt**” means any Indebtedness that is secured by Liens on Collateral that are *pari passu* in priority with the Liens on Collateral that secure the Obligations. For the avoidance of doubt, “Pari Passu Lien Debt” includes the Initial Term Loans (including, for the avoidance of doubt, the Delayed Draw Term Loans), the Revolving Loans (if any) and the Revolving Commitments, in each case, as of the Closing Date.

“**Participant**” has the meaning specified in Section 11.07(d).

“**Participant Register**” has the meaning specified in Section 11.07(e).

“**Participating Member State**” means each state as described in any EMU Legislation.

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

“**Pension Plan**” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made, or has had an obligation to make, contributions at any time in the preceding five plan years.

“**Perfection Certificate**” means a certificate in the form of Exhibit II to the Security Agreement or any other form reasonably approved by the Collateral Agent, as the same shall be supplemented from time to time.

“**Permitted Acquisition**” has the meaning specified in Section 7.02(c).

“**Permitted Equity Issuance**” means any (a) public or private sale or issuance of any Qualified Equity Interests of the Borrower or any direct or indirect parent of the Borrower or (b) sale or issuance of

debt securities representing obligations of Holdings, the Borrower and/or Restricted Subsidiaries (other than debt securities representing intercompany Indebtedness) that have been converted into or exchanged for Qualified Equity Interests, in each case, other than Specified Equity Contributions; *provided* that Net Cash Proceeds of any such debt securities will be deemed to have been received by the Borrower upon any such conversion or exchange.

“Permitted Holders” means any:

- (a) the Sponsor;
- (b) the Management Stockholders;
- (c) any group (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) of which the Persons described in clauses (a) or (b) above are members; *provided* that, without giving effect to the existence of such group or any other group, the Persons described in clauses (a) and (b) above, collectively, beneficially own (as defined in Rules 13(d) and 14(d) of the Exchange Act) Equity Interests representing at least a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interest of Holdings (or any Successor Holdings, if applicable) then held by such group); and
- (d) any direct or indirect parent of Holdings, for so long as a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of such entity is beneficially owned (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, by one or more Permitted Holders described in clauses (a), (b) and/or (c) of the definition thereof.

“Permitted Investment” means (a) any Permitted Acquisition and/or (b) any other Investment or acquisition permitted hereunder.

“Permitted Investors” means (a) the Sponsor, (b) each of the Affiliates and investment managers of the Sponsor, (c) any fund or account managed by any of the persons described in clause (a) or (b) of this definition, (d) any employee benefit plan of Holdings or any of its subsidiaries and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, and (e) investment vehicles of members of management of Holdings or the Borrower but excluding natural persons, Holdings, the Borrower, and their respective subsidiaries.

“Permitted Junior Secured Refinancing Debt” means any Credit Agreement Refinancing Indebtedness that is Junior Lien Debt.

“Permitted Pari Passu Secured Refinancing Debt” means any Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt.

“Permitted Ratio Debt” means secured or unsecured Indebtedness of the Borrower or any Restricted Subsidiary; *provided* that, at the time of incurrence thereof:

- (a) immediately after giving effect to the issuance, incurrence, or assumption of such Indebtedness:
 - (i) in the case of any Pari Passu Lien Debt, the First Lien Net Leverage Ratio for the applicable Test Period is equal to or less than (A) the Closing Date First Lien Net

Leverage Ratio or (B) the First Lien Net Leverage Ratio immediately prior to such incurrence;

(ii) in the case of any Junior Lien Debt that ranks *pari passu* in lien priority with the Second Lien Facility, either:

(A) the Secured Net Leverage Ratio for the applicable Test Period is equal to or less than (I) the Closing Date Secured Net Leverage Ratio or (II) the Secured Net Leverage Ratio immediately prior to such incurrence, or

(B) the Interest Coverage Ratio for the applicable Test Period is equal to or greater than (I) 2.00 to 1.00 or (II) the Interest Coverage Ratio immediately prior to such incurrence; or

(iii) in the case of any unsecured Indebtedness, Indebtedness that is incurred or issued by any Non-Loan Party or secured Indebtedness junior to the Second Lien Facility, either:

(A) the Total Net Leverage Ratio for the applicable Test Period is equal to or less than (I) the Closing Date Total Net Leverage Ratio or (II) the Total Net Leverage Ratio immediately prior to such incurrence, or

(B) the Interest Coverage Ratio for the applicable Test Period is equal to or greater than (I) 2.00 to 1.00 or (II) the Interest Coverage Ratio immediately prior to such incurrence;

in each case, after giving Pro Forma Effect to the incurrence of such Indebtedness and the use of proceeds thereof and measured as of and for the Test Period immediately preceding the issuance, incurrence or assumption of such Indebtedness for which internal financial statements are available; and

(b) if such Indebtedness is intended to be Pari Passu Lien Debt or Junior Lien Debt, a Debt Representative acting on behalf of the holders of such Permitted Ratio Debt has become party to, or is otherwise subject to the provisions of, (i) if such Permitted Ratio Debt is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (ii) if such Permitted Ratio Debt is Junior Lien Debt, a Junior Lien Intercreditor Agreement;

(c) immediately before and after giving effect thereto and to the use of the proceeds thereof no Specified Event of Default shall have occurred or be continuing; and

(d) if such Permitted Ratio Debt is in the form of term loans in U.S. dollars and is Pari Passu Lien Debt, then the provisions of Section 2.16(h) shall apply as if such Permitted Ratio Debt was in the form of Incremental Term Loans.

Permitted Ratio Debt will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Permitted Refinancing**” means, with respect to any Person, any modification, refinancing, refunding, replacement, renewal or extension of any Indebtedness of such Person; *provided* that

(a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, replaced, renewed or extended except by an amount equal to unpaid accrued interest and premium (including tender premiums) thereon, *plus* OID and upfront fees *plus* other fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, replacement, renewal or extension and by an amount equal to any existing commitments unutilized thereunder,

(b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(c) or Section 7.03(d), such modification, refinancing, refunding, replacement, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended,

(c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(d), at the time thereof, no Event of Default shall have occurred and be continuing,

(d) if such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is Junior Financing or Junior Lien Debt,

(i) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, replacement, renewal, or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended,

(ii) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is unsecured, such modification, refinancing, refunding, replacement, renewal or extension is either (A) unsecured or (B) secured by Liens permitted to be incurred under Section 7.01 at such time;

(iii) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is secured by Liens, (A) such modification, refinancing, refunding, replacement, renewal or extension is either unsecured or is not secured by any Liens that do not secure such Indebtedness and (B) to the extent that such Liens are subordinated to the Liens securing the Obligations, such modification, refinancing, refunding, replacement, renewal or extension is secured by Liens that are subordinated to the Liens securing the Obligations on terms at least as favorable to the Lenders as those contained in the documentation (including any intercreditor or similar agreements) governing the Indebtedness being modified, refinanced, replaced, refunded, replaced, renewed or extended;

(iv) (A) such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended shall be on terms and conditions that are, taken as a whole, not materially more favorable to the lenders or holders providing such Indebtedness than, those applicable to the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (except (1) for covenants applicable only to periods after the Latest

Maturity Date of the Term Loans at the time of incurrence and (2) any term or condition to the extent such term or condition is also added for the benefit of the Lenders under the Term Loans) or (B) solely to the extent that any terms and conditions applicable to any such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended are not the same as, or substantially similar to, those then applicable to the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, shall otherwise reflect customary market terms and conditions at the time of such incurrence, including with respect to high yield debt securities to the extent applicable, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (*provided* that a certificate of a Responsible Officer delivered to the Administrative Agent at least four (4) Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, together with a reasonably detailed description of the material covenants and events of default of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (iv) shall be conclusive evidence that such material covenants and events of default satisfy such requirement unless the Administrative Agent notifies the Borrower within such four (4) Business Day (or shorter) period that it disagrees with such determination (including a description of the basis upon which it disagrees)); *provided further* that this clause (iv) will not apply to (w) terms addressed in the other clauses of this “Permitted Refinancing” definition, (x) interest rate, rate floors, fees, funding discounts and other pricing terms, (y) redemption, prepayment or other premiums, and (z) optional prepayment or redemption terms, and

(v) such modification, refinancing, refunding, replacement, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended and no additional obligors become liable for such Indebtedness;

(e) in the case of any Permitted Refinancing in respect of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in each case, such Permitted Refinancing is secured by Liens on assets of Loan Parties that are subject to an Equal Priority Intercreditor Agreement or Junior Lien Intercreditor Agreement, as applicable; and

(f) in the case of any Permitted Refinancing in respect of any Incremental Equivalent Debt, such Permitted Refinancing shall be subject to the terms of clause (c) of the definition of “Incremental Equivalent Debt” as if such Permitted Refinancing were also Incremental Equivalent Debt.

Permitted Refinancing will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Person**” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“**Plan**” means any material “employee benefit plan” (as such term is defined in Section 3(3) of ERISA), other than a Foreign Plan, established by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

“**Platform**” has the meaning specified in [Section 6.02](#).

“**Pledged Debt**” has the meaning specified in the Security Agreement.

“**Pledged Equity**” has the meaning specified in the Security Agreement.

“**Pounds Sterling**” and “**£**” mean the lawful money of the United Kingdom of Great Britain and Northern Ireland.

“**Prepayment Date**” has the meaning specified in Section 2.07(b)(vii).

“**Prepayment Notice**” means a written notice made pursuant to Section 2.07(a)(i) substantially in the form of Exhibit J.

“**Private-Side Information**” means any information with respect to Holdings and its Subsidiaries that is not Public-Side Information.

“**Pro Forma Basis**” and “**Pro Forma Effect**” mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio (including in connection with Specified Transactions) in accordance with Section 1.08.

“**Pro Rata Share**” means (a) with respect to all payments, computations and other matters relating to the Term Loan of a given Class of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Loan Exposure of such Class of such Lender at such time and the denominator of which is the aggregate Term Loan Exposure of such Class of all Lenders at such time; (b)(i) with respect to all payments, computations and other matters relating to the Revolving Commitment of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the unused Revolving Commitment of that Lender and the denominator of which is the aggregate unused Revolving Commitments of all Lenders at such time and (ii) with respect to all payments, computations and other matters relating to the Revolving Loans of any Lender and any Letters of Credit issued or participations purchased therein by any Lender or any participation in any Swing Line Loans purchased by any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Revolving Exposure of that Lender and the denominator of which is the aggregate Revolving Exposure of all Lenders at such time; (c)(i) with respect to all payments, computations and other matters relating to the Delayed Draw Term Loan Commitment of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Delayed Draw Term Loan Commitment of that Lender and the denominator of which is the aggregate Delayed Draw Term Loan Exposure of all Lenders at such time and (ii); with respect to all payments, computations and other matters relating to the Delayed Draw Term Loans of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Delayed Draw Term Loan Exposure of that Lender and the denominator of which is the aggregate Delayed Draw Term Loan Exposure of all Lenders at such time and (d) with respect to all payments, computations and other matters relating to the Incremental Term Loans of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Incremental Term Loan Exposure of such Lender at such time and the denominator of which is the aggregate Incremental Term Loan Exposure of all Lenders at such time.

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

“**Public Company Costs**” means costs relating to compliance with the Sarbanes-Oxley Act of 2002, as amended, and other expenses arising out of or incidental to Holdings’ (or any direct or indirect

parent thereof which do not own other Subsidiaries besides Holdings, its Subsidiaries and any other direct or indirect parents of Holdings) status as a reporting company, including costs, fees and expenses (including legal, accounting and other professional fees) relating to compliance with provisions of the Securities Act and the Exchange Act, the rules of securities exchange companies with listed equity securities, directors' compensation, fees and expense reimbursement, shareholder meetings and reports to shareholders, directors' and officers' insurance and other executive costs, legal and other professional fees, and listing fees.

“**Public Lenders**” means Lenders that do not wish to receive Private-Side Information.

“**Public-Side Information**” means (a) at any time prior to Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that is (i) of a type that would be required by applicable Law to be publicly disclosed in connection with an issuance by Holdings or any of its Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (ii) not material to make an investment decision with respect to securities of Holdings or any of its Subsidiaries (for purposes of United States federal, state or other applicable securities laws), and (b) at any time on or after Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to Holdings or any of its Subsidiaries or any of their respective securities.

“**Qualified Equity Interests**” means any Equity Interests that are not Disqualified Equity Interests.

“**Qualified Holding Company Debt**” means unsecured Indebtedness of Holdings:

- (a) that is not subject to any Guarantee by any Subsidiary of Holdings (including the Borrower),
- (b) that will not mature prior to the date that is six months after the Latest Maturity Date in effect on the date of issuance or incurrence thereof,
- (c) that has no scheduled amortization or scheduled payments of principal and is not subject to mandatory redemption, repurchase, prepayment or sinking fund obligation (it being understood that such Indebtedness may have mandatory prepayment, repurchase or redemption provisions satisfying the requirements of clause (e) below),
- (d) that does not require any payments in cash of interest or other amounts in respect of the principal thereof prior to the earlier to occur of (i) the date that is four years from the date of the issuance or incurrence thereof and (ii) the date that is 180 days after the Latest Maturity Date in effect on the date of such issuance or incurrence, and
- (e) that has mandatory prepayment, repurchase or redemption, covenant, default and remedy provisions customary for senior discount notes of an issuer that is the parent of a borrower under senior secured credit facilities, and in any event, with respect to covenant, default and remedy provisions, no more restrictive (taken as a whole) than those set forth in this Agreement (other than provisions customary for senior discount notes of a holding company);

provided, that any such Indebtedness shall constitute Qualified Holding Company Debt only if immediately after giving effect to the issuance or incurrence thereof and the use of proceeds thereof, no Event of Default shall have occurred and be continuing.

“Qualified Securitization Financing” means any Securitization Financing of a Securitization Subsidiary that meets the following conditions: (a) such Qualified Securitization Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and the Securitization Subsidiary, (b) all sales, transfers and/or contributions of Securitization Assets and related assets to the Securitization Subsidiary are made at fair market value and (c) the financing terms, covenants, termination events and other provisions thereof, including any Standard Securitization Undertakings, shall be market terms. The grant of a security interest in any Securitization Assets of the Borrower or any of the Restricted Subsidiaries (other than a Securitization Subsidiary) to secure Indebtedness under this Agreement prior to engaging in any Securitization Financing shall not be deemed a Qualified Securitization Financing.

“Qualifying IPO” means either (a) the issuance by Holdings or any direct or indirect parent of Holdings of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8 (or equivalent forms applicable for foreign public companies or foreign private issuers) or any successor form) pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act or pursuant to a prospectus or similar documents filed with securities regulatory authorities outside of the United States (whether alone or in connection with a secondary public offering) or (b) any transaction or series of related transactions following consummation of which Holdings or any direct or indirect parent of Holdings is either subject to the periodic reporting obligations of the Exchange Act or has a class or series of Equity Interests publicly traded on a recognized securities exchange, in each case, if following such transaction or series of transactions, any class or series of Equity Interests of such Person is listed on a national securities exchange.

“Ratio Amount” means an aggregate principal amount that, after giving Pro Forma Effect to the incurrence thereof, in accordance with Section 1.08 (assuming, in the case of (x) any Incremental Revolving Commitments, a full drawing of such Revolving Commitments and (y) any Incremental Facilities with a delayed draw feature, either (as determined by the Borrower) (i) a full drawing thereof as of the date of receiving commitments in respect thereof or (ii) based on the date and actual amount of funding thereof), would not result in:

- (a) with respect to an Incremental Facility or Incremental Equivalent Debt to be incurred as Pari Passu Lien Debt, the First Lien Net Leverage Ratio for the applicable Test Period being greater than (A) the Closing Date First Lien Net Leverage Ratio or (B) the First Lien Net Leverage Ratio immediately prior to such incurrence;
- (b) with respect to any Incremental Facility or Incremental Equivalent Debt to be incurred as Junior Lien Debt, either:
 - (i) the Secured Net Leverage Ratio for the applicable Test Period being greater than (A) the Closing Date Secured Net Leverage Ratio or (B) the Secured Net Leverage Ratio immediately prior to such incurrence; or
 - (ii) the Interest Coverage Ratio for the applicable Test Period being less than (A) 2.00 to 1.00 or (B) the Interest Coverage Ratio immediately prior to such incurrence; and
- (c) with respect to any Incremental Facility or Incremental Equivalent Debt that is unsecured, either:

(i) the Total Net Leverage Ratio for the applicable Test Period being greater than (A) the Closing Date Total Net Leverage Ratio or (B) the Total Net Leverage Ratio immediately prior to such incurrence; or

(ii) the Interest Coverage Ratio for the applicable Test Period being less than (A) 2.00 to 1.00 or (B) the Interest Coverage Ratio immediately prior to such incurrence.

“**Recipient**” means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

“**Reference Date**” has the meaning specified in the definition of “Available Amount.”

“**Refinanced Debt**” has the meaning assigned to such term in the definition of “Credit Agreement Refinancing Indebtedness.”

“**Refinanced Loans**” has the meaning specified in Section 11.01.

“**Refinancing Amendment**” means an amendment to this Agreement executed by each of (a) the Borrower and Holdings, (b) the Administrative Agent and (c) each Additional Lender and Lender that agrees to provide any portion of the Credit Agreement Refinancing Indebtedness being incurred pursuant thereto, in accordance with Section 2.17.

“**Refinancing Commitments**” means any Refinancing Term Commitments or Refinancing Revolving Commitments.

“**Refinancing Loans**” means any Refinancing Term Loans or Refinancing Revolving Loans.

“**Refinancing Revolving Commitments**” means one or more Classes of Revolving Loan commitments hereunder that result from a Refinancing Amendment.

“**Refinancing Revolving Loans**” means one or more Classes of Revolving Loans that result from a Refinancing Amendment.

“**Refinancing Term Commitments**” means one or more Classes of Term Loan commitments hereunder that result from a Refinancing Amendment.

“**Refinancing Term Loans**” means one or more Classes of Term Loans that result from a Refinancing Amendment.

“**Refunded Swing Line Loans**” has the meaning specified in Section 2.03(c)(i).

“**Register**” has the meaning specified in Section 11.07(c).

“**Registered Equivalent Notes**” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“**Reimbursement Obligations**” has the meaning specified in Section 2.04(c)(i).

“**Related Indemnified Person**” of an Indemnitee means (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, officers, or employees of such Indemnitee or any

of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Facility.

“**Relevant Four Fiscal Quarter Period**” means, with respect to any requested Specified Equity Contribution, the four-fiscal quarter period ending on (and including) the fiscal quarter in which Consolidated Adjusted EBITDA will be increased as a result of such Specified Equity Contribution.

“**Replacement Loans**” has the meaning specified in [Section 11.01](#).

“**Reportable Event**” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty day notice period has been waived by regulation as in effect on the date hereof.

“**Repricing Event**” means:

(a) the incurrence by the Borrower or any other Loan Party of any Indebtedness (including any new or additional Term Loans (other than Delayed Draw Term Loans) under this Agreement, whether incurred directly or by way of the conversion of the Initial Term Loans and/or Delayed Draw Term Loans into a new tranche of replacement Term Loans under this Agreement) (i) having an All-In Yield that is less than the All-In Yield for the Initial Term Loans, and (ii) the proceeds of which are used to prepay (or, in the case of a conversion, deemed to prepay or replace), in whole or in part, the outstanding principal of the Initial Term Loans and/or the Delayed Draw Term Loans, or

(b) any effective reduction in the All-In Yield applicable to the Initial Term Loans and/or the Delayed Draw Term Loans *e.g.*, by way of amendment, waiver or otherwise);

provided that a Repricing Event shall not include any event described in clause (a) or (b) above that (x) is not consummated for the primary purpose of lowering the All-In Yield applicable to the Initial Term Loans and/or the Delayed Draw Term Loans (as determined in good faith by the Borrower), or (y) that is consummated in connection with a Change of Control, Qualifying IPO, Transformative Acquisition dividend or other distribution or other debt repayment.

“**Required Delayed Draw Lenders**” means, as of any date of determination, Lenders having or holding more than 50% of the sum of the aggregate Delayed Draw Commitments then outstanding.

“**Required Facility Lenders**” means, with respect to any Facility (other than the Revolving Loans) on any date of determination, Lenders having or holding more than 50% of the sum of (a) the aggregate principal amount of outstanding Loans under such Facility and (b) the aggregate unused Commitments under such Facility; *provided* that (i) any determination of Required Facility Lenders shall be subject to the limitations set forth in [Section 11.07\(h\)](#) with respect to Affiliated Lenders and (ii) the portion of outstanding Loans and the unused Commitments of such Facility, as applicable, held or deemed held by a Defaulting Lender shall be excluded for purposes of making a determination of Required Facility Lenders.

“**Required Lenders**” means, as of any date of determination, Lenders having or holding more than 50% of the sum of the (a) the aggregate Term Loan Exposure of all Lenders and (b) the aggregate Revolving Exposure of all Lenders; *provided* that (a) the aggregate Term Loan Exposure and Revolving Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required

Lenders and (b) any determination of Required Lenders shall be subject to the limitations set forth in Section 11.07(h) with respect to Affiliated Lenders.

“Required Revolving Lenders” means, as of any date of determination, Lenders having or holding more than 50% of the aggregate Revolving Exposure of all Lenders; *provided* that the Revolving Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Responsible Officer” means the chief executive officer, president, senior vice president, senior vice president (finance), vice president, chief financial officer, treasurer, manager of treasury activities or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“Restricted” means, when referring to cash or Cash Equivalents of the Borrower or any of the Restricted Subsidiaries, that such cash or Cash Equivalents appear (or would be required to appear) as “restricted” on a consolidated balance sheet of the Borrower or such Restricted Subsidiary (unless such appearance is related to a restriction in favor of, among others, the Administrative Agent).

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of Holdings, the Borrower or any of the Restricted Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to the Borrower’s or Holdings’ stockholders, partners or members (or the equivalent Persons thereof).

“Restricted Subsidiary” means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“Revolving Commitment” means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit and Swing Line Loans hereunder and “Revolving Commitments” means such commitments of all Lenders in the aggregate. The amount of each Lender’s Revolving Commitment, if any, is set forth on Schedule 2.01 under the caption “Revolving Commitment” or in the applicable Assignment and Assumption, subject to any increase, adjustment or reduction pursuant to the terms and conditions hereof including Section 2.16. The aggregate amount of the Revolving Commitments as of the Closing Date is \$75,000,000.

“Revolving Commitment Period” means the period from the Closing Date to but excluding the Revolving Commitment Termination Date.

“Revolving Commitment Termination Date” means the earliest to occur of (a) the fifth anniversary of the Closing Date, (b) the date the Revolving Commitments, including Revolving Commitments in respect of Letters of Credit and Swing Line Loans, are permanently reduced to zero pursuant to Section 2.08, and (c) the date of the termination of the Revolving Commitments pursuant to Section 9.02.

“Revolving Exposure” means, with respect to any Lender as of any date of determination, (a) prior to the termination of the Revolving Commitments, that Lender’s Revolving Commitment; and (b) after the termination of the Revolving Commitments, the sum of (i) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (ii) in the case of each Issuing Bank, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit), (iii) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit, (iv) in the case of the Swing Line Lender, the aggregate outstanding principal amount of all Swing Line Loans (net of any participations therein by other Lenders) and (v) the aggregate amount of all participations therein by that Lender in any outstanding Swing Line Loans.

“Revolving Facility” means the Facility comprised of the Revolving Commitments, Revolving Loans, Swing Line Loans and Letters of Credit hereunder.

“Revolving Lender” means a Lender having a Revolving Commitment or other Revolving Exposure.

“Revolving Loan Note” means a promissory note in the form of Exhibit B-2, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Revolving Loans” has the meaning specified in Section 2.02(a).

“S&P” means Standard & Poor’s, a division of S&P Global Inc., and any successor thereto.

“Sale Leaseback Transaction” means a sale leaseback transaction with respect to all or any portion of any real property owned by a Loan Party.

“Same Day Funds” means disbursements and payments in immediately available funds.

“Sanctions” means any sanction administered or enforced by the United States government (including OFAC), the United Nations Security Council, the European Union or HMT.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Second Lien Administrative Agent” means the Administrative Agent under, and as defined in the Second Lien Credit Agreement, or any successor administrative agent under the Second Lien Credit Documents.

“Second Lien Collateral Agent” means the Collateral Agent under, and as defined in the Second Lien Credit Agreement, or any successor collateral agent under the Second Lien Credit Documents.

“Second Lien Credit Agreement” means the Second Lien Credit Agreement, dated as of the Closing Date, by and among the Borrower, Holdings, the Second Lien Administrative Agent, as administrative agent thereunder, and the other agents and lenders party thereto as the same may be amended, restated, amended and restated, modified, supplemented, extended, renewed, refunded, replaced or refinanced from time to time in one or more agreements (in each case with the same or new lenders, institutional investors or agents), including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the Indebtedness thereunder, in each case as and to the extent permitted by this Agreement and the Junior Lien Intercreditor Agreement.

“**Second Lien Credit Agreement Refinancing Indebtedness**” means “Credit Agreement Refinancing Indebtedness” as defined in the Second Lien Credit Agreement (as in effect on the Closing Date, as the same may be subsequently amended or restated, renewed, refunded, replaced or refinanced in accordance with the provisions hereof and the terms of the Closing Date Intercreditor Agreement).

“**Second Lien Credit Documents**” means the “Loan Documents” as defined in the Second Lien Credit Agreement.

“**Second Lien Initial Term Loans**” means the “Initial Term Loans” (as defined in the Second Lien Credit Agreement) borrowed by the Borrower on the Closing Date. The aggregate principal amount of Second Lien Initial Term Loans on the Closing Date is \$225,000,000.

“**Second Lien Term Loans**” means the loans borrowed pursuant to the Second Lien Credit Documents, including the Second Lien Initial Term Loans.

“**Secured Hedge Agreement**” means any Hedge Agreement that is entered into by and between any Loan Party and any Hedge Bank and designated in writing by the Hedge Bank and the Borrower to the Administrative Agent as a “Secured Hedge Agreement.”

“**Secured Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt outstanding as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Secured Parties**” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, each Swingline Lender, each Issuing Bank, each Hedge Bank, each Cash Management Bank, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to [Section 10.05](#) and [Section 10.12](#).

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securitization Assets**” means the accounts receivable, royalty or other revenue streams, other rights to payment (including with respect to rights of payment pursuant to the terms of Joint Ventures) subject to a Qualified Securitization Financing and the proceeds thereof.

“**Securitization Fees**” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Securitization Subsidiary in connection with any Qualified Securitization Financing.

“**Securitization Financing**” means any transaction or series of transactions that may be entered into by the Borrower or any of its Subsidiaries pursuant to which the Borrower or any of its Subsidiaries may sell, convey or otherwise transfer to (a) a Securitization Subsidiary (in the case of a transfer by the Borrower or any of its Subsidiaries) or (b) any other Person (in the case of a transfer by a Securitization Subsidiary), or may grant a security interest in, any Securitization Assets of the Borrower or any of its Subsidiaries, and any assets related thereto, including all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving Securitization Assets.

“**Securitization Repurchase Obligation**” means any obligation of a seller or transferor of Securitization Assets in a Qualified Securitization Financing to repurchase Securitization Assets arising as

a result of a breach of a Standard Securitization Undertaking, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“**Securitization Subsidiary**” means a wholly owned Subsidiary of the Borrower (or another Person formed for the purposes of engaging in a Qualified Securitization Financing in which the Borrower or any Subsidiary of the Borrower makes an Investment and to which the Borrower or any Subsidiary of the Borrower transfers Securitization Assets and related assets) that engages in no activities other than in connection with the financing of Securitization Assets of the Borrower or its Subsidiaries, all proceeds thereof and all rights (contingent and other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Board of Directors of the Borrower or such other Person (as provided below) as a Securitization Subsidiary, and

(a) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which (i) is guaranteed by Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, in any way other than pursuant to Standard Securitization Undertakings or (iii) subjects any property or asset of Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings,

(b) with which none of Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, has any material contract, agreement, arrangement or understanding other than on terms which the Borrower reasonably believes to be no less favorable to Holdings, the Borrower or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Borrower, and

(c) to which none of Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results.

(d) Any such designation by the Board of Directors of the Borrower or such other Person shall be evidenced to the Administrative Agent by delivery to the Administrative Agent of a certified copy of the resolution of the Board of Directors of the Borrower or such other Person giving effect to such designation and a certificate executed by a Responsible Officer certifying that such designation complied with the foregoing conditions.

“**Security Agreement**” means, collectively, the Security Agreement executed by the Loan Parties, substantially in the form of Exhibit F, together with each Security Agreement Supplement executed and delivered pursuant to Section 6.11.

“**Security Agreement Supplement**” has the meaning specified in the Security Agreement.

“**Short Term Advances**” has the meaning specified in the definition of “Indebtedness.”

“**Similar Business**” means any business, the majority of whose revenues are derived from (i) business or activities conducted by the Borrower and its Restricted Subsidiaries on the Closing Date, (ii) any business that is a natural outgrowth or reasonable extension, development or expansion of any such

business or any business similar, reasonably related, incidental, complementary or ancillary to any of the foregoing or (iii) any business that in the Borrower's good faith business judgment constitutes a reasonable diversification of businesses conducted by the Borrower and its Restricted Subsidiaries.

“**Solvent**” and “**Solvency**” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person, on a consolidated basis with its Subsidiaries, exceeds its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, (b) the present fair saleable value of the property of such Person, on a consolidated basis with its Subsidiaries, is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such debts and other liabilities become absolute and matured, (c) such Person, on a consolidated basis with its Subsidiaries, is able to pay its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such liabilities become absolute and matured and (d) such Person, on a consolidated basis with its Subsidiaries, is not engaged in, and is not about to engage in, business for which it has unreasonably small capital. 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.

“**SPC**” has the meaning specified in [Section 11.07\(g\)](#).

“**Specified Dividend**” means the dividend to be made by the Borrower to Holdings and by Holdings to its shareholder within ten Business Days after the Closing Date in an aggregate principal amount of \$218,000,000.

“**Specified Equity Contribution**” has the meaning specified in [Section 8.02](#).

“**Specified Event of Default**” means an Event of Default pursuant to [Section 9.01\(a\)](#) or an Event of Default pursuant to [Section 9.01\(f\)](#) with respect to the Borrower.

“**Specified Representations**” means those representations and warranties made by Holding and the Borrower in [Sections 5.01\(a\)](#) (with respect to organizational existence only), [5.01\(b\)\(ii\)](#), [5.02\(a\)](#), [5.02\(b\)\(i\)](#), [5.02\(b\)\(iii\)](#), [5.04](#), [5.13](#), [5.16](#), [5.17](#) and [5.18](#).

“**Specified Transaction**” means any Investment that results in a Person becoming a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition, any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a facility or any Disposition of a business unit, line of business or division of a facility of the Borrower or a Restricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise, or any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), Restricted Payment or Incremental Loan that by the terms of this Agreement requires such test to be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect.”

“**Specified Transaction Adjustments**” has the meaning specified in [Section 1.08\(c\)](#).

“**Sponsor**” means (a) any funds, limited partnerships or co-investment vehicles managed or advised by Leonard Green & Partners, L.P. or any of its Affiliates or direct or indirect Subsidiaries (or jointly managed by any such Person or over which any such Person exercises governance rights) or (b) any investors in the Persons identified in clause (a) who are investors in such Persons as of the Closing Date, and from time to time, invest directly or indirectly in Holdings or any direct or indirect parent of Holdings (but excluding any portfolio companies of any of the foregoing).

“**Sponsor Management Agreement**” means the Management Services Agreement, dated as of August 21, 2014, by and among the Sponsor (or certain of the management companies associated with it or its advisors), and the Borrower, as the same may be amended, modified, replaced, supplemented or otherwise modified from time to time in accordance with its terms, but only to the extent that any such amendment, modification, replacement, supplement or other modification does not, directly or indirectly, increase the obligation of Holdings, the Borrower or any of its Restricted Subsidiaries to make any payments thereunder.

“**Sponsor Termination Fees**” means the one-time payment under the Sponsor Management Agreement of a termination fee to one or more of the Sponsors in the event of either a Change of Control or the completion of a Qualifying IPO.

“**Standard Securitization Undertakings**” means representations, warranties, covenants and indemnities entered into by the Borrower or any Subsidiary of the Borrower that are customary in a Securitization Financing.

“**Stated Amount**” means, with respect to any Letter of Credit at any time, the aggregate amount available to be drawn thereunder at such time (regardless of whether any conditions for drawing could then be met).

“**Statutory Reserve Rate**” means 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 FRB to which the Administrative Agent is subject with respect to the Adjusted Eurocurrency Rate, for Eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the FRB). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Rate 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.

“**Subsidiary**” means, with respect to any Person, any corporation, partnership, limited liability company or other entity of which (a) the Equity Interests having ordinary voting power (other than Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors of such corporation, partnership, limited liability company or other entity are at the time owned by such Person or (b) more than 50.0% of the Equity Interests are at the time owned by such Person. Unless otherwise indicated in this Agreement, all references to Subsidiaries will mean Subsidiaries of the Borrower.

“**Subsidiary Guarantor**” means any Guarantor other than Holdings.

“**Successor Borrower**” has the meaning specified in [Section 7.04\(e\)](#).

“**Successor Holdings**” means any successor to Holdings pursuant to [Section 7.04\(a\)\(iii\)](#), [7.04\(h\)\(ii\)](#) or [7.13\(b\)\(ii\)](#), as applicable, together with such Person’s subsequent successors and assigns permitted hereunder.

“**Supplemental Administrative Agent**” and “**Supplemental Administrative Agents**” have the meanings specified in [Section 10.12\(a\)](#).

“**Swap Termination Value**” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge 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 Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include a Lender or any Affiliate of a Lender).

“**Swing Line Lender**” means Jefferies Finance, in its capacity as the Swing Line Lender hereunder, together with its permitted successors and assigns in such capacity.

“**Swing Line Loan**” means the swing line loan made by the Swing Line Lender to the Borrower pursuant to Section 2.03.

“**Swing Line Loan Request**” means a Swing Line Loan Request substantially in the form of Exhibit A-4, or such other form as approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Borrower.

“**Swing Line Note**” means a promissory note in the form of Exhibit B-3, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Swing Line Sublimit**” means the greater of (a) \$10,000,000 and (b) such higher amount as the Borrower and the Administrative Agent may from time to time agree.

“**Taxes**” has the meaning specified in Section 3.01(a).

“**Term Loan**” means the term loans made by the Lenders on the Closing Date to the Borrower pursuant to Section 2.01(a) and any Delayed Draw Term Loans, Incremental Term Loans, Extended Term Loans and Refinancing Term Loans, to the extent not otherwise indicated and as the context may require.

“**Term Loan Commitment**” means, as to each Lender, its obligation to make a Term Loan to the Borrower hereunder (including any Initial Term Loan Commitment or Delayed Draw Commitment), expressed as an amount representing the maximum principal amount of the Term Loans to be made by such Lender under this Agreement, 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 (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Refinancing Amendment or (iii) an Extension and (c) increased from time to time pursuant to an Incremental Amendment.

“**Term Loan Exposure**” means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term Loans of such Lender; *provided*, at any time prior to the making of the Term Loans, the Term Loan Exposure of any Lender shall be equal to such Lender’s Term Loan Commitment, or, with regard to any Incremental Amendment at any time prior to the making of the applicable Incremental Term Loans thereunder, the Term Loan Exposure of any Lender with respect to such Incremental Term Facility shall be equal to such Lender’s Incremental Term Loan Commitment thereunder.

“**Term Loan Lender**” means a Lender having a Term Loan Commitment or other Term Loan Exposure.

“**Term Loan Note**” means a promissory note of the Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit B-1 hereto, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Term Loans made by such Lender.

“**Termination Conditions**” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted, (ii) Obligations under Secured Hedge Agreements as to which alternative arrangements acceptable to the Hedge Bank thereunder have been made and (iii) Cash Management Obligations) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless backstopped or Cash Collateralized in an amount equal to 103% of the maximum drawable amount of any such Letter of Credit or otherwise in an amount and/or in a manner reasonably acceptable to the Issuing Banks).

“**Test Period**” in effect at any time means the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period are available (which may be internal financial statements except to the extent this Agreement otherwise expressly states that the Test Period is specified in a Compliance Certificate, in which case such financial statements shall have been delivered pursuant to Section 6.01(a) or (b) for the Test Period set forth in such Compliance Certificate). A Test Period may be designated by reference to the last day thereof (*i.e.*, the “March 31, 2019 Test Period” refers to the period of four consecutive fiscal quarters of the Borrower ended on March 31, 2019), and a Test Period shall be deemed to end on the last day thereof.

“**Threshold Amount**” means the greater of (a) 20% of Closing Date EBITDA and (b) 20% of TTM Consolidated Adjusted EBITDA.

“**Total Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Total Utilization of Revolving Commitments**” means, as of any date of determination, the sum of (i) the aggregate principal amount of all outstanding Revolving Loans other than Revolving Loans made for the purpose of repaying any Refunded Swing Line Loans or reimbursing the Issuing Banks for any amount drawn under any Letter of Credit, but not yet so applied, (ii) the aggregate principal amount of all outstanding Swing Line Loans and (iii) the Letter of Credit Usage.

“**Traded Securities**” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.

“**Transaction Expenses**” means any fees or expenses incurred or paid by Holdings or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby, including any amortization thereof in any period, including any amortization thereof in any period.

“**Transactions**” means, collectively, (a) the funding of the Initial Term Loans on the Closing Date, (b) the funding of the Second Lien Term Loans on the Closing Date, (c) the repayment of the Existing Debt, (d) the making of the Specified Dividend and (e) the payment of the Transaction Expenses.

“**Transformative Acquisition**” means any acquisition by the Borrower or any Restricted Subsidiary that is either (a) not permitted by the terms of any Loan Document 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 Restricted 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.

“**TTM Consolidated Adjusted EBITDA**” means, as of any date of determination, the Consolidated Adjusted EBITDA of the Borrower, determined on a Pro Forma Basis, for the four consecutive fiscal quarters most recently ended prior to such date for which financial statements are internally available.

“**Type**” means, with respect to a Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan.

“**UBS**” has the meaning specified in the introductory paragraph to this Agreement.

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

“**Unfunded Advances/Participations**” means (a) with respect to the Administrative Agent, the aggregate amount, if any (i) made available to the Borrower on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the applicable Borrowing available to the Administrative Agent as contemplated by Sections 2.01(b)(ii) and 2.02(b)(ii) and (ii) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by the Borrower or made available to the Administrative Agent by any such Lender, (b) with respect to the Swing Line Lender, the aggregate amount, if any, of outstanding Swing Line Loans in respect of which any Revolving Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to Section 2.03(c) and (c) with respect to the Issuing Banks, the aggregate amount, if any, of amounts drawn under Letters of Credit in respect of which a Revolving Lender shall have failed to make amounts available to the applicable Issuing Banks pursuant to Section 2.04(c).

“**Unfunded DDTL Commitment Lender**” has the meaning specified in Section 2.06(b).

“**Uniform Commercial Code**” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (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 “**U.S.**” mean the United States of America.

“**Unrestricted Subsidiary**” means (a) each Securitization Subsidiary and (b) any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the date hereof, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 6.13 or ceases to be a Subsidiary of the Borrower.

“**U.S. Lender**” has the meaning specified in Section 3.01(c).

“**USA PATRIOT Act**” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“**Weighted Average Life to Maturity**” means, 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;

provided that for purposes of determining the Weighted Average Life to Maturity of (i) any Refinanced Debt, (ii) any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, or (iii) any Term Loans for purposes of incurring any other Indebtedness (in any such case, the “**Applicable Indebtedness**”), the effects of any amortization payments or other prepayments made on such Applicable Indebtedness (including the effect of any prepayment on remaining scheduled amortization) prior to the date of the applicable modification, refinancing, refunding, renewal, replacement, extension or incurrence shall be disregarded.

“**wholly owned**” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (a) director’s qualifying shares and (b) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly owned Subsidiaries of such Person.

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

“**Withholding Agent**” means the Borrower, any Guarantor or the Administrative Agent.

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

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.
 - (ii) References in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-

clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears.

(iii) The term “including” is by way of example and not limitation.

(iv) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(c) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(d) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(e) For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws) (a “**Division**”), if (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) 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 Interests at such time.

SECTION 1.03 Accounting Terms; Accounting Periods; Unrestricted Subsidiaries; Determination of Fair Market Value. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, except as otherwise specifically prescribed herein. For purposes of calculating any consolidated amounts necessary to determine compliance by any Person and, if applicable, its Restricted Subsidiaries with any ratio or other financial covenant in this Agreement, Unrestricted Subsidiaries shall be excluded. Unless the context indicates otherwise, any reference to a “fiscal year” shall refer to a fiscal year of the Borrower ending December 31, and any reference to a “fiscal quarter” shall refer to a fiscal quarter of the Borrower ending March 31, June 30, September 30 or December 31. All determinations of fair market value under a Loan Document shall be made by the Borrower in good faith and, if such determination is consistent with a valuation or opinion of an Independent Financial Advisor, such determination shall be conclusive for all purposes under the Loan Documents or related to the Obligations.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one decimal place more than the number of decimal places by which such ratio is expressed herein (the “applicable decimal place”) and rounding the result up or down to the applicable decimal place.

SECTION 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.07 Available Amount Transactions. If more than one action occurs on any given date the permissibility of the taking of which is determined hereunder by reference to the amount of the Available Amount immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently, but in no event may any two or more such actions be treated as occurring simultaneously, i.e., each transaction must be permitted under the Available Amount as so calculated.

SECTION 1.08 Pro Forma Calculations; Limited Condition Acquisitions; Basket and Ratio Compliance

(a) Notwithstanding anything to the contrary herein, the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated in the manner prescribed by this Section 1.08; *provided*, that notwithstanding anything to the contrary in clauses (b), (c) or (d) of this Section 1.08, when calculating the First Lien Net Leverage Ratio for purposes of Section 2.07(b)(i) and the Asset Sale Prepayment Percentage, the events described in this Section 1.08 that occurred subsequent to the end of the applicable Test Period shall not be given *pro forma* effect.

(b) For purposes of calculating the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith) that have been made (i) during the applicable Test Period or (ii) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a *pro forma* basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated Adjusted EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period. If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.08, then the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated to give *pro forma* effect thereto in accordance with this Section 1.08.

(c) Whenever *pro forma* effect is to be given to a Specified Transaction, the *pro forma* calculations shall be made in good faith by a Responsible Officer and may include, for the avoidance of doubt, the amount of cost savings, operating expense reductions and, synergies projected by the Borrower in good faith to be realized as a result of specified actions taken, committed to be taken or expected to be taken (calculated on a *pro forma* basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such Test Period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period) relating to such Specified Transaction, net of the amount of actual benefits realized during such period from such actions (such cost savings and synergies, "**Specified Transaction Adjustments**"); *provided* that (i) such Specified Transaction Adjustments are reasonably identifiable, quantifiable and factually supportable in the good faith judgment of the Borrower, (ii) such actions are taken, committed to be taken or expected to be taken no later than twenty-four months after the date of such Specified Transaction, and (iii) no amounts shall be added pursuant to this clause (c) to the extent duplicative of any amounts that are otherwise added back in calculating Consolidated Adjusted EBITDA, whether through a *pro forma* adjustment or otherwise, with respect to any Test Period.

(d) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period with respect to leverage ratios or the first day of such Test Period with respect to the Interest Coverage Ratio.

(e) Notwithstanding anything in this Agreement or any Loan Document to the contrary (i) the Borrower may rely on more than one basket or exception hereunder (including both ratio-based and non-ratio based baskets and exceptions, and including partial reliance on different baskets that, collectively, permit the entire proposed transaction) at the time of any proposed transaction, and the Borrower may, in its sole discretion, at any later time divide, classify or reclassify such transaction (or any portion thereof) in any manner that complies with the available baskets and exceptions hereunder at such later time (*provided* that with respect to reclassification of Indebtedness and Liens, any such reclassification shall be subject to the parameters of Sections 7.01 and 7.03, as applicable), (ii) unless the Borrower elects otherwise, if the Borrower or its Restricted Subsidiaries in connection with any transaction or series of such related transaction (A) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under or as permitted by a ratio-based basket and (B) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under a non-ratio-based basket (which shall occur within five Business Days of the events in clause (A) above), then the applicable ratio will be calculated with respect to any such action under the applicable ratio-based basket without regard to any such action under such non-ratio-based basket made in connection with such transaction or series of related transactions, (iii) if the Borrower or its Restricted Subsidiaries enters into any revolving, delayed draw or other committed debt facility, the Borrower may elect to determine compliance of such debt facility (including the incurrence of Indebtedness and Liens from time to time in connection therewith) with this Agreement and each other Loan Document on the date commitments with respect thereto are first received, assuming the full amount of such facility is incurred (and any applicable Liens are granted) on such date, in lieu of determining such compliance on any subsequent date (including any date on which Indebtedness is incurred pursuant to such facility), and (iv) if the Borrower or any Restricted Subsidiary incurs Indebtedness under a ratio-based basket, such ratio-based basket (together with any other ratio-based basket utilized in connection therewith, including in respect of other Indebtedness, Liens, Dispositions, Investments, restricted Payments or payments in respect of Junior Financing) will be calculated excluding the cash proceeds of such Indebtedness for netting purposes (i.e., such cash proceeds shall not reduce the Borrower's Consolidated Net Debt or Consolidated Secured Net Debt pursuant to clause (b) of the definition of such terms), *provided* that the actual application of such proceeds may reduce Indebtedness for purposes of determining compliance with any applicable ratio. For example, if the Borrower incurs Indebtedness under the Fixed Incremental Amount on the same date that it incurs Indebtedness under the Ratio Amount, then the First Lien Net Leverage Ratio and any other applicable ratio will be calculated with respect to such incurrence under the Ratio Amount without regard to any incurrence of Indebtedness under the Fixed Incremental Amount. Unless the Borrower elects otherwise, each Incremental Facility (or Incremental Equivalent Debt) shall be deemed incurred first under the Ratio Amount to the extent permitted (and calculated prior to giving effect to any substantially simultaneous incurrence of any Indebtedness based on a basket or exception that is not based on a financial ratio, including under the Revolving Facility and/or the Fixed Incremental Amount), with any balance

incurred under the Fixed Incremental Amount. For purposes of determining compliance with Section 2.16, in the event that any Incremental Facility or Incremental Equivalent Debt (or any portion thereof) meets the criteria of Ratio Amount or Fixed Incremental Amount, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Indebtedness (or any portion thereof) in any manner that complies with Section 2.16 on the date of such classification or any such reclassification, as applicable.

(f) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when (i) calculating any applicable ratio in connection with the incurrence of Indebtedness, the creation of Liens, the making of any Disposition, the making of an Investment, the making of a Restricted Payment, the designation of a Subsidiary as restricted or unrestricted, the repayment of Indebtedness or for any other purpose, (ii) determining the accuracy of any representation or warranty, (iii) determining whether any Default or Event of Default has occurred, is continuing or would result from any action, or (iv) determining compliance with any other condition precedent to any action or transaction, in each case of clauses (i) through (iv) in connection with a Limited Condition Acquisition, the date of determination of such ratio, the accuracy of such representation or warranty (but taking into account any earlier date specified therein), whether any Default or Event of Default has occurred, is continuing or would result therefrom, or the satisfaction of any other condition precedent shall, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Condition Acquisition, an "**LCA Election**"), be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "**LCA Test Date**"). If on a Pro Forma Basis after giving effect to such Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) such ratios, representations and warranties, absence of defaults, satisfaction of conditions precedent and other provisions are calculated as if such Limited Condition Acquisition or other transactions had occurred at the beginning of the most recent Test Period ending prior to the LCA Test Date for which financial statements are available, the Borrower could have taken such action on the relevant LCA Test Date in compliance with the applicable ratios or other provisions, such provisions shall be deemed to have been complied with, unless a Specified Event of Default shall be continuing on the date such Limited Condition Acquisition is consummated. For the avoidance of doubt, (i) if any of such ratios, representations and warranties, absence of defaults, satisfaction of conditions precedent or other provisions are exceeded or breached as a result of fluctuations in such ratio (including due to fluctuations in Consolidated Adjusted EBITDA), a change in facts and circumstances or other provisions at or prior to the consummation of the relevant Limited Condition Acquisition, such ratios, representations and warranties, absence of defaults, satisfaction of conditions precedent and other provisions will not be deemed to have been exceeded, breached, or otherwise failed as a result of such fluctuations or changed circumstances solely for purposes of determining whether the Limited Condition Acquisition and any related transactions is permitted hereunder and (ii) such ratios and compliance with such conditions shall not be tested at the time of consummation of such Limited Condition Acquisition or related Specified Transactions. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket availability with respect to any other Specified Transaction or otherwise on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated. For purposes of any calculation pursuant to this clause (f) of the Interest Coverage Ratio, Consolidated Interest Expense may be calculated using an assumed interest rate for the Indebtedness to be incurred in connection with such Limited Condition Acquisition based on the indicative interest margin contained in any financing commitment documentation with respect to such Indebtedness or, if no such indicative interest margin exists, as reasonably determined by the Borrower in good faith.

(g) For purposes of calculating the Ratio Amount, Permitted Ratio Debt and Section 7.01(i) (including for purposes of Section 7.03(l)(ii)), the phrase “immediately prior to such incurrence” shall be construed to apply only if, at the time of such determination, on a Pro Forma Basis for such incurrence of Indebtedness and/or Liens (and for any related Permitted Investment, if applicable), (w) the First Lien Net Leverage Ratio would be greater than the Closing Date First Lien Net Leverage Ratio, (x) the Secured Net Leverage Ratio would be greater than the Closing Date Secured Net Leverage Ratio, (y) the Total Net Leverage Ratio would be greater than the Closing Date Total Net Leverage Ratio or (z) the Interest Coverage Ratio would be less than 2.00 to 1.00, as applicable.

(h) For purposes of determining the maturity date of any Indebtedness, customary bridge loans that are subject to customary conditions (including no payment or bankruptcy event of default) that would either automatically be extended as, converted into or required to be exchanged for permanent refinancing shall be deemed to have the maturity date as so extended, converted or exchanged.

SECTION 1.09 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 7.01, 7.02 and 7.03 with respect to any amount of Lien, Indebtedness or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Lien, Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in Dollars, any requisite currency translation (i) with respect to Loans or Commitments, shall be based on the Exchange Rate and (ii) with respect to any other amounts, shall be based on the rate of exchange between the applicable currency and Dollars as reasonably determined by the Borrower, in each case in effect on the Business Day immediately preceding the date of such transaction or determination (subject to clauses (c) and (d) below) and shall not be affected by subsequent fluctuations in exchange rates.

(c) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt (or, in the case of an LCA Election, on the date of the applicable LCA Test Date); *provided* that, if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the 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 Indebtedness so refinanced does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding the foregoing, the principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the Exchange Rate that is in effect on the date of such refinancing.

(d) For purposes of determining the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio, including Consolidated Adjusted EBITDA when calculating such ratios, all amounts denominated in a currency other than Dollars will be converted to Dollars for any purpose (including testing the any financial maintenance covenant) at the effective rate of exchange in respect thereof reflected in the consolidated financial statements of the Borrower for the applicable Test Period for which such measurement is being made, and will reflect the

currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

SECTION 1.10 Amendment and Restatement. Each of the parties hereto agrees as follows

(a) this Agreement shall not constitute a novation of (x) the obligations and liabilities of the parties under the Existing Credit Agreement or the other Loan Documents as in effect prior to the Closing Date and that remain outstanding as of the Closing Date and (y) the Existing Credit Agreement or the other Loan Documents as in effect prior to the Closing Date;

(b) this Agreement (including all Exhibits and Schedules) shall amend, restate and replace in its entirety the Existing Credit Agreement (including all exhibits and schedules attached thereto) on the Closing Date and the Existing Credit Agreement (including all exhibits and schedules attached thereto) shall thereafter be of no further force and effect, except to evidence (i) the incurrence by the Borrower of the "Obligations" (under and as defined in the Existing Credit Agreement), whether or not such "Obligations" are contingent as of the Closing Date and (ii) the representations and warranties made by the Loan Parties prior to the Closing Date (which representations and warranties shall not be superseded or rendered ineffective by this Agreement as they pertain to the period prior to the Closing Date);

(c) from and after the Closing Date, all references to the "Credit Agreement" contained in the Loan Documents shall be deemed to refer to this Agreement and all references to any Article or Section (or subsection) of this Agreement in any other Loan Document shall be amended to become references to the corresponding provisions of this Agreement;

(d) all Obligations (as such Obligations may be amended, restated, supplemented or otherwise modified by this Agreement on the Closing Date) and the Guarantee of the Obligations shall continue to be valid, enforceable and in full force and effect and not be impaired, in any respect, by the effectiveness of this Agreement;

(e) the Liens and security interests as granted under the applicable Loan Documents securing payment of the Obligations are in all respects continuing, unaltered and in full force, and effect and with the same priority to secure such Obligations, whether heretofore or hereafter incurred, and are reaffirmed hereby;

(f) this amendment and restatement shall be limited as written and not be a consent to any other amendment, restatement, supplement, waiver or other modification, whether or not similar and, except as expressly provided herein or in any other Loan Document, all terms and conditions of the Loan Documents remain in full force and effect unless otherwise specifically amended hereby.

ARTICLE II The Commitments and Borrowings

SECTION 2.01 Term Loans.

(a) Term Loan Commitments. Subject only to the conditions set forth in Section 4.01, each Lender with an Initial Term Loan Commitment severally agrees to make to the Borrower on the Closing Date a term loan denominated in Dollars equal to such Lender's Initial Term Loan Commitment (the "**Initial Term Loans**"; *provided* that any Delayed Draw Term Loans that are funded hereunder shall also be deemed to constitute Initial Term Loans following such funding). Initial Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein. At any time and from time to time during

the Delayed Draw Commitment Period, subject to the terms and conditions set forth in Section 4.03 hereof, each Lender with a Delayed Draw Commitment severally agrees to make to the Borrower on the applicable Delayed Draw Closing Date a Term Loan denominated in Dollars in an aggregate amount requested by the Borrower but not exceeding such Lender's unfunded Delayed Draw Commitment as of such date immediately prior to giving effect to such Borrowing (the "**Delayed Draw Term Loans**"); *provided* that the aggregate principal amount of all such Borrowings of Delayed Draw Term Loans shall not exceed the aggregate amount of the Delayed Draw Commitments as of the Closing Date. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Initial Term Loans and Delayed Draw Term Loans may be Base Rate Loans (in the case of Term Loans denominated in Dollars) or Eurocurrency Rate Loans, as further provided herein; *provided* that Delayed Draw Term Loans will initially be of the same Type and will have the same Interest Period as the Term Loans outstanding immediately prior to the Borrowing of such Delayed Draw Term Loans. To the extent practicable, the Initial Term Loans and Delayed Draw Term Loans will be treated as the same Class (i.e., "fungible") and will have the same CUSIP.

(b) Borrowing Mechanics for Term Loans

(i) Subject to Sections 4.01(a)(i), 4.02(c), 4.03(c) and 2.16(a), each Borrowing of Term Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may only be given in writing. Each such notice must be received by the Administrative Agent not later than, (x) in respect of Delayed Draw Term Loans, 1:00 p.m. (New York City time) three Business Days prior to the requested date of such Borrowing and (y) in respect of all other Term Loans, (A) 1:00 p.m. (New York City time) three Business Days prior to the requested date of any Borrowing of Eurocurrency Rate Loans and (B) 12:00 noon (New York City time) one Business Day prior to the requested date of any Borrowing of Base Rate Loans; *provided*, that such notices may be conditioned on the occurrence of the Closing Date or, with respect to Delayed Draw Term Loans or Incremental Term Loans, may be conditioned on the occurrence of any transaction anticipated to occur in connection with such Delayed Draw Term Loans or Incremental Term Loans.

(ii) Each notice by the Borrower pursuant to this Section 2.01(b) must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. The Delayed Draw Term Loans shall be available in Borrowings of not less than \$5,000,000 or, if less, the unfunded Delayed Draw Commitments then outstanding. Each Committed Loan Notice shall specify (A) that the Borrower is requesting a Term Loan Borrowing, (B) the requested date of the Borrowing (which shall be a Business Day), (C) the Type of Term Loans to be borrowed, (D) the principal amount of Term Loans to be borrowed and (E) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Term Loan in a Committed Loan Notice, then (1) in the case of Term Loans denominated in Dollars, the applicable Term Loans shall be made as Base Rate Loans and (2) in the case of Term Loans denominated in an Alternative Currency, the applicable Term Loans shall be made as Eurocurrency Rate Loans with an Interest Period of one month; *provided* that Delayed Draw Term Loans will initially be of the same Type and will have the same Interest Period as the Term Loans outstanding immediately prior to the Borrowing of such Delayed Draw Term Loans. If the Borrower requests a Borrowing of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, for such Eurocurrency Rate Loans, the Borrower will be deemed to have specified an Interest Period of one month (other than with respect to a Delayed Draw Term Loan).

(iii) Borrowings of more than one Type may be outstanding at the same time; *provided* that the total number of Interest Periods for Eurocurrency Rate Loans outstanding under this Agreement at any time shall comply with Section 2.10(g).

(iv) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable tranche of Term Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Term Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 1:00 p.m. (New York City time), on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions to such Borrowing, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (A) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (B) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.

(v) The failure of any Lender to make the Term Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Term Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Term Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.02 Revolving Loans.

(a) Revolving Loan Commitment. During the Revolving Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make revolving loans to the Borrower from time to time on any Business Day in Dollars and/or any Alternative Currency ("**Revolving Loans**") in an aggregate amount (expressed in the Dollar Amount thereof in the case of an Alternative Currency) up to but not exceeding such Lender's Revolving Commitment; *provided*, that after giving effect to the making of any Revolving Loans in no event shall the Total Utilization of Revolving Commitments exceed the Revolving Commitments then in effect. Amounts borrowed pursuant to this Section 2.02(a) may be repaid and reborrowed during the Revolving Commitment Period. Each Lender's Revolving Commitment shall expire on the Revolving Commitment Termination Date, and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Commitments shall be paid in full no later than such date.

(b) Borrowing Mechanics for Revolving Loans

(i) Subject to Section 4.01(a)(i) in the case of Borrowings of Revolving Loans on the Closing Date only and Section 4.02(c) in the case of each other Borrowing of Revolving Loans, each Borrowing of Revolving Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may only be given in writing (each request for a Swing Line Loan Borrowing shall be made in accordance with Section 2.03). Each such notice must be received by the Administrative Agent not later than (A) 1:00 p.m. (New York City time) three Business Days prior to the requested date of any Borrowing of Eurocurrency Rate Loans, and (B) 12:00 noon (New York City time) on the requested date of any Borrowing of Base Rate Loans (in the case of Revolving Loans denominated in Dollars only). Each notice by the Borrower pursuant to this Section 2.02(b) must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of Eurocurrency Rate Loans shall be in a principal amount of (A) \$500,000 or a whole multiple of \$100,000 in excess thereof in the case of Eurocurrency Rate Loans denominated in Dollars, and (B) a Dollar Amount of \$500,000 or a whole multiple of \$100,000 in excess thereof

in the case of Eurocurrency Rate Loans denominated in any Alternative Currency. Each Borrowing of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice shall specify (1) the requested date of the Borrowing (which shall be a Business Day), (2) the principal amount of Revolving Loans to be borrowed, (3) the Type of Revolving Loans to be borrowed and (4) if applicable, the duration of the Interest Period with respect thereto. Each Swing Line Loan shall be denominated in Dollars and constitute a Base Rate Loan. If the Borrower fails to specify a Type of Revolving Loan in a Committed Loan Notice, then (x) in the case of Revolving Loans denominated in Dollars, the applicable Revolving Loans shall be made as Base Rate Loans and (y) in the case of Revolving Loans denominated in an Alternative Currency, the applicable Revolving Loans shall be made as Eurocurrency Rate Loans with an Interest Period of one month. If the Borrower requests a Borrowing of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period for such Eurocurrency Rate Loans, the Borrower will be deemed to have specified an Interest Period of one month.

(ii) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable Revolving Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Revolving Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 1:00 p.m. (New York City time), on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (or if such Borrowing is on the Closing Date, Section 4.01 or, if such Borrowing is of Delayed Draw Term Loans on a Delayed Draw Closing Date, Section 4.03), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (A) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (B) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; *provided, however*, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are Swing Line Loans outstanding or Reimbursement Obligations outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such Reimbursement Obligations, second, to the payment in full of any such Swing Line Loans and third, to the Borrower as provided above.

(iii) The failure of any Lender to make the Revolving Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Revolving Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Revolving Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.03 Swing Line Loans.

(a) Swing Line Loan. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance on the agreements of the Revolving Lenders set forth in this Section 2.03, agrees to make Swing Line Loans in Dollars to the Borrower from time to time on any Business Day during the Revolving Commitment Period, in an aggregate principal amount not to exceed at any time outstanding the amount of the Swing Line Sublimit; *provided* that, after giving effect to any Swing Line Loan, (i) the Total Utilization of Revolving Commitments shall not exceed the Revolving Commitments, (ii) the Total Utilization of Revolving Commitments of any Revolving Lender, shall not exceed such Lender's Revolving Commitment and (iii) the aggregate principal amount outstanding of all Swing Line Loans shall not exceed the Swing Line Sublimit; *provided, further*, that the Swing Line Lender shall not be required to make a Swing Line Loan to refinance an outstanding Swing Line Loan. Within the foregoing limits and subject to

the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swing Line Loans. Immediately upon the making of a Swing Line Loan by the Swing Line Lender, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a participation in such Swing Line Loan in an amount equal to such Revolving Lender's Pro Rata Share of the amount of such Swing Line Loan.

(b) Borrowing Mechanics for Swing Line Loans Each Swing Line Loan Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent. Each such notice may be given by: (A) telephone, or (B) a Swing Line Loan Request; *provided* that any telephonic notice by the Borrower must be confirmed immediately by delivery to the Swing Line Lender and the Administrative Agent of a Swing Line Loan Request. Each such Swing Line Loan Request must be received by the Swing Line Lender and the Administrative Agent not later than 12:00 noon (New York City time) on the date of the requested Swing Line Loan Borrowing, and such notice shall specify (i) the Borrower to be credited (or, if none is specified, the notice shall be deemed to be made on behalf of the Borrower), (ii) the amount to be borrowed, which shall be in a minimum of \$100,000 or a whole multiple of \$25,000 in excess thereof, and (iii) the date of such Swing Line Loan Borrowing (which shall be a Business Day). Promptly after receipt by the Swing Line Lender of such notice, the Swing Line Lender will confirm with the Administrative Agent that the Administrative Agent has also received such notice and, if not, the Swing Line Lender will notify the Administrative Agent of the contents thereof. Unless the Swing Line Lender has received notice from the Administrative Agent (including at the request of the Required Revolving Lenders) prior to 2:00 p.m. (New York City time) on such requested borrowing date (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first sentence of Section 2.03(a) or (B) that one or more of the applicable conditions set forth in Section 4.02 is not then satisfied, then, subject to the terms and conditions set forth herein, the Swing Line Lender shall make each Swing Line Loan available to the Borrower, by wire transfer thereof in accordance with instructions provided to (and reasonably acceptable to) the Swing Line Lender, not later than 3:00 p.m. (New York City time) on the requested date of such Swing Line Loan (which instructions may include standing payment instructions, which may be updated from time to time by the Borrower, *provided* that, unless the Swing Line Lender shall otherwise agree, any such update shall not take effect until the Business Day immediately following the date on which such update is provided to the Swing Line Lender).

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Lender make a Revolving Loan that is a Base Rate Loan in an amount equal to such Lender's Pro Rata Share of the amount of Swing Line Loans made by then Swing Line Lender then outstanding (the "**Refunded Swing Line Loans**"). Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance (including with respect to prior notice requirements) with the requirements of Section 2.02(b), without regard to the minimum and multiples specified therein, but subject to the aggregate unused Revolving Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Borrower with a copy of such Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Lender shall make an amount equal to its Pro Rata Share of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at the Administrative Agent's Office not later than 1:00 p.m. (New York City time) on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.03(c)(ii), each Revolving Lender that so makes funds available

shall be deemed to have made a Revolving Loan that is a Base Rate Loan to the Borrower in such amount.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Loan Borrowing in accordance with Section 2.03(c)(i), the request for Revolving Loans that are Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Lenders fund its participation in the relevant Swing Line Loan and each Revolving Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.03(c)(i) shall be deemed payment in respect of such participation. The Administrative Agent shall notify the Borrower of any participations in any Swing Line Loan funded pursuant to this clause (ii), and thereafter payments in respect of such Swing Line Loan (to the extent of such funded participations) shall be made to the Administrative Agent for the benefit of the Lenders and not to the Swing Line Lender.

(iii) If any Revolving Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(i), the Swing Line Lender (acting through the Administrative Agent) shall be entitled to recover from such Revolving Lender, 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 Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate from time to time in effect and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation, *plus* any reasonable administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Revolving Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Revolving Loan Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted (through the Administrative Agent) to any Revolving Lender with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Lender's obligation to make Revolving Loans or to purchase and fund participations in Swing Line Loans pursuant to this Section 2.03(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 the Swing Line Lender, 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* that each Revolving Lender's obligation to make Revolving Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02; *provided, further*, that for the avoidance of doubt, the conditions set forth in Section 4.02 shall not apply to the purchase or funding of participations pursuant to this Section 2.03(c). No such funding of participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations

(i) At any time after any Revolving Lender has purchased and funded a participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will promptly remit such Revolving Lender's Pro Rata Share of such payment to the Administrative Agent (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender's participation was funded) in

like funds as received by the Swing Line Lender, and any such amounts received by the Administrative Agent will be remitted by the Administrative Agent to the Revolving Lenders that shall have funded their participations pursuant to Section 2.03(c)(ii) to the extent of their interests therein.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the Swing Line Lender in its reasonable discretion), each Revolving Lender shall pay to such Swing Line Lender its Pro Rata Share thereof on demand of the Administrative Agent, *plus* interest thereon from the date of such demand to the date such amount is returned at a rate per annum equal to the Federal Funds Rate from time to time in effect. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Revolving Lenders under this clause (ii) shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans made by the Swing Line Lender. Until each Revolving Lender funds its Revolving Loan that is a Base Rate Loan or participation pursuant to this Section 2.03 to refinance such Lender's Pro Rata Share of any Swing Line Loan made by the Swing Line Lender, interest in respect of such Lender's share thereof shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. Except as otherwise expressly provided herein, the Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

SECTION 2.04 Issuance of Letters of Credit and Purchase of Participations Therein

(a) Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each Issuing Bank agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section 2.04, (1) from time to time on any Business Day during the Revolving Commitment Period on or prior to the fifth Business Day prior to the Revolving Commitment Termination Date, to issue Letters of Credit for the account of the Borrower, subject to satisfactory receipt of such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, or a Restricted Subsidiary (*provided that any Letter of Credit issued for the benefit of any Restricted Subsidiary shall be issued for the account of the Borrower but such Letter of Credit shall indicate that it is being issued for the benefit of such Restricted Subsidiary*) and to amend, renew or extend Letters of Credit previously issued by it, in accordance with Section 2.04(b) and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Lenders severally agree to participate in such Letters of Credit and any drawings thereunder; *provided that the Issuing Banks shall not be obligated to make any Letter of Credit Extension if, as of the date of such Letter of Credit Extension, (1) the Total Utilization of Revolving Commitments would exceed the Revolving Commitments, (2) the Total Utilization of Revolving Commitments of any Revolving Lender, would exceed such Lender's Revolving Commitment, (3) the Letter of Credit Usage would exceed the Letter of Credit Sublimit or (4) the Letter of Credit Usage with respect to Letters of Credit issued by such Issuing Bank would exceed the amount of such Issuing Bank's Letter of Credit Percentage of the Letter of Credit Sublimit. Within the foregoing limits, and subject*

to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower 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.

(ii) An Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(A) 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 such Letter of Credit, or any 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 such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such 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 (for which such Issuing Bank is not otherwise compensated hereunder);

(B) the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such Issuing Bank, such Letter of Credit is in an initial stated amount less than \$10,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars *provided* that, solely to the extent approved by the applicable Issuing Bank, Letters of Credit may be made by such Issuing Bank in an Alternative Currency; *provided further* that Jefferies Finance and Nomura Corporate Funding Americas, LLC shall only be required to issue Letters of Credit in Dollars);

(E) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; and

(F) any Revolving Lender is at such time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including reallocation of such Lender's Pro Rata Share of the outstanding Letter of Credit Obligations pursuant to Section 2.19(a)(iii) or 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 potential Fronting Exposure (after giving effect to Section 2.19(a)(iii)) with respect to such Lender arising from either the Letter of Credit then proposed to be issued or such Letter of Credit and all other Letter of Credit Obligations as to which such Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iii) No Issuing Bank shall be under any obligation to amend or extend 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 such Letter of Credit does not accept the proposed amendment thereto.

(iv) Unless Cash Collateralized or backstopped pursuant to arrangements reasonably acceptable to the applicable Issuing Bank, each standby Letter of Credit shall expire at or prior to

the close of business on the earlier of (A) the date twelve months after the date of issuance of such Letter of Credit (or, in the case of any Auto-Renewal Letter of Credit, twelve months after the then current expiration date of such Letter of Credit) and (B) the Letter of Credit Expiration Date (unless arrangements reasonably satisfactory to the Issuing Banks have been entered into).

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto Renewal Letters of Credit

(i) 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 Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the applicable Issuing Bank and the Administrative Agent not later than 2:00 p.m. (New York City time) at least five Business Days (or such shorter period as the applicable Issuing Bank and the Administrative Agent 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 an initial issuance of a Letter of Credit, such Letter of Credit Application 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) the currency in which the requested Letter of Credit will be denominated (which must be Dollars or, if approved by such Issuing Bank, an Alternative Currency) 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, the Letter of Credit Application 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); and (3) the nature of the proposed amendment. 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 Letter of Credit Documents, as the applicable Issuing Bank or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Bank will confirm with the Administrative Agent that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the applicable Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the applicable Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions set forth herein, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a participation in such Letter of Credit in an amount equal to such Lender's Pro Rata Share of the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application for a standby Letter of Credit, the applicable Issuing Bank may, in its reasonable discretion, agree to issue a standby Letter of Credit that has automatic renewal provisions (each, an "**Auto-Renewal Letter of Credit**"); *provided* that any such Auto-Renewal Letter of Credit shall permit such Issuing Bank to prevent any such renewal 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 “**Nonrenewal 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 renewal. Once an Auto-Renewal Letter of Credit has been issued, the Revolving Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Bank to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; *provided, however*, that no Issuing Bank shall (A) permit any such renewal if (1) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.04(a) or otherwise) or (2) it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent that the Required Revolving Lenders have elected not to permit such renewal or (B) be obligated to permit such renewal if it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent, any Revolving Lender or the Borrower that one or more of the applicable conditions set forth in Section 4.02 is not then satisfied, and in each such case directing the applicable Issuing Bank not to permit such renewal.

(iv) 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, the applicable Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursement: Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable Issuing Bank shall notify the Borrower and the Administrative Agent thereof, and such Issuing Bank shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit. If an Issuing Bank notifies the Borrower of any payment by such Issuing Bank under a Letter of Credit, then the Borrower shall reimburse such Issuing Bank in an amount equal to the amount of such drawing not later than 3:00 p.m. (New York City time, in the case of drawings in Dollars, or London time, in the case of drawings in an Alternative Currency) on the next succeeding Business Day. If the Borrower fails to so reimburse such Issuing Bank by such time, such Issuing Bank shall promptly notify the Administrative Agent of such failure and the Administrative Agent shall promptly thereafter notify each Revolving Lender of such payment date, the amount of the unreimbursed drawing (expressed in the Dollar Amount thereof in the case of an Alternative Currency) (the “**Reimbursement Obligations**”) and the amount of such Lender’s Pro Rata Share thereof. In such event, (x) the Borrower shall be deemed to have requested a Revolving Loan Borrowing of Base Rate Loans to be disbursed on such date in an amount equal to such Reimbursement Obligation, without regard to the minimum and multiples specified in Section 2.02(b) for the principal amount of Base Rate Loans and (y) in the case of Reimbursement Obligations denominated in an Alternative Currency (but expressed in its Dollar Amount), the Borrower shall be deemed to have requested on behalf of the applicable Revolving Lender a Revolving Loan Borrowing of Eurocurrency Rate Loans denominated in Dollars, in each case, to be disbursed on such date in an amount equal to (A) the Dollar Amount of such Reimbursement Obligation, plus (B) in the case of any Reimbursement Obligation denominated in any Alternative Currency (but expressed in its Dollar Amount), an additional amount equal to the amount required to convert Dollars into the currency of the unreimbursed drawing, without regard to the minimum and multiples specified in Section 2.02(b) for the principal amount of Base Rate Loans, but subject to the aggregate unused Revolving Commitments and the conditions set forth in Section 4.02 (other

than delivery of a Committed Loan Notice). Any notice given by an Issuing Bank or the Administrative Agent pursuant to this clause (i) shall be given in writing.

(ii) Each Revolving Lender (including each Revolving Lender acting as an Issuing Bank) shall upon any notice pursuant to Section 2.04(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, in Dollars or the applicable Alternative Currency, at the Administrative Agent's Office in an amount equal to its Pro Rata Share of the relevant Reimbursement Obligation not later than 3:00 p.m. (New York City time) on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.04(c)(iii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is (A) in the case of a Letters of Credit denominated in Dollars, a Base Rate Loan and (B) in the case of Letters of Credit denominated in an Alternative Currency, a Eurocurrency Rate Loan in such Alternative Currency with an Interest Period of one month, in each case to the Borrower in such amount *plus*, in the case of any Reimbursement Obligation denominated in any Alternative Currency (but expressed in its Dollar Amount), an additional amount equal to the amount required to convert Dollars into the currency of the unreimbursed drawing. The Administrative Agent shall remit the funds so received to the applicable Issuing Bank in accordance with the instructions provided to the Administrative Agent by such Issuing Bank (which instructions may include standing payment instructions, which may be updated from time to time by such Issuing Bank, *provided* that, unless the Administrative Agent shall otherwise agree, any such update shall not take effect until the Business Day immediately following the date on which such update is provided to the Administrative Agent).

(iii) With respect to any Reimbursement Obligation that is not fully refinanced by a Revolving Loan Borrowing of Base Rate Loans for Letters of Credit denominated in Dollars or Eurocurrency Rate Loans for Letters of Credit denominated in an Alternative Currency, as the case may be, 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 a Letter of Credit Borrowing in the amount of the Reimbursement Obligation that is not so refinanced *plus*, in the case of any Reimbursement Obligation denominated in an Alternative Currency (but expressed in its Dollar Amount), an additional amount equal to the amount required to convert Dollars into the currency of the unreimbursed drawing, which Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate then applicable to Revolving Loans that are Base Rate Loans. In such event, each Revolving Lender's payment to the Administrative Agent for the account of such Issuing Bank pursuant to Section 2.04(c)(i) shall be deemed payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a Letter of Credit Advance from such Lender in satisfaction of its participation obligation under this Section.

(iv) Until each Revolving Lender funds its Revolving Loan or Letter of Credit Advance to reimburse the applicable Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Pro Rata Share of such amount shall be solely for the account of such Issuing Bank.

(v) Each Revolving Lender's obligations to make Revolving Loans or Letter of Credit Advances to reimburse an Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.04(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 such 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* that each Revolving Lender's obligation to make Revolving Loans pursuant to this paragraph (c) is subject to the conditions set forth in Section 4.02. No such funding of a participation in any Letter of Credit shall relieve or otherwise impair the obligation of the Borrower to reimburse an Issuing Bank for the amount of any payment made by such Issuing Bank under such Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this paragraph (c) by the time specified in Section 2.04(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 from time to time in effect and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, *plus* any reasonable 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 shall constitute such Lender's Revolving Loan included in the relevant Borrowing or Letter of Credit Advance in respect of the relevant Letter of Credit Borrowing, as the case may be. A certificate of the applicable Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations

(i) If, at any time after the applicable Issuing Bank has made payment in respect of any drawing under any Letter of Credit issued by it and has received from any Revolving Lender its Letter of Credit Advance in respect of such payment in accordance with Section 2.04(c), if the Administrative Agent receives for the account of such Issuing Bank any payment in respect of the related Reimbursement Obligation or, in the case of any Reimbursement Obligation denominated in any Alternative Currency (but expressed in its Dollar Amount), an additional amount equal to the amount required to convert Dollars into the currency of the unreimbursed drawing or, in each case, 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 Pro Rata Share thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's Letter of Credit Advance was outstanding) in like funds as received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the applicable Issuing Bank pursuant to Section 2.04(c)(i) is required to be returned under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of such Issuing Bank its Pro Rata Share 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 Revolving Lenders under this clause (ii) shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the Issuing Banks for each drawing under each Letter of Credit and to repay each Letter of Credit 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:

- (i) any lack of validity or enforceability of such Letter of Credit or any term or provision thereof, any Loan Document, or any other agreement or instrument relating thereto;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower 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), the Issuing Banks 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;
- (iii) 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;
- (iv) any payment by an Issuing Bank under such Letter of Credit against presentation of documents that do not comply strictly with the terms of such Letter of Credit; or any payment made by an 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 arising in connection with any proceeding under any Debtor Relief Law;
- (v) any exchange, release or non-perfection of any collateral, or any release or amendment or waiver of or consent to departure from any guarantee, for all or any of the Obligations of the Borrower in respect of such Letter of Credit; or
- (vi) 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.

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 applicable Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against any Issuing Bank and its correspondents unless such notice is given as aforesaid.

(f) Role of Issuing Banks. Each Revolving Lender and the Borrower agrees that, in paying any drawing under a Letter of Credit, the Issuing Banks shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any document or the authority of the Person executing or delivering any document. None of any Issuing Bank, any Agent Affiliate nor any of the respective correspondents, participants or assignees of any Issuing Bank shall be liable to any Revolving Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the requisite Revolving Lenders; (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 Letter of Credit Application. The Borrower hereby assumes all risks of the acts of omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided* that this assumption is not intended to, and shall not, preclude the Borrower from 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, any Agent Affiliate nor any of the respective correspondents, participants or assignees of the Issuing Banks shall be liable or responsible for any of the matters described in Section 2.04(e); *provided* that, notwithstanding anything in such clauses to the contrary, the Borrower may have a claim against an Issuing Bank, and an Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct (as opposed to indirect, special, punitive, consequential or exemplary) damages suffered by the Borrower which a court of competent jurisdiction determines in a final non-appealable judgment were caused by such Issuing Bank's gross negligence or willful misconduct or such Issuing Bank's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a document(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the applicable Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Banks shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign 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. The Issuing Banks 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 communication with a beneficiary.

(g) Applicability of ISP. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a standby Letter of Credit is issued, the rules of the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to such standby Letter of Credit.

(h) Conflict with Letter of Credit Application. In the event of any conflict between the terms of this Agreement and the terms of any Letter of Credit Application, the terms hereof shall control.

(i) Reporting. Each day (or at such other intervals as the Administrative Agent and the applicable Issuing Bank shall agree), the applicable Issuing Bank shall provide to the Administrative Agent a schedule of the Letters of Credit issued by it, in form and substance reasonably satisfactory to the Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), the expiration date, and the reference number of any Letter of Credit outstanding at any time during such month, and showing the aggregate amount (if any) payable by the Borrower to such Issuing Bank during such month.

(j) [Reserved].

(k) Resignation and Removal of an Issuing Bank. Any Issuing Bank may resign as an Issuing Bank upon sixty days' prior written notice to the Administrative Agent, the Lenders and the Borrower. Any Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the Issuing Bank being replaced (*provided* that no consent will be required if the Issuing Bank being replaced has no Letters of Credit or Reimbursement Obligations with respect thereto outstanding) and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement or resignation shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank. From and after the effective date of any such replacement or resignation, (i) any successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement or resignation of an Issuing Bank hereunder, the replaced or resigning Issuing Bank

shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement or resignation, but shall not be required to issue additional Letters of Credit.

(l) Cash Collateral Account. At any time and from time to time (i) after the occurrence and during the continuance of an Event of Default, the Administrative Agent, at the direction or with the consent of the Required Lenders, may require the Borrower, to deliver to the Administrative Agent such amount of cash as is equal to 103% of the aggregate Stated Amount of all Letters of Credit at any time outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder) and (ii) in the event of a prepayment under Section 2.07(b)(iv) or to the extent any amount of a required prepayment under any of Sections 2.07(b)(i) through 2.07(b)(iii) remains after prepayment of all outstanding Loans and Letter of Credit Obligations and termination of the Commitments, as contemplated by Section 2.07(d), the Administrative Agent will retain such amount as may then be required to be retained, such amounts in each case under clauses (i) and (ii) above to be held by the Administrative Agent in a Cash Collateral Account. The Borrower hereby grants (or, if registration thereof is required in any applicable jurisdiction, shall grant) to the Administrative Agent, for the benefit of the Issuing Banks and the Lenders, a Lien upon and security interest in the Cash Collateral Account and all amounts held therein from time to time as security for Letter of Credit Usage, and for application to the Borrower's Letter of Credit Obligations as and when the same shall arise. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest on the investment of such amounts in Cash Equivalents, which investments shall be made at the direction of the Borrower (unless an Event of Default shall have occurred and be continuing, in which case the determination as to investments shall be made at the option and in the discretion of the Administrative Agent), amounts in the Cash Collateral Account shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. In the event of a drawing, and subsequent payment by the applicable Issuing Bank, under any Letter of Credit at any time during which any amounts are held in the Cash Collateral Account, the Administrative Agent will deliver to such Issuing Bank an amount equal to the Reimbursement Obligation created as a result of such payment (or, if the amounts so held are less than such Reimbursement Obligation, all of such amounts) to reimburse such Issuing Bank therefor. Any amounts remaining in the Cash Collateral Account after the expiration of all Letters of Credit and reimbursement in full of each Issuing Bank for all of its obligations thereunder shall be held by the Administrative Agent, for the benefit of the Borrower, to be applied against the Obligations in such order and manner as the Administrative Agent may direct. If the Borrower is required to provide Cash Collateral pursuant to this Section 2.04(l), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower on demand, *provided* that after giving effect to such return (A) the sum of (1) the aggregate principal dollar amount of all Revolving Loans outstanding at such time and (2) the aggregate Letter of Credit Usage at such time would not exceed the aggregate Revolving Commitments at such time and (B) no Event of Default shall have occurred and be continuing at such time. If the Borrower is required to provide Cash Collateral pursuant to Sections 2.07(b)(i) through 2.07(b)(ii), as contemplated by Section 2.07(d), such amount shall be returned to the Borrower on demand, *provided* that, after giving effect to such return, all outstanding Letters of Credit shall have expired and each Issuing Bank shall have been reimbursed in full for all of its obligations thereunder. If the Borrower is required to provide Cash Collateral as a result of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(m) Addition of an Issuing Bank. One or more Revolving Lenders (other than a Defaulting Lender) selected by the Borrower that agrees to act in such capacity and reasonably acceptable to the Administrative Agent may become an additional Issuing Bank hereunder pursuant to a written agreement in form and substance reasonably satisfactory to the Administrative Agent among the Borrower, the

Administrative Agent and such Revolving Lender. The Administrative Agent shall notify the Revolving Lenders of any such additional Issuing Bank.

SECTION 2.05 Conversion/Continuation.

(a) Each conversion of Loans from one Type to another, and each continuation of Eurocurrency Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may only be given in writing; *provided* that Revolving Loans denominated in an Alternative Currency may not be converted into Base Rate Loans. Each such notice must be received by the Administrative Agent not later than 1:00 p.m. (New York City time) on the requested date of any conversion of Eurocurrency Rate Loans to Base Rate Loans and not later than 2:00 p.m. (New York City time, in the case of Loans denominated in Dollars, or London time, in the case of Loans denominated in an Alternative Currency) three Business Days prior to the requested date of continuation of any Eurocurrency Rate Loans or any conversion of Base Rate Loans to Eurocurrency Rate Loans. Each notice by the Borrower pursuant to this Section 2.05(a) must be delivered to the Administrative Agent in the form of a Conversion/Continuation Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each conversion to or continuation of Eurocurrency Rate Loans shall be in a principal amount of (x) \$500,000 or a whole multiple of \$100,000 in excess thereof, if denominated in Dollars, or (y) a Dollar Amount of \$500,000 or a whole multiple of a Dollar Amount of \$100,000 in excess thereof if denominated in an Alternative Currency. Each conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Conversion/Continuation Notice shall specify (i) whether the Borrower is requesting a conversion of Loans from one Type to the other, or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be converted or continued, (iv) the Class of Loans to be converted or continued, (v) the Type of Loans to which such existing Loans are to be converted, if applicable, and (vi) if applicable, the duration of the Interest Period with respect thereto. If (x) with respect to any Eurocurrency Rate Loans denominated in Dollars, the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be converted to Base Rate Loans and (y) with respect to any Eurocurrency Rate Loans denominated in any Alternative Currency, the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable tranche of Loans shall be converted to a Eurocurrency Rate Loan with an Interest Period of one month. Any such automatic conversion or continuation pursuant to the immediately preceding sentence shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Borrower requests a conversion to, or continuation of Eurocurrency Rate Loans in any such Conversion/Continuation Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Conversion/Continuation Notice, the Administrative Agent shall promptly notify each applicable Lender of its Pro Rata Share of the applicable Class of Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Loans described in Section 2.05(a).

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent or the Required Lenders may require by notice to the Borrower that no Loans denominated in Dollars may be converted to or continued as Eurocurrency Rate Loans. This Section shall not apply to Swing Line Loans, which may not be converted or continued.

SECTION 2.06 Availability. (a) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of the Borrower, the interest rate applicable at the time to the applicable Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate plus any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.06(a) shall be conclusive in the absence of manifest error. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's applicable Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(b) Unless the Administrative Agent shall have received notice from a Lender holding Delayed Draw Commitments prior to the date of any Borrowing of Delayed Draw Term Loans that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing, and the Administrative Agent may in its sole discretion, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. In the event that the Administrative Agent has elected to make available to the Borrower any portion of the Delayed Draw Term Loans and any Lender with a Delayed Draw Commitment has failed to fund its portion thereof on the date and time required by this Agreement (any such Lender, the "**Unfunded DDTL Commitment Lender**", any such Delayed Draw Term Loans provided by the Administrative Agent, the "**Fronted Delayed Draw Term Loans**"), until the time that such Unfunded DDTL Commitment Lender has funded its portion of any Fronted Delayed Draw Term Loans and reimbursed the Administrative Agent, the Administrative Agent shall be entitled to receive any interest accruing applicable to such unfunded Fronted Delayed Draw Term Loans and shall be entitled to retain the Delayed Draw Upfront Fee applicable to such Delayed Draw Commitments. Upon funding by the relevant Unfunded DDTL Commitment Lender of any Fronted Delayed Draw Term Loans, (x) the proceeds of such funded Fronted Delayed Draw Term Loans shall be retained by the Administrative Agent, (y) the Administrative Agent shall remit the Delayed Draw Upfront Fee to such Unfunded DDTL Commitment Lender and (z) interest applicable to such funded Fronted Delayed Draw Term Loans commencing with the date of such funding shall accrue to such Unfunded DDTL Commitment Lender. Additionally, if any Unfunded DDTL Commitment Lender becomes a Defaulting Lender, then such Unfunded DDTL Commitment Lender's Fronted Delayed Draw Term Loans may be assigned (or in if the Unfunded DDTL Commitment Lender becomes a Defaulting Lender pursuant to clause (d) of the definition thereof, shall be assigned) to the Administrative Agent without any further action by any party and the Administrative Agent shall be the "Lender" with respect to such Fronted Delayed Draw Term Loans for all purposes hereof and the Administrative Agent shall be entitled to retain the Delayed Draw Upfront Fee. Each Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Lender's attorney-in-fact, with full authority in the place and stead of such Lender and in the name of such Lender, from time to time in the Administrative Agent's discretion, with prior written notice to such Lender,

to take any action and to execute any such Assignment and Assumption or other instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause. To the extent that the Administrative Agent has funded Fronted Delayed Draw Term Loans on behalf of any Unfunded DDTL Commitment Lender, such Unfunded DDTL Commitment Lender shall not constitute a Defaulting Lender pursuant to clause (a) of the definition thereof.

SECTION 2.07 Prepayments.

(a) Optional.

(i) The Borrower may, upon notice to the Administrative Agent in the form of a Prepayment Notice, at any time or from time to time, voluntarily prepay the Loans in whole or in part without premium or penalty, subject to clause (D) below; *provided* that:

(A) such Prepayment Notice must be received by the Administrative Agent (1) not later than 1:00 p.m. (New York City time, in the case of Loans denominated in Dollars, or London time, in the case of Loans denominated in an Alternative Currency) three Business Days prior to any date of prepayment of Eurocurrency Rate Loans, (2) not later than 1:00 p.m. (New York City time) one Business Day prior to any date of prepayment of Base Rate Loans and (3) not later than 1:00 p.m. (New York City time) one Business Day prior to any date of prepayment of Swing Line Loans;

(B) any prepayment of Eurocurrency Rate Loans (x) denominated in Dollars shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding, and (y) denominated in an Alternative Currency, shall be in a principal Dollar Amount of \$1,000,000 or a whole multiple of the Dollar Amount of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding;

(C) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding (it being understood that Base Rate Loans shall be denominated in Dollars only); and

(D) any prepayment of Initial Term Loans or Delayed Draw Term Loans made on or prior to the date that is six months after the Closing Date shall be accompanied by the payment of the fee described in Section 2.11(g), if applicable.

Each Prepayment Notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid, and the payment amount specified in each Prepayment Notice shall be due and payable on the date specified therein. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of a Prepayment Notice and of the amount of such Lender's Pro Rata Share of such prepayment; *provided*, "non-consenting" Lenders may be repaid on anon-pro rata basis in connection with an Extension Offer or a Refinancing Amendment. Any prepayment of Loans shall be subject to Section 2.07(c). Revolving Loans, Incremental Revolving Loans and Swing Line Loans prepaid pursuant to this subsection(a) may be reborrowed, subject to the terms and conditions of this Agreement.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind, in whole or in part, any notice of prepayment under Section 2.07(a)(i), if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility which refinancing shall not be consummated or shall otherwise be delayed.

(iii) Voluntary prepayments of Term Loans permitted hereunder shall be applied in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity).

(iv) Notwithstanding anything in any Loan Document to the contrary (including Section 2.15), (A) the Borrower may prepay the outstanding Term Loans of any Lender on a non-*pro rata* basis at or below par with the consent of only such Lender and (B) the Borrower may prepay Term Loans of one or more Classes below par on a non-*pro rata* basis in accordance with the auction procedures set forth on Exhibit L; *provided* that, in each case, no Event of Default has occurred and is continuing or would result therefrom and if the proceeds of any Revolving Loans are used to finance such prepayment, immediately after giving effect to such prepayment and on a Pro Forma Basis for such prepayment, the Borrower's Liquidity equals or exceeds an amount equal to 33% of the Revolving Commitments (whether or not drawn) as of the date of determination.

(b) Mandatory.

(i) Excess Cash Flow. Within five Business Days after financial statements have been delivered or are required to be delivered pursuant to Section 6.01(a) and the related Compliance Certificate has been delivered or is required to be delivered pursuant to Section 6.02(a), in each case, commencing with the first full fiscal year ending after the Closing Date, the Borrower shall, subject to Sections 2.07(b)(v) and (b)(vi), prepay an aggregate principal amount of Term Loans equal to,

(A) the ECF Prepayment Percentage of Excess Cash Flow, if any, for the fiscal year covered by such financial statements minus

(B) the sum of,

(1) all voluntary prepayments of Term Loans and any other term loans that are Pari Passu Lien Debt (including (x) those made through debt buybacks and in the case of below-par repurchases in an amount equal to the discounted amount actually paid in cash in respect of such below-par repurchase and (y) payments pursuant to Section 3.07 or other applicable "yank-a-bank" provisions (solely to the extent any Term Loans or other Pari Passu Lien Debt is retired instead of assigned)),

(2) all voluntary payments and prepayments of Revolving Loans and any other revolving loans that are Pari Passu Lien Debt, in each case to the extent accompanied by a corresponding permanent reduction in commitments,

(3) all voluntary prepayments of Junior Lien Debt,

(4) all voluntary prepayments of Indebtedness secured by Liens on Excluded Assets, and

(5) all voluntary prepayments of Indebtedness of Restricted Subsidiaries that are not Subsidiary Guarantors,

in each case, (I) during such fiscal year or following the end of such fiscal year and prior to the date of such calculation *provided* that, with respect to any such amount following the end of such fiscal year, such amount is not included in any calculation pursuant to this clause (b)(i) for the subsequent

fiscal year), (II) to the extent such prepayments are not funded with the proceeds of Funded Debt and (III) including, for the avoidance of doubt, assignments of such Indebtedness to the Borrower or a Restricted Subsidiary (and prepayments of such Indebtedness below par) to the extent of the amount paid in connection with such assignment (or prepayment); *provided* that no such payment shall be required if such amount is equal to or less than \$10,000,000; *provided further* that if at the time that any such prepayment would be required, the Borrower is required to repay or repurchase or to offer to repurchase or repay Pari Passu Lien Debt pursuant to the terms of the documentation governing such Indebtedness with all or a portion of such Excess Cash Flow (such Pari Passu Lien Debt required to be repaid or repurchased or to be offered to be so repaid or repurchased, “**Other Applicable ECF Indebtedness**”), then the Borrower may apply such Excess Cash Flow on *pro rata* basis to the prepayment of the Term Loans and to the repayment or re-purchase of Other Applicable ECF Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.07(b)(i) shall be reduced accordingly (for purposes of this proviso *pro rata* basis shall be determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable ECF Indebtedness at such time, with it being agreed that the portion of Excess Cash Flow allocated to the Other Applicable ECF Indebtedness shall not exceed the amount of such Excess Cash Flow required to be allocated to the Other Applicable ECF Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such net proceeds shall be allocated to the Term Loans in accordance with the terms hereof).

(ii) Asset Sales; Casualty Events If the Borrower or any Loan Party,

(A) Disposes of any property or assets constituting Collateral pursuant to the General Asset Sale Basket, or

(B) any Casualty Event occurs with respect to property or assets constituting Collateral,

which in either case results in the realization or receipt by the Borrower or such Loan Party of Net Cash Proceeds, the Borrower shall prepay on or prior to the date which is ten Business Days after the date of the realization or receipt of such Net Cash Proceeds in excess of \$10,000,000 for any transaction or series of related transactions, subject to Sections 2.07(b)(v) and 2.07(b)(vi), an aggregate principal amount of Term Loans equal to the Asset Sale Prepayment Percentage of such Net Cash Proceeds realized or received; *provided* that if at the time that any such prepayment would be required, the Borrower is required to repay or repurchase or to offer to repurchase or repay Pari Passu Lien Debt pursuant to the terms of the documentation governing such Indebtedness with the proceeds of such Disposition or Casualty Event (such Pari Passu Lien Debt required to be repaid or repurchased or to be offered to be so repaid or repurchased, “**Other Applicable Indebtedness**”), then the Borrower may apply such Net Cash Proceeds on a *pro rata* basis to the prepayment of the Term Loans and to the repayment or repurchase of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.07(b)(ii) shall be reduced accordingly (for purposes of this proviso *pro rata* basis shall be determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness at such time, with it being agreed that the portion of such net proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such net proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such net proceeds shall be allocated to the Term Loans in accordance with the terms hereof); *provided, further*, that to the extent the holders of Other Applicable Indebtedness decline to have such indebtedness repurchased or prepaid, the declined amount shall promptly (and in any event within ten Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance with the terms hereof; *provided, further*, that no prepayment

shall be required pursuant to this Section 2.07(b)(ii) with respect to such portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest in accordance with this Section 2.07(b)(ii).

With respect to any Net Cash Proceeds realized or received with respect to any Disposition or any Casualty Event that, in either case, is subject to the application of the foregoing provisions of this Section 2.07(b)(ii), at the option of the Borrower or any of its Restricted Subsidiaries, the Borrower or any of its Restricted Subsidiaries may (in lieu of making a prepayment pursuant to the foregoing provisions) elect to (I) reinvest an amount equal to all or any portion of such Net Cash Proceeds in assets used or useful for the business of the Borrower and its Restricted Subsidiaries (1) within eighteen months following receipt of such Net Cash Proceeds or (2) if the Borrower or any of its Restricted Subsidiaries enters into a legally binding commitment to reinvest such Net Cash Proceeds within eighteen months following receipt of such Net Cash Proceeds, no later than one hundred and eighty days after the end of such eighteen month period; *provided* that if any portion of such amount is no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, subject to Section 2.07(b)(v) and Section 2.07(b)(vi), an amount equal to the Asset Sale Prepayment Percentage of any such Net Cash Proceeds shall be applied within five Business Days after the Borrower or such Loan Party reasonably determines that such amount is no longer intended to be or cannot be so reinvested to the prepayment of the Term Loans and Other Applicable Indebtedness as set forth above or (II) apply such Net Cash Proceeds to permanently repay indebtedness of Non-Loan Parties.

(iii) Indebtedness. If any of the Borrower or any Restricted Subsidiary incurs or issues any Funded Debt (A) which is not expressly permitted to be incurred or issued pursuant to Section 7.03 or (B) that constitutes Credit Agreement Refinancing Indebtedness, the Borrower shall prepay an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds received therefrom on or prior to the date which is five Business Days after the receipt of such Net Cash Proceeds (in the case of clause (A)) and substantially concurrently with the incurrence of such Credit Agreement Refinancing Indebtedness (in the case of clause (B)).

(iv) Revolving Loan Repayments. The Borrower shall from time to time prepay *first*, the Swing Line Loans and *second*, the Revolving Loans to the extent necessary so that the Total Utilization of Revolving Commitments shall not at any time exceed the Revolving Commitments then in effect; *provided* that, to the extent such excess amount is greater than the aggregate principal dollar amount of Swing Line Loans and Revolving Loans outstanding immediately prior to the application of such prepayment, the amount so prepaid shall be retained by the Administrative Agent and held in the Cash Collateral Account as cover for Letter of Credit Usage, as more particularly described in Section 2.04(l), and thereupon such cash shall be deemed to reduce the aggregate Letter of Credit Usage by an equivalent amount.

(v) Application of Payments. (A) Except as may otherwise be set forth in any Refinancing Amendment, Extension Amendment or any Incremental Amendment, each prepayment of Term Loans pursuant to Section 2.07(b)(i), (ii) or (iii) shall be applied ratably to each Class of Term Loans then outstanding (*provided* that any prepayment of Term Loans with the Net Cash Proceeds of Credit Agreement Refinancing Indebtedness shall be applied solely to each applicable Class of Refinanced Debt), (B) with respect to each Class of Loans (other than Revolving Loans or Swing Line Loans), each prepayment pursuant to clauses (i) through (iii) of this Section 2.07(b) shall be applied to remaining scheduled installments of principal thereof following the date of prepayment pursuant to Section 2.09 as directed by the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity of the

remaining installments under the applicable Class of Loans), and (C) each such prepayment shall be paid to the Lenders in accordance with their respective Pro Rata Shares of such prepayment.

(vi) Foreign and Tax Considerations. Notwithstanding any other provisions of this Section 2.07(b),

(A) to the extent that any or all of the Net Cash Proceeds of any Disposition by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.07(b)(ii) (a “**Foreign Disposition**”), the Net Cash Proceeds of any Casualty Event from a Foreign Subsidiary (a “**Foreign Casualty Event**”) or Excess Cash Flow of a Foreign Subsidiary are prohibited or delayed by applicable local law from being repatriated to the United States, the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.07(b) but may be retained by the applicable Foreign Subsidiary so long as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to use its commercially reasonable efforts to promptly take all actions reasonably required by the applicable local law to permit such repatriation) and, if within 12 months of the applicable prepayment event, such repatriation of any of such affected Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be immediately effected and such repatriated Net Cash Proceeds or Excess Cash Flow will be promptly (and in any event not later than ten Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.07(b) to the extent provided herein, and

(B) to the extent that the Borrower has determined in good faith that repatriation to the United States of any or all of the Net Cash Proceeds of any Foreign Disposition or any Foreign Casualty Event or any or all of the Excess Cash Flow of a Foreign Subsidiary would have material adverse tax consequences (relative to the relevant Foreign Disposition, Foreign Casualty Event or Excess Cash Flow and taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Cash Proceeds or Excess Cash Flow, the Net Cash Proceeds or Excess Cash Flow so affected may be retained by the applicable Foreign Subsidiary; *provided* that, in the case of this clause (B), on or before the date on which any Net Cash Proceeds so retained would otherwise have been required to be applied to reinvestments or prepayments pursuant to this Section 2.07(b) (or such Excess Cash Flow would have been required to be applied to prepayments pursuant to this Section 2.07(b)), (1) the Borrower applies an amount equal to such Net Cash Proceeds or Excess Cash Flow to such reinvestments or prepayments (in the case of Net Cash Proceeds) and to such prepayments (in the case of Excess Cash Flow) as if such Net Cash Proceeds or Excess Cash Flow had been received by the Borrower rather than such Foreign Subsidiary, less the amount (the “**Netted Tax Amount**”) of additional taxes that would have been payable or reserved against it if such Net Cash Proceeds or Excess Cash Flow had been repatriated to the United States by such Foreign Subsidiary; *provided* that, in the case of this clause (1), to the extent that within 12 months of the applicable prepayment event, the repatriation of any Net Cash Proceeds or Excess Cash Flow from such Foreign Subsidiary would no longer have material adverse tax consequences (relative to the relevant Foreign Disposition, Foreign Casualty Event or Excess Cash Flow), such Foreign Subsidiary shall promptly repatriate an amount equal to the Netted Tax Amount to the Administrative Agent, which amount shall be applied to the pro rata prepayment of the Loans and Commitments pursuant to Section 2.07(d) or (2) such

Net Cash Proceeds or Excess Cash Flow are applied to the repayment of Indebtedness of a Foreign Subsidiary.

(vii) Mandatory Prepayment Procedures; Declining Lenders. The Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Loans pursuant to Section 2.07(b)(i), (ii), (iii) or (iv) three Business Days prior to the date on which such payment is due. Such notice shall state that the Borrower is offering to make or will make such mandatory prepayment on or before the date specified in Section 2.07(b)(i), (ii), (iii) or (iv), as the case may be (each, a “**Prepayment Date**”). Once given, such notice shall be irrevocable *provided* that the Borrower may rescind any notice of prepayment if such prepayment would have resulted from a refinancing of all or any portion of the applicable Facility or been made in connection with a Disposition, which refinancing or Disposition shall not be consummated or shall otherwise be delayed) and all amounts subject to such notice shall be due and payable on the Prepayment Date (except as otherwise provided in Section 2.07(b)(vi) and in the last sentence of this Section 2.07(b)(vii)). Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately give notice to each Lender of the prepayment, the Prepayment Date and of such Lender’s Pro Rata Share of the prepayment. Each Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share of any mandatory prepayment (other than any mandatory prepayment with the proceeds of any Credit Agreement Refinancing Indebtedness or a mandatory prepayment pursuant to Section 2.07(b)(iii)) by giving notice of such election in writing to the Administrative Agent by 11:00 a.m. (New York City time), on the date that is one Business Day after the date of such Lender’s receipt of notice from the Administrative Agent regarding such prepayment. If a Lender fails to deliver a notice of election declining receipt of its Pro Rata Share of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender’s Pro Rata Share of the total amount of such mandatory prepayment of Term Loans. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately notify the Borrower of such election. Subject to any requirements set forth in the Second Lien Credit Documents, any amount so declined by any Lender shall be retained by the Borrower and the Restricted Subsidiaries and/or applied by the Borrower or any of the Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement.

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.07 shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a Eurocurrency Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such Eurocurrency Rate Loan pursuant to Section 3.05.

(d) Application of Prepayment Amounts. In the event that the obligation of the Borrower to prepay the Loans shall arise pursuant to subsection (b) above,

(i) *first*, the Borrower shall prepay the outstanding principal amount of the Term Loans in the amount of such prepayment obligation within the applicable time periods specified in subsection (b) above, with such prepayment to be applied in the manner set forth in Section 2.07(b)(v).

(ii) *second*, to the extent of any excess remaining after the prepayment as provided in clause (i) above, the Borrower shall prepay the outstanding principal amount of the Swing Line Loans, without a corresponding permanent reduction to the Revolving Commitments,

(iii) *third*, to the extent of any excess remaining after the prepayment as provided in clauses (i) and (ii) above, the Borrower shall prepay the outstanding principal amount of the

Revolving Loans, without a corresponding permanent reduction to the Revolving Commitments, and

(iv) *fourth*, to the extent of any excess remaining after application as provided in clauses (i), (ii) and (iii) above, the Borrower shall pay any outstanding Reimbursement Obligations, and thereafter the Borrower shall Cash Collateralize the Letter of Credit Usage pursuant to Section 2.04(1).

Each payment or prepayment pursuant to the provisions of Section 2.07(b) shall be applied ratably among the Lenders of each Class holding the Loans being prepaid, in proportion to the principal amount held by each, and shall be applied as among the Term Loans or the Revolving Loans, as the case may be, being prepaid, (A) first, to prepay all Base Rate Loans and (B) second, to the extent of any excess remaining after application as provided in clause (A) above, to prepay all Eurocurrency Rate Loans (and as among Eurocurrency Rate Loans, (1) first to prepay those Eurocurrency Rate Loans, if any, having Interest Periods ending on the date of such prepayment, and (2) thereafter, to the extent of any excess remaining after application as provided in clause (1) above, to prepay any Eurocurrency Rate Loans in the order of the expiration dates of the Interest Periods applicable thereto).

(e) Interest Period Deferrals. Notwithstanding any of the other provisions of this Section 2.07, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurocurrency Rate Loans is required to be made under this Section 2.07 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.07 in respect of any such Eurocurrency Rate Loan, prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.07. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.07.

SECTION 2.08 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; *provided* that (i) any such notice shall be received by the Administrative Agent one Business Day prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$1,000,000 in excess thereof or, if less, the entire amount thereof and (iii) the Borrower shall not terminate or reduce (A) the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.07, the Total Utilization of Revolving Commitments would exceed the total Revolving Commitments, (B) the Letter of Credit Sublimit if, after giving effect thereto, (1) the Letter of Credit Usage not fully Cash Collateralized hereunder at 103% of the maximum face amount of any such Letters of Credit would exceed the Letter of Credit Sublimit or (2) the Letter of Credit Usage with respect to Letters of Credit issued by an applicable Issuing Bank not fully Cash Collateralized hereunder at 103% of the maximum face amount of any such Letters of Credit would exceed the amount of such Issuing Bank's Letter of Credit Percentage of the Letter of Credit Sublimit or (C) the Swing Line Sublimit, if after giving effect to any concurrent payment of Swing Line Loans in accordance with Section 2.07, the Total Utilization of Revolving Commitments with respect to Swing Line Loans would exceed the Swing Line Sublimit. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the

Commitments if such termination would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or otherwise shall be delayed.

(b) Mandatory.

(i) (A) The Initial Term Loan Commitment of each Lender shall be automatically and permanently reduced to \$0 upon the making of such Lender's Initial Term Loans pursuant to Section 2.01(a), (B) the Delayed Draw Commitment of each Lender shall be automatically and permanently reduced (x) by the aggregate principal amount of Delayed Draw Term Loans made from time to time by such Lender pursuant to Section 2.01(a) and (y) to \$0 upon the Delayed Draw Commitment Termination Date and (C) the Revolving Commitments shall terminate on the Revolving Commitment Termination Date.

(ii) If after giving effect to any reduction or termination of Revolving Commitments under this Section 2.08, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Revolving Commitments at such time, the Letter of Credit Sublimit or the Swing Line Sublimit, as the case may be, shall be automatically reduced by the amount of such excess.

(c) The Borrower may, upon notice to the Administrative Agent, terminate the Delayed Draw Commitments or from time to time permanently reduce the Delayed Draw Commitments; *provided* that (i) any such notice shall be received by the Administrative Agent not later than 1:00 p.m. three Business Days prior to the date of termination or reduction, (ii) any such notice shall be irrevocable, and (iii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof.

(d) Effect of Termination or Reduction. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Pro Rata Share of Commitments of such Class.

SECTION 2.09 Repayment of Loans.

(a) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (i) on the last Business Day of each fiscal quarter (commencing with the first full fiscal quarter ending after the Closing Date) an aggregate principal amount equal to 0.25% of the aggregate principal amount of all Initial Term Loans outstanding on the Closing Date (which payments shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.07); *provided* that (x) to the extent funded, any Delayed Draw Term Loans also shall amortize from and after the applicable Delayed Draw Closing Date in an aggregate principal amount equal to 0.25% of the aggregate principal amount thereof funded on the applicable Delayed Draw Closing Date (which shall commence with the end of the fiscal quarter in which the applicable Delayed Draw Closing Date occurs unless such Delayed Draw Closing Date is the last day of a fiscal quarter, in which case such amortization shall commence with the next fiscal quarter), (y) this clause (i) shall be amended, as it relates to any then-existing tranche of Term Loans to increase the amortization with respect thereto, in connection with the Borrowing of any Incremental Term Loans that constitute Pari Passu Lien Debt and/or the Borrowing of any Delayed Draw Term Loans if and to the extent necessary so that such Incremental Term Loans and/or Delayed Draw Term Loans and the applicable existing Term Loans form the same Class of Term Loans and to the extent possible, a "fungible" tranche, in each case, without the consent of any party hereto, and (z) such amendments shall not decrease any amortization payment to any Lender that would have otherwise been payable to such Lender prior thereto, and (ii) on the Maturity Date for each Class of Term Loans, the aggregate principal amount of all such Term Loans outstanding on such date.

(b) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders the outstanding principal amount of the Revolving Loans on the Revolving Commitment Termination Date.

(c) The Borrower shall repay to the Swing Line Lender (or, to the extent required by Section 2.03(c), to the Administrative Agent for the account of the Revolving Lenders) each Swing Line Loan made by the Swing Line Lender to the Borrower on the earlier to occur of (i) the date seven Business Days after such Swing Line Loan is made and (ii) the Maturity Date of the Revolving Loans; *provided*, on each date that a Revolving Loan is made, the Borrower shall repay all Swing Line Loans then outstanding. At any time there shall exist a Defaulting Lender that is a Revolving Lender, immediately upon the request of the Swing Line Lender, the Borrower shall repay the outstanding Swing Line Loans made by the Swing Line Lender to the Borrower in an amount sufficient to eliminate any Fronting Exposure in respect of the Swing Line Loans.

SECTION 2.10 Interest.

(a) Subject to the provisions of Section 2.10(b), (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate *per annum* equal to the Adjusted Eurocurrency Rate for such Interest Period *plus* the Applicable Rate, (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate *per annum* equal to the Base Rate *plus* the Applicable Rate and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate *per annum* equal to the Base Rate *plus* the Applicable Rate.

(b) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(c) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Accrued and unpaid interest on the principal amount of all outstanding past due Obligations (including interest on past due interest) shall be due and payable upon demand.

(e) Interest on each Loan shall be due and payable (i) with respect to Base Rate Loans, in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein and (ii) with respect to Eurocurrency Rate Loans, at the end of each Interest Period, and, in any event, every three months. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding, under any Debtor Relief Law.

(f) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for any Eurocurrency Rate Loans upon determination of such interest rate. The determination of the Adjusted Eurocurrency Rate and the Eurocurrency Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the "prime rate" used in determining the Base Rate promptly following the public announcement of such change.

(g) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; *provided* that after the establishment of any new Class of Loans pursuant to a Refinancing Amendment or Extension, the number of Interest Periods otherwise permitted by this Section 2.10(g) shall increase by three Interest Periods for each applicable Class so established.

SECTION 2.11 Fees.

(a) The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing (including pursuant to the Engagement Letter and Agency Fee Letter) in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

(b) The Borrower agrees to pay to Lenders having Revolving Exposure:

(i) commitment fees for the period from and including the Closing Date to and including the Revolving Commitment Termination Date equal to (A) the average of the daily difference between (1) the Revolving Commitments and (2) the sum of (I) the aggregate principal amount of all outstanding Revolving Loans *plus* (II) the Letter of Credit Usage, *times* (B) the Applicable Commitment Fee; and

(ii) letter of credit fees with respect to all Letters of Credit (the "L/C Fee") equal to (A) the Applicable Rate for Revolving Loans that are Eurocurrency Rate Loans, *times* (B) the average aggregate daily maximum amount available to be drawn under all Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination and whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit).

All fees referred to in this Section 2.11(b) shall be paid to the Administrative Agent at the Administrative Agent's Office and upon receipt, the Administrative Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

(c) The Borrower agrees to pay directly to the applicable Issuing Bank, for its own account, the following fees:

(i) a fronting fee to be agreed by the Borrower and the applicable Issuing Bank (not to exceed 0.125%*per annum*) *times* the daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit) determined as of the close of business on any date of determination; and

(ii) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with such Issuing Bank's standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be, which fees, costs and charges shall be payable to such Issuing Bank within three Business Days after its demand therefor and are nonrefundable.

Each payment of fees required above under this clause (c) on any Letters of Credit denominated in an Alternative Currency shall be made in Dollars.

(d) All fees referred to in Sections 2.11(b) and 2.11(c)(i) shall be payable quarterly in arrears on the last Business Day of each fiscal quarter of each year during the Revolving Commitment Period, commencing with the first full fiscal quarter ending after the Closing Date, and on the Revolving Commitment Termination Date; *provided* that any such fees accruing after the Revolving Commitment Termination Date shall be payable on demand.

(e) The Borrower agrees to pay on the Closing Date to each Lender party to this Agreement on the Closing Date, as fee compensation for the funding of such Lender's Initial Term Loan, a closing fee (the "**Closing Fee**") in an amount equal to 0.25% of the stated principal amount of such Lender's Term Loan made on the Closing Date. Such Closing Fee will be in all respects fully earned, due and payable on the Closing Date and non-refundable and non-creditable thereafter and such Closing Fee shall be netted against Initial Term Loans (in the form of original issue discount) made by such Lender. In addition, with respect to each advance of Delayed Draw Term Loans made in accordance with Section 2.01(a), the Borrower agrees to pay to the Administrative Agent, for the ratable account of each Lender with a Delayed Draw Commitment, an upfront fee (the "**Delayed Draw Upfront Fee**") in an amount equal to 0.25% of the stated principal amount of such Delayed Draw Term Loans that are made on the date of such advance. Such Delayed Draw Upfront Fee will be in all respects fully earned, due and payable on the date on which such Delayed Draw Term Loans are made and shall be non-refundable thereafter, and such Delayed Draw Upfront Fee shall be netted against the Delayed Draw Term Loans (in the form of original issue discount) made by such Lender on such date.

(f) The Borrower agrees to pay to the Administrative Agent for its own account the fees payable in the amounts and at the times separately agreed upon.

(g) At the time of the effectiveness of any Repricing Event that is consummated during the period commencing on the Closing Date and ending on the day immediately prior to the date that is six months after the Closing Date, the Borrower agrees to pay to the Administrative Agent, for the ratable account of each Lender with Initial Term Loans or Delayed Draw Term Loans that are either repaid, converted or subjected to a pricing reduction in connection with such Repricing Event (including each Lender that withholds its consent to such Repricing Event and is replaced as a Non-Consenting Lender under Section 3.07), a fee in an amount equal to 1.0% of (i) in the case of a Repricing Event described in clause (a) of the definition thereof, the aggregate principal amount of all Initial Term Loans and Delayed Draw Term Loans prepaid (or converted) in connection with such Repricing Event and (ii) in the case of a Repricing Event described in clause (b) of the definition thereof, the aggregate principal amount of all Initial Term Loans and Delayed Draw Term Loans outstanding on such date that are subject to an effective pricing reduction pursuant to such Repricing Event. Such fees shall be earned, due and payable upon the date of the effectiveness of such Repricing Event. Notwithstanding anything to the contrary herein or in any other Loan Document, each Lender hereby agrees to waive any amounts payable by the Borrower pursuant to Section 3.05 that would have resulted from a refinancing of this Agreement or a Repricing Event.

(h) The Borrower agrees to pay to Lenders (other than any Defaulting Lender) having Delayed Draw Commitments a ticking fee (the "**Delayed Draw Ticking Fee**") during the Delayed Draw Commitment Period, calculated in an amount equal to the average daily balance of the unfunded and outstanding Delayed Draw Commitments, multiplied by a *per annum* rate (calculated in accordance with Section 2.12) equal to (x) for any day in the period from and including the Closing Date to and including the date that is 45 days after the Closing Date, 0%, (y) for any day in the period from and including the date that is 46 days after the Closing Date to and including the date that is 90 days after the Closing Date, 50% of the Eurocurrency Rate Spread (as specified in the definition of "Applicable Rate") applicable to the Initial Term Loans, and (z) for any day in the period from and including the date that is 91 days after the Closing Date to but excluding the Delayed Draw Commitment Termination Date, 100% of the Eurocurrency Rate Spread (as specified in the definition of "Applicable Rate") applicable to the Initial

Term Loans. Subject to the following sentence, the Delayed Draw Ticking Fee shall accrue on unfunded and outstanding Delayed Draw Commitments from and including the last day on which the Delayed Draw Ticking Fee was paid (or if no such payment date has yet been made, from and including the Closing Date) and shall be due and payable in arrears on (i) each Interest Payment Date applicable to Base Rate Loans (regardless of whether any Base Rate Loans are outstanding) and (ii) the Delayed Draw Commitment Termination Date. The Delayed Draw Ticking Fee also shall be due and payable on each Delayed Draw Closing Date solely to the extent of the Delayed Draw Commitments funded as Delayed Draw Term Loans on such Delayed Draw Closing Date (and such payment shall not affect the accrual of the Delayed Draw Ticking Fee or timing of payment thereof on the remaining unfunded and outstanding Delayed Draw Commitments pursuant to the foregoing sentence).

SECTION 2.12 Computation of Interest and Fees. All computations of interest for Base Rate Loans calculated by reference to the “prime rate” and for the Delayed Draw Ticking Fee shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

SECTION 2.13 Evidence of Indebtedness.

(a) The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as non-fiduciary agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence absent manifest error of the amount of the Borrowings made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which shall evidence the relevant Class of such Lender’s Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.13(a), and by each Lender in its account or accounts pursuant to Section 2.13(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.14 Payments Generally.

(a) All payments to be made by the Borrower shall be made on the date when due, in immediately available funds without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment and in Same Day Funds not later than 1:00 p.m. (New York City time, in the case of any payment in Dollars, or London time, in the case of any payment in an Alternative Currency) on the date specified herein. If, for any reason, the Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, the Borrower shall make such payment in Dollars in the Dollar Amount of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office; *provided* that the proceeds of any borrowing of Revolving Loans to finance the reimbursement of a drawn Letter of Credit as provided in Section 2.04(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank. All payments received by the Administrative Agent after 1:00 p.m. (New York City time, in the case of any payment in Dollars, or London time, in the case of any payment in an Alternative Currency) shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder for the account of any Lender or any Issuing Bank, as applicable, that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to such Lender or such Issuing Bank. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then such Lender or such Issuing Bank, as applicable, shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender or such Issuing Bank in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender or such Issuing Bank, as applicable, to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.07 are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 9.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.03(c), 2.04(c), 2.06, 2.15 or 10.07, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent, the Swing Line Lender or the Issuing Banks, as applicable, to satisfy such Lender's obligations to the Administrative Agent, the Swing Line Lender and the Issuing Banks 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.

SECTION 2.15 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans of a particular Class made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such sub-participations in the participations in L/C obligations or Swing Line Loans held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each relevant Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including Section 2.07(a)(iv) and Section 11.07), (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder or (C) any payment received by such Lender not in its capacity as a Lender. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 11.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.15 and will in each case

notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.15 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 2.16 Incremental Borrowings.

(a) Notice. At any time and from time to time, on one or more occasions, the Borrower may, by notice to the Administrative Agent, (i) increase the aggregate principal amount of any outstanding tranche of Term Loans or add one or more additional tranches of term loans under the Loan Documents (the “**Incremental Term Facilities**” and the term loans made thereunder, the “**Incremental Term Loans**”) or (ii) increase the aggregate principal amount of Revolving Commitments or add one or more additional revolving loan facilities under the Loan Documents (the “**Incremental Revolving Facilities**” and the revolving loans and other extensions of credit made thereunder, the “**Incremental Revolving Loans**”; each such increase or tranche pursuant to clauses (i) and (ii), an “**Incremental Facility**” and the loans or other extensions of credit made thereunder, the “**Incremental Loans**”).

(b) Ranking. Incremental Facilities (i) may rank either *pari passu* or junior in right of payment with the Initial Term Loans, the Delayed Draw Term Loans and the initial Revolving Commitments, (ii) may either be unsecured or secured by the Collateral (or assets that become Collateral) (including secured by Liens that secure the Facilities on a *pari passu* or junior basis) and (iii) may be guaranteed only by the Loan Parties (or Persons that become Loan Parties).

(c) Size and Currency. Subject to Section 1.08, the aggregate principal amount of Incremental Facilities on any date Indebtedness thereunder is first incurred (or commitments with respect thereto are received (x) in the case of any Incremental Revolving Facility, assuming such commitments are fully drawn on such date, and (y) in the case of any Incremental Term Facility with a delayed draw feature, at the Borrower’s option either assuming any incremental commitments thereunder are fully drawn on such date or determined based on the date and actual amount of funding thereof), together with the aggregate principal amount of Incremental Equivalent Debt outstanding on such date, will not exceed, an amount equal to,

- (i) the Fixed Incremental Amount, *plus*
- (ii) the Ratio Amount,

(the sum of the Fixed Incremental Amount and the Ratio Amount, the “**Incremental Amount**”). Calculation of the Incremental Amount shall be made on Pro Forma Basis and evidenced by a certificate from a Responsible Officer of the Borrower demonstrating such calculation in reasonable detail. Each Incremental Amendment executed in connection with an Incremental Facility shall identify whether all or any portion of such Incremental Facility is being incurred pursuant to clauses (i) or (ii) above or a combination of such clauses. Each Incremental Facility will be in an integral multiple of \$1,000,000 and in an aggregate principal amount that is not less than \$10,000,000 (or such lesser minimum amount approved by the Administrative Agent in its reasonable discretion); *provided* that such amount may be less than such minimum amount or integral multiple amount if such amount represents all the remaining availability under the Incremental Amount at such time. Any Incremental Facility may be denominated in Dollars or in any Alternative Currency (and in the case of any Alternative Currency, the Dollar Amount thereof as of the date of incurrence (or, in the case of an LCA Election, as of the applicable LCA Test Date) shall be controlling for purposes of determining compliance with the Incremental Amount, and the minimum amount and integral multiples shall be a Dollar Amount of \$10,000,000 or \$1,000,000, respectively (or, in each case, such lesser minimum amount approved by the Administrative Agent in its reasonable discretion)).

(d) Incremental Lenders. Incremental Facilities may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make, or provide commitments with respect to, an Incremental Loan) or by any Additional Lender. While existing Lenders may (but are not obligated to unless invited to and so elect) participate in any syndication of an Incremental Facility and may (but are not obligated to unless invited to and so elect) become lenders with respect thereto, the existing Lenders will not have any right to participate in any syndication of, and will not have any right of first refusal or other right to provide all or any portion of, any Incremental Facility or Incremental Loan except to the extent the Borrower and the arrangers thereof, if any, in their discretion, chose to invite or include any such existing Lender (which may or may not apply to all existing Lenders and may or may not be pro rata among existing Lenders). Final allocations in respect of Incremental Facilities will be made by the Borrower together with the arrangers thereof, if any, in their discretion, on the terms permitted by this Section 2.16; *provided* that the lenders providing the Incremental Facilities will be reasonably acceptable to the (i) Borrower, (ii) the Administrative Agent and (iii) solely with respect to any Incremental Revolving Facility, each Issuing Bank (except that, in the case of clauses (ii) and (iii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender, such consent not to be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, any Affiliated Lender that provides any Incremental Loans shall be subject to the limitations on Affiliated Lenders set forth in Section 11.07(h) (including the Affiliated Lender Term Loan Cap, as applicable).

(e) Incremental Facility Amendments; Use of Proceeds. Each Incremental Facility will become effective pursuant to an amendment (each, an “**Incremental Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower and each Person providing such Incremental Facility and the Administrative Agent. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Incremental Amendment. Incremental Amendments may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Borrower in consultation with the Administrative Agent, to effect the provisions of this Section 2.16 and, to the extent practicable, to make an Incremental Loan fungible (including for tax purposes) with other Loans (subject to the limitations under sub-clauses (g) and (h) of this Section) to the extent practicable. Without limiting the foregoing, an Incremental Amendment may (i) extend or add “call protection” to any existing tranche of Term Loans, including amendments to Section 2.11(g), and (ii) amend the schedule of amortization payments relating to any existing tranche of Term Loans, including amendments to Section 2.09(a) (*provided*, that any such amendment shall not decrease any amortization payment to any Lender that would have otherwise been payable to such Lender prior to the effectiveness of the applicable Incremental Amendment), in the case of each clause (i) and (ii), so that such Incremental Term Loans and the applicable existing Term Loans form the same Class of Term Loans; *provided*, that such amendments are not adverse to the existing Term Loan Lenders (as determined in good faith by the Borrower). Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Amendment, this Agreement and the other Loan Documents, as applicable, will be amended to the extent necessary to reflect the existence and terms of the Incremental Facility and the Incremental Term Loans evidenced thereby. This Section 2.16 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. The Borrower may use the proceeds of the Incremental Loans for any purpose not prohibited by this Agreement.

(f) Conditions. The availability of Incremental Facilities under this Agreement will be subject solely to the following conditions, subject, for the avoidance of doubt, to Section 1.08, measured on the date of the initial borrowing under such Incremental Facility (or, with respect to (x) any Incremental Revolving Facility, the date commitments with respect thereto are received and (y) any Incremental Term Facility with a delayed draw feature, at the Borrower’s option, either the date commitments with respect thereto are received or the date and amount of actual funding thereof):

(i) no Event of Default shall have occurred and be continuing or would result therefrom; *provided* that the condition set forth in this clause (i) may be waived or not required (other than with respect to Specified Events of Default) by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment; and

(ii) the representations and warranties in the Loan Documents will be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) immediately prior to, and after giving effect to, the incurrence of such Incremental Facility; *provided* that the condition set forth in this clause (ii) may be waived or not required (other than with respect to the Specified Representations) by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment.

(g) Terms. Each Incremental Amendment will set forth the amount and terms of the relevant Incremental Facility. The terms of each Incremental Facility will be as agreed between the Borrower and the Persons providing such Incremental Facility; *provided* that:

(i) the final maturity date of any such Incremental Term Loans will be no earlier than the Latest Maturity Date of the Initial Term Loans; *provided* that this clause shall not apply to the incurrence of any Incremental Term Loans pursuant to the Inside Maturity Exception;

(ii) the Weighted Average Life to Maturity of any such Incremental Term Loans will be no shorter than the remaining Weighted Average Life to Maturity of the Initial Term Loans; *provided* that this clause shall not apply to the incurrence of any Incremental Term Loans pursuant to the Inside Maturity Exception;

(iii) any mandatory prepayment of such Incremental Term Loans may participate on *apro rata* basis or a less than *pro rata* basis in any mandatory repayments or prepayments of the Initial Term Loans, but not on a greater than *pro rata* basis to the Initial Term Loans (other than (A) any repayment of such Incremental Term Loans at maturity and (B) any greater than *pro rata* repayment of such Incremental Term Loans with the proceeds of Credit Agreement Refinancing Indebtedness with respect to a mandatory prepayment pursuant to Section 2.07(b)(iii)(B));

(iv) (A) to the extent secured, such Incremental Term Facilities or Incremental Revolving Facilities, as applicable, shall not be secured by any Lien on any property or asset of the Borrower or any Guarantor that does not also secure the Term Loans or Revolving Loans, as applicable, at the time of such incurrence (except (1) customary cash collateral in favor of an agent, letter of credit issuer or similar "fronting" lender, (2) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Term Loans or Revolving Loans, as applicable, at the time of incurrence and (3) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Term Loans or Revolving Loans, as applicable) and (B) to the extent guaranteed, such Incremental Term Facilities or Incremental Revolving Facilities, as applicable, shall not be incurred or guaranteed by any Loan Party other than the Borrower and the Guarantors (including any Person required to be a Guarantor) (except (1) for guarantees by other Persons that are applicable only to periods after the Latest Maturity Date of the Term Loans or Revolving Loans, as applicable, at the time of incurrence and (2) any such Person incurring or guaranteeing such Incremental Term Facilities or Incremental Revolving Facilities, as applicable, that also guarantees the Term Loans or Revolving Loans, as applicable); and

(v) except as otherwise set forth herein, all terms of any Incremental Revolving Facility shall be on terms and pursuant to documentation applicable to the Revolving Facility and all other terms of any Incremental Term Facility shall be on terms (including subordination terms, if applicable) and pursuant to documentation to be determined by the Borrower and the providers of the Incremental Term Facility; *provided* that the operational and agency provisions contained in such documentation shall be reasonably satisfactory to the Administrative Agent and the Borrower.

(h) Pricing. The interest rate, fees and original issue discount for any Incremental Term Loans will be as determined by the Borrower and the Persons providing such Incremental Term Loans; *provided* that in the event that the All-In Yield applicable to any Incremental Term Loans (other than any Excluded Incremental Term Loan (as defined below)) that are incurred during the first six months following the Closing Date and are secured on a *pari passu* basis with the Initial Term Loans exceeds the All-In Yield (taking into account the leverage-based pricing grid therein and any comparable leverage-based pricing grid applicable to such Incremental Term Loans) for the Initial Term Loans by more than 75 basis points, then the interest rate margins for the Initial Term Loans shall be increased to the extent necessary so that the All-In Yield for such Term Loans is equal to the All-In Yield for such Incremental Term Loans *minus* 75 basis points. “**Excluded Incremental Term Loan**” means any (i) Incremental Term Loans incurred in reliance on the Ratio Amount, (ii) Incremental Term Loans with a scheduled maturity date more than one years after the initial scheduled maturity date for the Initial Term Loans, (iii) Incremental Term Loans incurred in connection with a Permitted Investment, (iv) Incremental Term Loans in an original aggregate principal amount not to exceed the greater of (A) 50% of Closing Date EBITDA and (B) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, (v) Incremental Term Loans that are not a syndicated “term loan b” facility or (vi) Incremental Term Loans that are not denominated in Dollars.

(i) Adjustments to Revolving Loans. Upon each increase in the Revolving Commitments pursuant to this Section 2.16,

(i) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each lender providing a portion of such increase (each an “**Incremental Revolving Facility Lender**”), and each such Incremental Revolving Facility Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Lender’s participations hereunder in outstanding Letters of Credit and Swing Line Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (1) participations hereunder in Letters of Credit and (2) participations hereunder in Swing Line Loans held by each Revolving Lender will equal the percentage of the aggregate Revolving Commitments of all Lenders represented by such Revolving Lender’s Revolving Commitments; and

(ii) if, on the date of such increase, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of such Incremental Revolving Facility be prepaid from the proceeds of Incremental Revolving Loans made hereunder (reflecting such increase in Revolving Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Revolving Lender in accordance with Section 3.05.

(j) The Administrative Agent and the Lenders hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to Section 2.16.

SECTION 2.17 Refinancing Amendments.

(a) Refinancing Loans. At any time after the Closing Date, the Borrower may obtain, from any Lender or any Additional Lender, Credit Agreement Refinancing Indebtedness in respect of all or any portion of the Term Loans or Revolving Loans, in the form of Refinancing Loans or Refinancing Commitments made pursuant to a Refinancing Amendment.

(b) Refinancing Amendments. The effectiveness of any Refinancing Amendment will be subject only to the satisfaction on the date thereof of such conditions as may be requested by the providers of applicable Refinancing Loans. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement will be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Loans incurred pursuant thereto (including any amendments necessary to treat the Term Loans or Revolving Loans subject thereto as Refinancing Term Loans or Refinancing Revolving Loans, respectively).

(c) Required Consents. Any Refinancing Amendment may, without the consent of any Person other than the Administrative Agent, the Borrower and the Persons providing the applicable Refinancing Loans, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.17. This Section 2.17 supersedes any provisions in Section 11.01 to the contrary.

(d) Providers of Refinancing Loans. Refinancing Loans may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make all or any portion of any Refinancing Loan) or by any Additional Lender (subject to Section 11.07(h)). The lenders providing the Refinancing Loans will be reasonably acceptable to the (i) Borrower, (ii) the Administrative Agent and (iii) solely with respect to any Refinancing Revolving Loans, each Issuing Bank (except that, in the case of clauses (ii) and (iii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender, such consent not to be unreasonably withheld, conditioned or delayed).

SECTION 2.18 Extensions of Loans.

(a) Extension Offers. Pursuant to one or more offers (each, an “**Extension Offer**”) made from time to time by the Borrower to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date, the Borrower may extend such Maturity Date and otherwise modify the terms of such Loans and/or Commitments pursuant to the terms set forth in an Extension Offer (each, an “**Extension**”). Each Extension Offer will specify the minimum amount of Loans and/or Commitments with respect to which an Extension Offer may be accepted, which (x) with respect to Loans and/or Commitments denominated in Dollars, will be an integral multiple of \$1,000,000 and an aggregate principal amount that is not less than \$5,000,000, or (y) with respect to Loans and/or Commitments denominated in any Alternative Currency, will be an integral multiple of the Dollar Amount of \$1,000,000 and an aggregate principal amount that is not less than the Dollar Amount of \$5,000,000 or, in each case, if less, (i) the aggregate principal amount of such Class of Loans outstanding or (ii) such lesser minimum amount as is approved by the Administrative Agent, such consent not to be unreasonably withheld, conditioned or delayed. Extension Offers will be made on a *pro rata* basis to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date. If the aggregate outstanding principal amount of such Loans (calculated on the face amount thereof) and/or Commitments in respect of which Lenders have accepted an Extension Offer exceeds the maximum aggregate principal amount of Loans and/or Commitments offered to be extended pursuant to such Extension Offer, then the Loans and/or

Commitments of such Lenders will be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer. There is no requirement that any Extension Offer or Extension Amendment (defined as follows) be subject to any “most favored nation” pricing provisions. The terms of an Extension Offer shall be determined by the Borrower, and Extension Offers may contain one or more conditions to their effectiveness, including a condition that a minimum amount of Loans and/or Commitments of any or all applicable tranches be tendered.

(b) Extension Amendments. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents (an “**Extension Amendment**”) as may be necessary or appropriate in order to establish new tranches in respect of Extended Loans and Extended Commitments and such amendments as permitted by clause (c) below as may be necessary or appropriate in the reasonable opinion of the Borrower, in consultation with the Administrative Agent, in connection with the establishment of such new tranches of Loans. This Section 2.18 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. Except as otherwise set forth in an Extension Offer, there will be no conditions to the effectiveness of an Extension Amendment. Extensions will not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(c) Terms of Extension Offers and Extension Amendments. The terms of any Extended Loans and Extended Commitments will be set forth in an Extension Offer and as agreed between the Borrower and the Extending Lenders accepting such Extension Offer; *provided* that:

(i) the final maturity date of such Extended Loans and Extended Commitments will be no earlier than the Latest Maturity Date applicable to the Loans and/or Commitments subject to such Extension Offer;

(ii) the Weighted Average Life to Maturity of any Extended Loans that are Term Loans will be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans subject to such Extension Offer;

(iii) any Extended Loans that are Term Loans may participate on *apro rata* basis or a less than *pro rata* basis (but not greater than a *pro rata* basis) in any mandatory repayments or prepayments of Term Loans other than any repayment of such Extended Loans at maturity or with the proceeds of Credit Agreement Refinancing Indebtedness; and

(iv) the covenants and events of default applicable to the Extended Loans and/or Extended Commitments are (A) substantially identical to, or, taken as a whole, no more favorable to the lenders or holders providing such Extended Loans and/or Extended Commitments than, those applicable to the Loans and/or Commitments subject to such Extension Offer, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (except (1) for covenants applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (2) any term or condition to the extent such term or condition is also added for the benefit of the Lenders under the Term Loans) or (B) solely to the extent that any terms and conditions applicable to any such Extended Loans and/or Extended Commitments are not the same as, or substantially similar to, those then applicable to the Term Loans, shall otherwise reflect customary market terms and conditions at the time of such incurrence, including with respect to high yield debt securities to the extent applicable, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (*provided* that a certificate of a Responsible Officer delivered to the Administrative Agent at least four Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Extended Loans and/or Extended Commitments together with a reasonably detailed description of the material

covenants and events of default of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (iv) shall be conclusive evidence that such material covenants and events of default satisfy such requirement unless the Administrative Agent notifies the Borrower within such four Business Day (or shorter) period that it disagrees with such determination (including a description of the basis upon which it disagrees); *provided* that this clause (iii) will not apply to (w) terms addressed in the preceding clauses (i) through (iii), (x) interest rate, rate floors, fees, funding discounts and other pricing terms, (y) redemption, prepayment or other premiums, and (z) optional prepayment or redemption terms; *provided further* that the Borrower will promptly deliver to the Administrative Agent final copies of the definitive credit documentation relating to such Indebtedness (unless the Borrower is bound by a confidentiality obligation with respect thereto, in which case the Borrower will deliver a reasonably detailed description of the material terms and conditions of such Indebtedness in lieu thereof).

Any Extended Loans will constitute a separate tranche of Term Loans and/or Revolving Loans from the Term Loans and/or Revolving Loans held by Lenders that did not accept the applicable Extension Offer.

(d) Extension of Revolving Commitments. In the case of any Extension of Revolving Commitments and/or Revolving Loans, the following shall apply:

(i) all borrowings and all prepayments of Revolving Loans shall continue to be made on a ratable basis among all Revolving Lenders, based on the relative amounts of their Revolving Commitments, until the repayment of the Revolving Loans attributable to the non-extended Revolving Commitments on the relevant Maturity Date;

(ii) the allocation of the participation exposure with respect to any then-existing or subsequently issued or made Letter of Credit or Swing Line Loan as between the Revolving Commitments of such new tranche and the remaining Revolving Commitments shall be made on a ratable basis in accordance with the relative amounts thereof until the Maturity Date relating to such non-extended Revolving Commitments has occurred;

(iii) no termination of extended Revolving Commitments and no repayment of extended Revolving Loans accompanied by a corresponding permanent reduction in extended Revolving Commitments shall be permitted unless such termination or repayment (and corresponding reduction) is accompanied by at least a *pro rata* termination or permanent repayment (and corresponding *pro rata* permanent reduction), as applicable, of each other tranche of Revolving Loans and Revolving Commitments (or each other tranche of Revolving Commitments and Revolving Loans shall have otherwise been terminated and repaid in full);

(iv) the Maturity Date with respect to the Revolving Commitments may not be extended without the prior written consent of each Issuing Bank and the Swing Line Lender; and

(v) at no time shall there be more than five different tranches of Revolving Commitments.

If the Total Utilization of Revolving Commitments exceeds the Revolving Commitment as a result of the occurrence of the Maturity Date with respect to any tranche of Revolving Commitments while an extended tranche of Revolving Commitments remains outstanding, the Borrower shall make such payments as are necessary in order to eliminate such excess on such Maturity Date.

(e) Required Consents. No consent of any Lender or any other Person will be required to effectuate any Extension, other than the consent of the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned), the Borrower and the applicable Extending Lender. The transactions contemplated by this Section 2.18 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Loans on such terms as may be set forth in the relevant Extension Offer) will not require the consent of any other Lender or any other Person, and the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.18 will not apply to any of the transactions effected pursuant to this Section 2.18.

SECTION 2.19 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.09 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 each Issuing Bank and the Swing Line Lender hereunder; *third*, to Cash Collateralize each Issuing Bank's Fronting Exposure with respect to such Defaulting Lender with respect to outstanding Letters of Credit (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) or the Swing Line Lender's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.19(d); *fourth*, as the Borrower may request (so long as no Event of Default shall have occurred and be continuing), 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 Cash Collateral Account and released *pro rata* in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (B) Cash Collateralize each Issuing Bank's (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) or the Swing Line Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit or Swing Line Loans, as applicable, issued under this Agreement, in accordance with Section 2.19(d); *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Banks or the Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or the Swing Line 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 Event of Default shall have occurred and be continuing, 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; *provided* that if (1) such payment is a payment of the principal amount of any Loans or Reimbursement Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 (or, in the case of Delayed Draw Commitments and Delayed Draw Term Loans, Section 4.03) were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Reimbursement Obligations owed to, all

Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, or Reimbursement Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans are held by the Lenders pro rata in accordance with the applicable Commitments without giving effect to Section 2.19(a)(iii). 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 2.19(a)(i) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee pursuant to Section 2.11(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender); *provided* such Defaulting Lender shall be entitled to receive fees pursuant to Section 2.11(b)(ii) 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 pursuant to Section 2.04.

(B) With respect to any fees not required to be paid to any Defaulting Lender pursuant to clause (A) above, the Borrower shall (1) 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 Swing Line Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iii) below, (2) pay to each Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iii) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letters of Credit and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (A) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (B) such reallocation does not cause the aggregate Revolving Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. Subject to Section 11.25, 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.

(iv) Cash Collateral. If the reallocation described in clause (iii) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize Issuing Bank's Fronting Exposure (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) in accordance with the procedures set forth in Section 2.04.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and the Swing Line 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 that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held pro rata by the Lenders in accordance with the applicable Commitments (without giving effect to Section 2.04) 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 having been a Defaulting Lender.

(c) New Swing Line Loans/Letters of Credit. So long as any Revolving Lender is a Defaulting Lender, (i) the Swing Line Lender shall not be required to fund any Swing Line Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swing Line Loan and (ii) no Issuing Bank shall be required to issue, extend or amend any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(d) Cash Collateral. At any time that there shall exist a Defaulting Lender and Section 2.19(a)(iv) is applicable, within one Business Day following the written request of the Administrative Agent, any Issuing Bank (with a copy to the Administrative Agent) or the Swing Line Lender (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize the applicable Issuing Bank's Fronting Exposure or the Swing Line Lender's Fronting Exposure, as the case may be, with respect to such Defaulting Lender (determined after giving effect to Section 2.04 and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(i) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks and the Lenders (including the Swing Line Lender), and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of Letters of Credit and Swing Line Loans, to be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that the Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent, the Issuing Banks or the Lenders as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(ii) Application. Notwithstanding anything to the contrary contained in this Agreement, (A) Cash Collateral provided under this Section 2.19 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letters of Credit (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein and (B) Cash Collateral provided under this Section 2.19 in respect of Swing Line Loans shall be applied to the satisfaction of the Defaulting Lender's obligations to fund participations in respect of Swing Line Loans (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iii) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's or the Swing Line Lender's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.19 following (A) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender) or (B) the determination by the Administrative Agent, the applicable Issuing Bank or the Swing Line Lender, as the case may be, that there exists excess Cash Collateral; *provided* that, subject to the other provisions of this Section 2.19, the Person providing Cash Collateral and the applicable Issuing Bank or the Swing Line Lender, as the case may be, may agree that the Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; *provided further* that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(e) Hedge Banks. So long as any Lender is a Defaulting Lender, such Lender shall not be a Hedge Bank with respect to any Secured Hedge Agreement entered into while such Lender was a Defaulting Lender.

SECTION 2.20 Currency Equivalents.

(a) The Administrative Agent shall determine the Dollar Amount of each Loan denominated in an Alternative Currency and Letter of Credit Obligation in respect of Letters of Credit denominated in an Alternative Currency (i) as of the first day of each Interest Period applicable thereto, (ii) as of the end of each fiscal quarter of the Borrower and (iii) at any time while a Default or Event of Default has occurred and is continuing, and shall promptly notify the Borrower of each Dollar Amount so determined by it. Each such determination shall be based on the Exchange Rate as of such date.

(b) If after giving effect to any such determination of a Dollar Amount, the sum of the aggregate outstanding amount of the Revolving Loans denominated in Alternative Currencies and the Letter of Credit Obligations denominated in Alternative Currencies exceeds the aggregate Dollar Amount of Revolving Commitments then in effect, the Borrower shall, within five Business Days of receipt of notice thereof from the Administrative Agent setting forth such calculation in reasonable detail, prepay the applicable Revolving Loans denominated in Alternative Currencies under the Revolving Facility or take other action as the Administrative Agent, in its discretion, may direct (including to Cash Collateralize the applicable Letter of Credit Obligations) to the extent necessary to eliminate any such excess.

SECTION 2.21 Judgment Currency.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto (and by its acceptance of its appointment in such capacity, each Lead Arranger) agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures in the relevant jurisdiction, the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the "**Applicable Creditor**") shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than the currency in which such sum is stated to be due hereunder (the "**Agreement Currency**"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency

so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower as a separate obligation and notwithstanding any such judgment, agrees to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

ARTICLE III

Taxes, Increased Costs Protection and Illegality

SECTION 3.01 Taxes.

(a) Except as required by Law, any and all payments by the Borrower or any Guarantor to or for the account of any Agent, any Lender or Issuing Bank under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authority, and all liabilities (including additions to tax, penalties and interest) with respect thereto (“**Taxes**”). The following shall be “**Excluded Taxes**”: in the case of each Agent, each Lender and Issuing Bank, (i) Taxes imposed on or measured by net income (however denominated, and including branch profits and similar Taxes), and franchise or similar Taxes, in each case, that are (A) imposed by the jurisdiction under the laws of which it is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (B) Other Connection Taxes, (ii) any U.S. federal Tax that is (or would be) required to be withheld with respect to amounts payable hereunder in respect of an Eligible Assignee (pursuant to an assignment under Section 11.07) on the date it becomes an assignee to the extent such Tax is in excess of the Tax that would have been applicable had such assigning Lender not assigned its interest arising under any Loan Document (unless such assignment is at the express written request of the Borrower), (iii) U.S. federal withholding Taxes imposed on amounts payable to or for the account of a Lender, Agent or Issuing Bank with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (A) such Lender, Agent or Issuing Bank acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 3.07) or (B) such Lender changes its Lending Office (other than at the written request of the Borrower to change such Lending Office), except in each case to the extent that pursuant to Section 3.01, amounts with respect to such Taxes were payable to such Lender’s, Agent’s or Issuing Bank’s assignor immediately before such Lender, Agent or Issuing Bank became a party hereto, or to such Lender immediately before it changed its Lending Office, (iv) any U.S. federal withholding Taxes imposed as a result of the failure of any Agent, Lender or Issuing Bank to comply with the provisions of Sections 3.01(b), 3.01(c) and 3.01(d) (in the case of any Foreign Lender, as defined below) or the provisions of Section 3.01(e) (in the case of any U.S. Lender, as defined below), and (v) any Taxes imposed on any amount payable to or for the account of any Agent, Lender or Issuing Bank as a result of the failure of such recipient to satisfy the applicable requirements under FATCA to establish that such payment is exempt from withholding under FATCA. If an applicable Withholding Agent is required to deduct any Taxes or Other Taxes (as defined below) from or in respect of any sum payable under any Loan Document to any Agent, any Lender or Issuing Bank, (i) except in the case of Excluded Taxes, the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01(a)), each of such Agent, such Lender or Issuing Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable Withholding Agent shall make such deductions, (iii) the applicable Withholding Agent shall pay the full amount deducted to the relevant taxing authority, and (iv) within thirty days after the date of any such payment by the Borrower or any Guarantor (or, if receipts or evidence are not available within thirty days, as soon as practicable thereafter), the Borrower or applicable Guarantor shall furnish to such Agent, Lender or Issuing Bank (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or applicable Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent). If the Borrower or Guarantor fails to pay any Taxes or Other

Taxes when due to the appropriate taxing authority, then the Borrower or applicable Guarantor shall indemnify such Agent, such Lender and such Issuing Bank for any incremental Taxes that may become payable by such Agent, such Lender or such Issuing Bank arising out of such failure.

(b) To the extent it is legally able to do so, each Agent, Lender or Issuing Bank (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (each, a "**Foreign Lender**") agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two accurate, complete and signed copies of whichever of the following is applicable: (i) IRS Form W-8BEN or Form W-8BEN-E certifying that it is entitled to benefits under an income tax treaty to which the United States is a party; (ii) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States; (iii) if the Foreign Lender is not (A) a bank described in Section 881(c)(3)(A) of the Code, (B) a 10-percent shareholder of the Borrower described in Section 871(h)(3)(B) of the Code, or (C) a controlled foreign corporation related to the Borrower within the meaning of Section 864(d) of the Code, a certificate to that effect in substantially the form attached hereto as Exhibit G (a "**Non-Bank Certificate**") and an IRS Form W-8BEN or Form W-8BEN-E, certifying that the Foreign Lender is not a United States person; (iv) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI, Non-Bank Certificate, Form W-9, Form W-8IMY (or other successor forms) and any other required supporting information from each beneficial owner (it being understood that a Foreign Lender need not provide certificates or supporting documentation from beneficial owners if (A) the Foreign Lender is a "qualified intermediary" or "withholding foreign partnership" for U.S. federal income tax purposes and (B) such Foreign Lender is as a result able to establish, and does establish, that payments to such Foreign Lender are, to the extent applicable, entitled to an exemption from or, if an exemption is not available, a reduction in the rate of, U.S. federal withholding taxes without providing such certificates or supporting documentation); or (v) any other form prescribed by applicable requirements of U.S. federal income tax 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 and the Administrative Agent to determine the withholding or deduction required to be made.

(c) In addition, each such Foreign Lender shall, to the extent it is legally entitled to do so, (i) promptly submit to the Borrower and the Administrative Agent two accurate, complete and signed copies of such other or additional forms or certificates (or such successor forms or certificates as shall be adopted from time to time by the relevant taxing authorities) as may then be applicable or available to secure an exemption from or reduction in the rate of U.S. federal withholding tax (1) on or before the date that such Foreign Lender's most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (2) after the occurrence of a change in the Foreign Lender's circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (3) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in the Foreign Lender's circumstances that would modify or render invalid any claimed exemption or reduction. This Section 3.01(c) shall not apply to any reporting requirements under FATCA.

(d) If a payment made to a Lender under any Loan Document would be subject to tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such

time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Foreign Lender has complied with such Foreign Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.01(d), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(e) Each Agent, Lender or Issuing Bank that is a "United States person" (within the meaning of Section 7701(a)(30) of the Code) (each, a "U.S. Lender") agrees to complete and deliver to the Borrower and the Administrative Agent two copies of accurate, complete and signed IRS Form W-9 or successor form certifying that such U.S. Lender is not subject to U.S. federal backup withholding tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the U.S. Lender's circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(f) The Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise (in the nature of a documentary or similar tax), property, intangible, filing or mortgage recording taxes or charges or similar levies imposed by any Governmental Authority that arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (including additions to tax, penalties and interest related thereto) excluding, in each case, such amounts that are Other Connection Taxes imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested in writing by the Borrower (all such non-excluded taxes described in this Section 3.01(f) being hereinafter referred to as "Other Taxes").

(g) If any Taxes or Other Taxes are directly asserted against any Agent, Lender or Issuing Bank with respect to any payment received by such Agent or Lender in respect of any Loan Document, such Agent, Lender or Issuing Bank may pay such Taxes or Other Taxes and the Borrower will promptly indemnify and hold harmless such Agent, Lender or Issuing Bank for the full amount of such Taxes (other than Excluded Taxes) and Other Taxes (and any Taxes (other than Excluded Taxes) and Other Taxes imposed on amounts payable under this Section 3.01), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted. Payments under this Section 3.01(g) shall be made within ten days after the date the Borrower receives written demand for payment from such Agent, Lender or Issuing Bank.

(h) A Participant shall not be entitled to receive any greater payment under this Section 3.01 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 or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation.

(i) If any Agent, any Lender or Issuing Bank determines, in its sole discretion, exercised in good faith, that it has received a refund in respect of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be, or with respect to which the Borrower or any Guarantor, as the case may be, has paid additional amounts pursuant to this Section 3.01, it shall promptly pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or any Guarantor under this Section 3.01 with

respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by such Agent, such Lender or Issuing Bank and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower or applicable Guarantor, as the case may be, upon the request of such Agent, such Lender or Issuing Bank, agrees to repay the amount paid over to the Borrower or applicable Guarantor, as the case may be (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Agent, such Lender or Issuing Bank in the event such Agent, such Lender or Issuing Bank is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (i), in no event will such Agent, Lender or Issuing Bank be required to pay any amount to the Borrower or applicable Guarantor pursuant to this paragraph (i) the payment of which would place such Agent, Lender or Issuing Bank in a less favorable net after-tax position than the indemnified party would have been in if the Tax or Other Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax or Other Tax had never been paid. Such Agent, such Lender or Issuing Bank, as the case may be, shall provide the Borrower upon request with a copy of any notice of assessment or other evidence reasonably available of the requirement to repay such refund received from the relevant Governmental Authority (*provided* that such Lender, such Agent or Issuing Bank may delete any information therein that such Lender, such Agent or Issuing Bank deems confidential or not relevant to such refund in its reasonable discretion). This subsection shall not be construed to require any Agent, any Lender or Issuing Bank to make available its tax returns (or any other information relating to its taxes that it reasonably deems confidential) to the Borrower, any Guarantor or any other Person.

(j) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (g) with respect to such Lender, it will, if requested by the Borrower in writing, use commercially reasonable efforts (subject to legal and regulatory restrictions) to mitigate the effect of any such event, including by designating another Lending Office for any Loan affected by such event and by completing and delivering or filing any tax-related forms that such Lender is legally able to deliver and that would reduce or eliminate any amount of Taxes or Other Taxes required to be deducted or withheld or paid by the Borrower; *provided* that such efforts are made at the Borrower's expense and are on terms that, in the reasonable judgment of such Lender, do not cause such Lender or any of its Lending Offices to suffer any economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(j) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (g).

(k) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any taxes required by any Laws (including, for the avoidance of doubt, FATCA) to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.01.

(l) Each Agent or Lender, as applicable, shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Taxes attributable to such Agent or Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.07(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Agent or Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Agent or Lender by the Administrative Agent shall be conclusive absent manifest error. Each Agent and Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Agent or Lender under any Loan Document or otherwise payable by the

Administrative Agent to such Agent or Lender from any other source against any amount due to the Administrative Agent under this Section 3.01(l).

(m) The agreements in this Section 3.01 shall survive the resignation or replacement of the Administrative Agent, termination of this Agreement and the payment of the Loans and all other amounts payable hereunder and any assignment of rights by, or replacement of, any Lender.

SECTION 3.02 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurocurrency Rate, or to determine or charge interest rates based upon the Eurocurrency 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 or any Alternative Currency in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans, shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Adjusted Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate, 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, (A) with respect to Borrowings denominated in Dollars, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans, (B) with respect to Borrowings denominated in an Alternative Currency, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurocurrency Rate Loans of such Lender to a Loan bearing interest at an alternative rate mutually acceptable to the Borrower and the applicable Lenders, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans; *provided, however*, that if the Borrower and the applicable Lenders cannot agree within a reasonable time on an alternative rate for such Loans, the Borrower may, at its discretion, either (x) prepay such Loans or (y) maintain such Loans outstanding, in which case, the interest rate payable to the applicable Lender on such Loans will be the rate determined by the Administrative Agent as its cost of funds to fund a Borrowing of such Loans with maturities comparable to the Interest Period applicable thereto plus the Applicable Margin or (C) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Adjusted Eurocurrency Rate component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Adjusted Eurocurrency 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 Eurocurrency Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 3.03 Inability to Determine Rates. If the Required Lenders reasonably determine that for any reason in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof that (a) deposits in Dollars or the applicable Alternative Currency are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurocurrency Rate Loan, (b) adequate and reasonable means do not exist for determining the Adjusted Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or in connection with an existing or proposed Base Rate Loan or (c) the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (i) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended, and (ii) in the event of a determination described in the preceding sentence with respect to the Adjusted Eurocurrency Rate component of the Base Rate, the utilization of the Adjusted Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) with respect to Borrowings denominated in Dollars, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein and (ii) with respect to Borrowings denominated in an Alternative Currency, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans and shall convert all such Eurocurrency Rate Loans of such Lender to a Loan bearing interest at an alternative rate mutually acceptable to the Borrower and the applicable Lenders; *provided, however*, that if the Borrower and the applicable Lenders cannot agree within a reasonable time on an alternative rate for such Loans, the Borrower may, at its discretion, either (x) prepay such Loans or (y) maintain such Loans outstanding, in which case, the interest rate payable to the applicable Lender on such Loans will be the rate determined by the Administrative Agent as its cost of funds to fund a Borrowing of such Loans with maturities comparable to the Interest Period applicable thereto plus the Applicable Margin.

SECTION 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans

(a) Increased Costs Generally. If any Change in Law shall:

(i) 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 or participated in by, any Lender, any Issuing Bank or the Swing Line Lender;

(ii) subject any Lender, any Issuing Bank or the Swing Line Lender to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Eurocurrency Rate Loan made by it, or change the basis of taxation of payments to such Lender, Issuing Bank, or Swing Line Lender, as applicable, in respect thereof (except, in each case, for (A) Taxes with respect to which the Borrower is obligated to pay additional amounts or indemnity payments pursuant to Section 3.01, (B) any taxes and other amounts described in clauses (ii) through (v) of the second sentence of Section 3.01(a) that are imposed with respect to payments to or for the account of any Agent, any Lender, any Issuing Bank or the Swing Line Lender under any Loan Document, (C) Connection Income Taxes, and (D) Other Taxes); or

(iii) impose on any Lender, any Issuing Bank or the Swing Line Lender or the London interbank market any other condition, cost or expense affecting this Agreement, any Letter of Credit, any participation in a Letter of Credit or Eurocurrency Rate Loans made by such Lender or any Issuing Bank or the Swing Line Lender (other than with respect to Taxes) that is not otherwise accounted for in the definition of the Adjusted Eurocurrency Rate or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender, such Issuing Bank or the Swing Line Lender of making or maintaining any Loan the interest on which is determined by reference to the Eurocurrency Rate or, in the case of a Change in Law with respect to Taxes, making or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Bank or such other Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit, or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank (whether of principal, interest or any other amount)) then, from time to time within ten days after demand by such Lender or such Issuing Bank setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender or such Issuing Bank such additional amount or amounts as will compensate such Lender or such Issuing Bank for such additional costs incurred or reduction suffered. No Lender, Issuing Bank or Swing Line Lender shall request that the Borrower pay any additional amount pursuant to this Section 3.04(a) unless it shall concurrently make similar requests to other borrowers similarly situated and affected by such Change in Law and from whom such Lender, Issuing Bank or Swing Line Lender is entitled to seek similar amounts.

(b) Capital Requirements. If any Lender or any Issuing Bank reasonably determines that any Change in Law affecting such Lender or such Issuing Bank or any Lending Office of such Lender or such Issuing Bank or such Lender's or Issuing Bank's holding company, if any, regarding liquidity or capital 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, the Commitments of such Lender or such Issuing Bank or the Loans made by or Letters of Credit issued by it to a level below that which such Lender or such Issuing Bank or such Lender's or 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 Issuing Bank's holding company with respect to liquidity or capital adequacy), then from time to time upon demand of such Lender or such Issuing Bank setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or their respective holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such 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 the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty days prior to the date that such Lender or such Issuing Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor (except 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).

(e) Reserves on Eurocurrency Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan made to the Borrower; *provided* the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost, liability or expense (excluding loss of anticipated profits or margin) actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Eurocurrency Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.07;

including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. Notwithstanding the foregoing, no Lender may make any demand under this Section 3.05 (i) with respect to the "floor" specified in the parenthetical in the first sentence of the definition of Adjusted Eurocurrency Rate or (ii) in connection with any prepayment of interest on Term Loans.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or 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 3.01, or if any Lender gives a notice pursuant to Section 3.02, 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 judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(b) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent),

suspend the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) Conversion of Eurocurrency Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender's Eurocurrency Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding Eurocurrency Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

SECTION 3.07 Replacement of Lenders Under Certain Circumstances If (i) any Lender requests compensation under Section 3.04 or ceases to make Eurocurrency Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (ii) the Borrower is required to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.01(i), (iii) any Lender is a Non-Consenting Lender, (iv) any Lender does not accept an Extension Offer, (v) (A) any Lender shall become and continue to be a Defaulting Lender and (B) such Defaulting Lender shall fail to cure the default pursuant to Section 2.19(b) within five Business Days after the Borrower's request that it cure such default, (vi) any Lender becomes a Disqualified Lender or (vii) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), *provided* that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.07(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit and Swing Line Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) 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);

(c) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in Letters of Credit or Swing Line Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided* that the failure of any such Lender to execute an Assignment and Assumption or deliver such Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Notes shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender;

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(f) in the case of any such assignment resulting from a Lender being a Non-Consenting Lender, the Eligible Assignee shall consent, at the time of such assignment, to each matter in respect of which such Lender being replaced was a Non-Consenting Lender; and

(g) such assignment does not conflict with applicable Laws.

Notwithstanding anything to the contrary contained above, any Lender that acts as an Issuing Bank may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Bank (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer reasonably satisfactory to such Issuing Bank or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Bank) have been made with respect to each such outstanding Letter of Credit and the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 10.09.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and (iii) the Required Lenders, Required Revolving Lenders or Required Facility Lenders, as applicable, have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a "**Non-Consenting Lender.**"

A Lender shall not be required to make any such assignment or 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.

SECTION 3.08 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent or the Collateral Agent.

ARTICLE IV Conditions Precedent to Borrowings

SECTION 4.01 Conditions to Initial Borrowing

The obligation of each Lender to extend credit to the Borrower and of each Issuing Bank to issue Letters of Credit hereunder on the Closing Date is subject to the satisfaction, or due waiver in accordance with Section 11.01, of each of the following conditions precedent, except as otherwise agreed between the Borrower and the Lenders:

(a) The Administrative Agent's receipt of the following, each of which shall be originals, facsimiles or copies in .pdf format unless otherwise specified:

- (i) a Committed Loan Notice duly executed by the Borrower delivered at least one Business Day prior to the Closing Date but which may be conditioned on the consummation of the Transactions;
- (ii) this Agreement duly executed by the Borrower and Holdings;
- (iii) the Guaranty and the Security Agreement, in each case, duly executed by the Borrower and each other Loan Party, together with:
 - (A) certificates, if any, representing the Pledged Equity of the Borrower and its Subsidiaries and constituting Collateral, in each case, accompanied by undated stock powers executed in blank;
 - (B) a Perfection Certificate duly executed by the Borrower on behalf of the Loan Parties; and to the extent required under the Collateral Documents, evidence that all other actions, recordings and filings required shall have been taken, completed or otherwise provided thereunder;
 - (C) UCC financing statements in proper form for filing with authorization to file all Uniform Commercial Code financing statements in the jurisdiction of organization of each Loan Party.
- (iv) the Closing Date Intercreditor Agreement duly executed by the Second Lien Collateral Agent and an acknowledgement thereof duly executed by the Loan Parties;
- (v) such certificates of good standing from the applicable secretary of state of the state of organization of the Borrower and each other Loan Party, resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of the Borrower and each other Loan Party, evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which it is a party or is to be a party on the Closing Date and, in the case of the Borrower, including certification by a Responsible Officer of the Borrower that the conditions specified in clauses (c), (e) and (f) below have been satisfied;
- (vi) an opinion from the following special counsel to the Loan Parties (or certain of the Loan Parties): (A) Latham & Watkins LLP, with respect to matters of New York law and certain aspects of California and Delaware law, and (B) Miller, Pitt, Feldman & McAnally P.C., with respect to matters of Arizona law;
- (vii) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower substantially in the form attached hereto as Exhibit I; and
- (viii) copies of a recent Lien, tax and judgment search in each jurisdiction reasonably requested by the Administrative Agent with respect to the Loan Parties; certified copies of the Second Lien Credit Agreement, Second Lien Security Agreement and Second Lien Guaranty comprising part of the Second Lien Credit Documents.

(b) All fees and expenses required to be paid hereunder on the Closing Date (and all fees and expenses required to be paid under the Engagement Letter and Agency Fee Letter on the Closing Date) and, with respect to expenses and legal fees, to the extent invoiced in reasonable detail at least two Business Days before the Closing Date (except as otherwise reasonably agreed to by the Borrower) shall have been paid in full in cash, it being agreed that such fees and expenses may be paid with the proceeds of the initial funding of one or more of the Facilities.

(c) Confirmation from the Borrower that prior to or substantially simultaneously with the initial Borrowing on the Closing Date, the Closing Date Refinancing, and the funding of the Second Lien Initial Term Loans shall have been or will be consummated.

(d) The Lenders shall have received (a) at least three Business Days prior to the Closing Date all documentation and other information about the Loan Parties reasonably requested in writing by them at least ten Business Days prior to the Closing Date in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, that in each case has been requested in writing at least ten Business Days prior to the Closing Date, and (b) at least two Business Days prior to the Closing Date, a Beneficial Ownership Certification.

(e) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of the Closing Date; *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.

(f) As of the Closing Date, no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

Without limiting the generality of the provisions of the last paragraph of Section 10.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement or funded Loans hereunder shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 4.02 Conditions to All Borrowings After the Closing Date Except as set forth in Section 2.16(f) with respect to Incremental Loans or Section 4.03 with respect to Delayed Draw Term Loans, the obligation of each Lender to honor a Committed Loan Notice, of each Issuing Bank to issue, amend, renew or extend any Letter of Credit and of the Swing Line Lender to make Swing Line Loans, in each case, after the Closing Date, is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing or issuance, amendment, renewal or extension of any Letter of Credit; *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.

(b) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(c) If applicable, the Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof and, if applicable, the applicable Issuing Bank shall have received an Issuance Notice in accordance with the requirements hereof or the Swing Line Lender shall have received a Swing Line Loan Request in accordance with the requirements hereof.

Subject to Section 1.08(f), each Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to another Type or a continuation of Eurocurrency Rate Loans) and each Issuance Notice submitted by the Borrower shall be deemed to be a representation and warranty that the condition specified in Sections 4.02(a) and (b) has been satisfied on and as of the date of the applicable Borrowing or issuance, amendment, renewal or extension of a Letter of Credit.

SECTION 4.03 Conditions to All Borrowings of Delayed Draw Term Loans The obligation of each Lender to honor a Committed Loan Notice with respect to a Borrowing of Delayed Draw Term Loans after the Closing Date is subject to the following conditions precedent:

(a) To the extent that the applicable Delayed Draw Term Loans are to be funded to finance a substantially simultaneous closing of a Permitted Investment and related fees and expenses:

(i) the Specified Representations shall be true and correct in all material respects on and as of the date of such Borrowing; *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; and

(ii) as of the date of such Borrowing, no Specified Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(b) To the extent that the applicable Delayed Draw Term Loans are to be funded for any purpose other than to finance a substantially simultaneous closing of a Permitted Investment and related fees and expenses:

(i) the representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing; *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; and

(ii) as of the date of such Borrowing, no Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(c) The Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof.

(d) The Borrower shall have paid or caused to be paid (or shall pay or cause to be paid substantially concurrently with such Borrowing of Delayed Draw Term Loans) all accrued and unpaid Delayed Draw Ticking Fees and Delayed Draw Upfront Fees with respect to the Delayed Draw Commitments being funded in such Borrowing, together with any fees and expenses due upon such Borrowing.

Subject to Section 1.08(f), each Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to another Type or a continuation of Eurocurrency Rate Loans) and each Issuance Notice submitted by the Borrower shall be deemed to be a representation and warranty that the condition specified in Sections 4.02(a) and (b) (or, in the case of Delayed Draw Commitments and Delayed Draw Term Loans, Section 4.03(a) or (b), as applicable) has been satisfied on and as of the date of the applicable Borrowing or issuance, amendment, renewal or extension of a Letter of Credit.

ARTICLE V
Representations and Warranties

The Borrower represents and warrants each of the following to the Lenders, the Issuing Banks, the Administrative Agent and the Collateral Agent, in each case, to the extent and, unless otherwise specifically agreed by the Borrower, only on the dates required by Section 2.16, 4.01, 4.02, or 4.03, as applicable.

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its respective Restricted Subsidiaries that is a Material Subsidiary,

(a) is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concept exists in such jurisdiction);

(b) has all corporate or other organizational power and authority to (i) own its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party;

(c) is duly qualified and in good standing (to the extent such concept exists in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(d) is in compliance with all applicable Laws, writs, injunctions and orders; and

(e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;

except in each case referred to in clause (c), (d) or (e), to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.02 Authorization; No Contravention.

(a) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party nor the consummation of the Transactions will,

- (i) contravene the terms of any of its Organization Documents;
- (ii) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries (other than as permitted by Section 7.01) under, (A) any Contractual Obligation relating to Indebtedness to which such Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any of its Subsidiaries or (B) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject;
- (iii) violate any applicable Law; or
- (iv) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation relating to Indebtedness of Holdings or any of its Restricted Subsidiaries, except for such approvals or consents which will be obtained on or before the Closing Date;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii), (iii) and (iv), to the extent that such breach, contravention or violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.03 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for,

- (a) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties;
- (b) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral Documents); and
- (c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto and thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing.

SECTION 5.05 Financial Statements: No Material Adverse Effect.

- (a) The Annual Financial Statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP (as in effect on the Closing Date (or the date of

preparation)) consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein.

(b) Since December 31, 2018, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets and statements of comprehensive income (loss) of the Borrower and its Subsidiaries which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that (i) no forecasts are to be viewed as facts, (ii) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Sponsor, (iii) no assurance can be given that any particular forecasts will be realized and (iv) actual results may differ and such differences may be material.

SECTION 5.06 Litigation. Except as set forth in Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of the Restricted Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.07 Labor Matters. Except as set forth on Schedule 5.07 or except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) there are no strikes or other labor disputes against any of the Borrower or its Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (b) hours worked by and payment made based on hours worked to employees of each of the Borrower or its Restricted Subsidiaries have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.08 Ownership of Property; Liens. Each Loan Party and each of its respective Restricted Subsidiaries has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 7.01 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. As of the Closing Date, Schedule 5.08 sets forth all Material Real Property.

SECTION 5.09 Environmental Matters.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) the Loan Parties and their respective Restricted Subsidiaries are in compliance with all applicable Environmental Laws (including having obtained all Environmental Permits) and (ii) none of the Loan Parties nor any of their respective Restricted Subsidiaries is subject to any pending, or to the knowledge of the Loan Parties, threatened Environmental Claim or any other Environmental Liability or is aware of any basis for any Environmental Liability.

(b) None of the Loan Parties nor any of their respective Restricted Subsidiaries has used, released, treated, stored, transported or disposed of Hazardous Materials, at or from any currently or formerly owned or operated real estate or facility relating to its business, in a manner that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrower and its Restricted Subsidiaries have timely filed all foreign, U.S. federal and state, and other tax returns and reports required to be filed, and have timely paid all foreign, U.S. federal and state, and other taxes, assessments, fees and other governmental charges (including satisfying their withholding tax obligations) levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

SECTION 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws.

(b) Except, as set forth in Schedule 5.11(b) or, with respect to each of the below clauses of this Section 5.11(b), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect,

(i) no ERISA Event has occurred within the one-year period prior to the date on which this representation is made or deemed made;

(ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan;

(iii) neither the Borrower, nor any Subsidiary Guarantor nor any of their respective ERISA Affiliates has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 et seq. of ERISA with respect to a Multiemployer Plan;

(iv) neither the Borrower, nor any Subsidiary Guarantor nor any of their respective ERISA Affiliates has engaged in a transaction that is subject to Sections 4069 or 4212(c) of ERISA; and

(v) neither the Borrower, nor any Subsidiary Guarantor nor any ERISA Affiliate has been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA) or has been determined to be in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA) and no such Multiemployer Plan is expected to be insolvent or in endangered or critical status.

SECTION 5.12 Subsidiaries. As of the Closing Date, all of the outstanding Equity Interests in the Borrower and its Subsidiaries have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests owned by Holdings (in the Borrower), and by the Borrower or any Subsidiary Guarantor in any of their respective Subsidiaries are owned free and clear of all Liens of any Person except (a) those Liens created under the Collateral Documents and (b) any Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.12 (i) sets forth the name and jurisdiction of each Subsidiary, (ii) sets forth the ownership interest of Holdings, the Borrower and each Subsidiary in each Subsidiary, including the percentage of such ownership and (iii) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral Documents.

SECTION 5.13 Margin Regulations: Investment Company Act.

(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings or issuance of, or drawings under, any Letter of Credit will be used for any purpose that violates Regulation U.

(b) Neither the Borrower nor any Guarantor is an "investment company" under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Subsidiary Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document on or prior to the Closing Date, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered and prior to the Closing Date); it being understood that for purposes of this Section 5.14, such written information and written data shall not include projections, *pro forma* financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

SECTION 5.15 Intellectual Property; Licenses, Etc. The Borrower and the Restricted Subsidiaries own or have a valid right to use, all the Intellectual Property necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Borrower or any of its Restricted Subsidiaries as currently conducted does not infringe upon, misuse, misappropriate or violate any intellectual property rights held by any Person except for such infringements, misuses, misappropriations or violations individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any Intellectual Property owned by the Borrower or any of its Restricted Subsidiaries is pending or, to the knowledge of the Borrower, threatened against the Borrower or any Restricted Subsidiary, that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions and on date of funding of any Delayed Draw Term Loans, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 USA PATRIOT Act, FCPA and OFAC.

(a) To the extent applicable, each of Holdings, the Borrower and its Subsidiaries is in compliance, in all material respects, with (a) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (b) the USA PATRIOT Act and other similar anti-money laundering rules and regulations.

(b) Each of Holdings, the Borrower and its Subsidiaries, and their respective officers, directors and employees, and to the Borrower's knowledge, their respective agents, affiliates and representatives, have conducted their businesses in compliance in all material respects with the FCPA, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and Holdings, the Borrower and its Subsidiaries have instituted and maintained policies and procedures appropriate for Holdings, the Borrower and its Subsidiaries' business designed to promote and achieve compliance with such laws. The Borrower will not directly or, to its knowledge, indirectly use the proceeds of the Loans or Letters of Credit in violation of the FCPA, the UK Bribery Act 2010 or other similar anti-corruption legislation in other jurisdictions.

(c) None of Holdings, the Borrower or any of its Subsidiaries, nor, to the knowledge of Holdings, the Borrower or any of its Subsidiaries, any director, officer, agent, employee or Affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is, (a) the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List or any other Sanctions list, or (c) located, organized or resident in a Designated Jurisdiction. The Borrower will not directly or, to its knowledge, indirectly use the proceeds of the Loans or Letters of Credit or otherwise knowingly make available such proceeds to any Person, for the purpose of financing the activities of any Person that, at the time of such financing, is (a) the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List or any other Sanctions list, or (c) located, organized or resident in a Designated Jurisdiction.

SECTION 5.18 Collateral Documents(a) . Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents or contemplated by the Collateral Documents (including the delivery to Collateral Agent of any Pledged Debt and any Pledged Equity required to be delivered pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable perfected Lien (subject to Liens permitted by Section 7.01) on all right, title and interest of Holdings, the Borrower and the applicable Subsidiary Guarantors, respectively, in the Collateral described therein.

SECTION 5.19 Use of Proceeds. The Borrower has used the proceeds of the Loans (including the Swing Line Loans) and the Letters of Credit issued hereunder only in compliance (and not in contravention of) applicable Laws and each Loan Document.

ARTICLE VI Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Audited Annual Financial Statements. As soon as available, but in any event within one hundred twenty days after the end of each fiscal year of the Borrower (commencing with the first fiscal year ending after the Closing Date), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of comprehensive income (loss), stockholders' equity and cash flows for such fiscal year together with related notes thereto, setting forth in

each case in comparative form the figures for the previous fiscal year (if ending after the Closing Date), prepared in accordance with GAAP, audited and accompanied by a report and opinion of the Borrower's auditor on the Closing Date or any other independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any explanatory statement as to the Borrower's ability to continue as a "going concern" or like qualification or exception (excluding any "emphasis of matter" paragraph) (other than any such statement, qualification or exception resulting from or relating to (i) an actual or anticipated breach of a Financial Covenant, (ii) an upcoming maturity date or (iii) activities, operations, financial results or liabilities of any Person other than the Loan Parties and their Restricted Subsidiaries).

(b) Quarterly Financial Statements. As soon as available, but in any event within sixty days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended March 31, 2019), (i) a condensed consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, (ii) the related condensed consolidated statements of comprehensive income (loss) for such fiscal quarter and for the portion of the fiscal year then ended and (iii) the related condensed consolidated statements of cash flows for the portion of the fiscal year then ended, setting forth, in each case of clauses (ii) and (iii), in comparative form, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, in each case if ended after the Closing Date, certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in material compliance with GAAP, subject to normal year-end adjustments and the absence of footnotes.

(c) Budget: Projections. Prior to the consummation of a Qualifying IPO, within ninety days after the end of each fiscal year (commencing with the first fiscal year ending after the Closing Date), a consolidated budget for the following fiscal year on a quarterly basis as customarily prepared by management of the Borrower for its internal use and setting forth the material underlying assumptions based on which such consolidated budget was prepared (including any projected consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the following fiscal year and the related condensed consolidated statements of projected operations or income (loss) and projected cash flow, in each case, to the extent prepared by management of the Borrower and included in such consolidated budget, which projected financial statements shall be prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such projected financial statements).

(d) Unrestricted Subsidiaries. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(a) and 6.01(b) above, such supplemental financial information (which need not be audited) as is necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (i) the applicable financial statements of any direct or indirect parent of the Borrower that directly or indirectly holds all of the Equity Interests of the Borrower or (ii) the Borrower's or such entity's Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that with respect to each of clauses (i) and (ii), (A) to the extent such information relates to a parent of the Borrower, such information is accompanied by supplemental financial information (which need not be audited) that explains in reasonable detail the differences between the information relating to the Borrower (or such parent), on the one hand, and the information relating to the Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand and (B) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of the Borrower's auditor on the Closing Date, any other independent

registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any explanatory statement as to the Borrower's ability to continue as a "going concern" or like qualification or exception (other than any such statement, qualification or exception resulting from or relating to (i) an actual or anticipated breach of a Financial Covenant, (ii) an upcoming maturity date or (iii) activities, operations, financial results or liabilities of any Person other than the Loan Parties and their Restricted Subsidiaries) or any qualification or exception as to the scope of such audit.

Any financial statements required to be delivered pursuant to this Section 6.01 shall not be required to contain purchase accounting adjustments to the extent it is not practicable to include any such adjustments in such financial statements.

SECTION 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Compliance Certificate. No later than five days after the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate; *provided* that if such Compliance Certificate demonstrates a Financial Covenant Event of Default, a notice of an intent to cure (a "Notice of Intent to Cure") pursuant to Section 8.02 may be delivered along with or prior to delivery of such Compliance Certificate to the extent permitted thereunder.

(b) SEC Filings. Promptly after the same are publicly available, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which Holdings or the Borrower or any Restricted Subsidiary files with the SEC (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02; *provided* that notwithstanding the foregoing, the obligations in this Section 6.02(b) may be satisfied by as such information being publicly available on the SEC's EDGAR website.

(c) Unrestricted Subsidiaries. Together with the delivery of a Compliance Certificate with respect to the financial statements referred to in Section 6.01(a), a list of each Subsidiary of the Borrower that identifies each Subsidiary that is an Unrestricted Subsidiary, if any, as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date and the date of the last such list.

(d) Perfection Certificate Supplement. Together with the delivery of a Compliance Certificate with respect to the financial statements referred to in Section 6.01(a), the information required pursuant to Section II(A) of the Perfection Certificate with respect to any IP Collateral (as defined in the Security Agreement) or confirming that there has been no change in such information since the date of the Perfection Certificate or the date of the most recent information delivered pursuant to this Section 6.02(c).

(e) Other Information. Such additional information regarding the business operations of any Loan Party or any Material Subsidiary that is a Restricted Subsidiary as the Administrative Agent may from time to time on its own behalf or on behalf of the Required Lenders reasonably request, including information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Documents required to be delivered pursuant to [Section 6.01](#) or [Section 6.02](#) (other than [Section 6.02\(a\)](#)) may be delivered electronically 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 addresses listed on [Schedule 11.02](#), or (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant 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) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (B) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent 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. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "**Borrower Materials**") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "**Platform**") and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person's securities. The Borrower hereby agrees that (i) all Borrower Materials that are to be made available to 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 (and by doing so shall be deemed to have represented that such information contains only Public-Side Information); (ii) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arrangers and the Lenders to treat such Borrower Materials as containing only Public-Side Information (*provided, however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in [Section 11.08](#)); (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public-Side Information"; and (iv) the Administrative Agent and the Lead 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."

For the avoidance of doubt, the foregoing shall be subject to the provisions of [Section 11.08](#).

SECTION 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent for prompt further notification by the Administrative Agent to each Lender of:

(a) the occurrence and continuation of any Default or Event of Default; and

(b) (i) any dispute, litigation, investigation or proceeding between the Borrower or any Restricted Subsidiary and any arbitrator or Governmental Authority or (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, including any Environmental Claims or in respect of Intellectual Property, or (iii) the occurrence of any ERISA Event that, in any such case referred to in clause (i) or (ii), has resulted or would reasonably be expected to result in a Material Adverse Effect.

Each notice pursuant to this [Section 6.03](#) shall be accompanied by a written statement of a Responsible Officer of the Borrower (i) that such notice is being delivered pursuant to [Section 6.03\(a\)](#) or

(b) (as applicable) and (ii) setting forth a summary description of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.04 Payment of Certain Taxes. Timely pay, discharge or otherwise satisfy, as the same shall become due and payable, all obligations and liabilities in respect of taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (a) any such tax, assessment, charge or levy is being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or (b) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 6.05 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its incorporation or organization; and

(b) take all reasonable action to obtain, preserve, renew and keep in full force and effect those of its rights (including with respect to Intellectual Property), licenses, permits, privileges, and franchises, that are material to the conduct of its business;

except in the case of clause (a) or (b), (i) in connection with a transaction permitted by the Loan Documents (including transactions permitted by Section 7.04 or Section 7.05) or (ii) to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, resulted in a Material Adverse Effect.

SECTION 6.06 Maintenance of Properties. Maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition (ordinary wear and tear excepted and casualty or condemnation excepted) except to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, resulted in a Material Adverse Effect.

SECTION 6.07 Maintenance of Insurance.

(a) Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance) as are customarily carried under similar circumstances by such other Persons, and furnish to the Lenders, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried.

(b) Each such policy of insurance shall as appropriate and is customary and with respect to jurisdictions outside the United States, to the extent available in such jurisdiction, (i) name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder (with respect to liability insurance) and/or (ii) in the case of property insurance, contain a loss payable clause or endorsement that names the Collateral Agent, on behalf of the Secured Parties, as the loss payee thereunder (it being understood that, absent an Event of Default, any proceeds of any such insurance shall be delivered by the insurer(s) to Holdings or one of its Subsidiaries and applied in accordance with this Agreement); *provided*, that, to the extent that the requirements of this Section 6.07 are not satisfied on the Closing Date, the

Borrower may satisfy such requirements within ninety days of the Closing Date (as extended by the Administrative Agent in its reasonable discretion).

SECTION 6.08 Compliance with Laws. (a) Comply with the requirements of all Laws (including applicable ERISA-related laws and all Environmental Laws) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except to the extent the failure to comply therewith would not reasonably be expected to have, individually or in the aggregate, resulted in a Material Adverse Effect and (b) comply in all material respects with the requirements of USA PATRIOT Act, FCPA, OFAC, UK Bribery Act of 2010 and other anti-terrorism, anti-corruption and anti-money laundering Laws; *provided* that the requirements set forth in this Section 6.08, as they pertain to compliance by any Foreign Subsidiary with the USA PATRIOT ACT, FCPA, OFAC and UK Bribery Act of 2010 are subject to and limited by any Law applicable to such Foreign Subsidiary in its relevant local jurisdiction; *provided further* that it being agreed that a material breach of the FCPA or the UK Bribery Act of 2010 will be deemed to have a Material Adverse Effect.

SECTION 6.09 Books and Records. Maintain proper books of record and account in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and material matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization or operations and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

SECTION 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent, the Collateral Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial, and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; *provided* that, (a) excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent, the Collateral Agent and the Lenders under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the continuation of an Event of Default and only one such time shall be at the Borrower's expense and (b) when an Event of Default is continuing, the Administrative Agent, the Collateral Agent or any Lender (or any of their respective 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. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, subject to any applicable limitation in any Collateral Document (including Section 6.12), take the following actions:

(a) within ninety days of the occurrence of any Grant Event (or such longer period as the Administrative Agent may agree in its reasonable discretion),

- (i) cause the Restricted Subsidiary subject of the Grant Event to execute the Guaranty (or a joinder thereto);

(ii) cause the Restricted Subsidiary subject of the Grant Event to duly execute and deliver to the Collateral Agent a Security Agreement Supplement and any applicable Intellectual Property Security Agreements with respect to its registered and applied for intellectual property;

(iii) cause the Restricted Subsidiary subject of the Grant Event (and any parent of such Restricted Subsidiary that is a Loan Party) to (x) deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Security Agreement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law), the Global Intercompany Notes and all other instruments evidencing Indebtedness held by such Restricted Subsidiary and required to be pledged pursuant to the Security Agreement, endorsed in blank, to the Collateral Agent and (y) if such Restricted Subsidiary is a Foreign Subsidiary, deliver such additional security documents and enter into additional collateral arrangements in the jurisdiction of such Foreign Subsidiary reasonably satisfactory to the Administrative Agent;

(iv) upon the reasonable request of the Administrative Agent, take and cause the Restricted Subsidiary and each direct or indirect parent of such Restricted Subsidiary subject of the Grant Event to take such customary actions as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) perfected Liens (subject to Liens permitted under Section 7.01) in the Equity Interests of such Restricted Subsidiary and the personal property and fixtures of such Restricted Subsidiary to the extent required by the Security Agreement or the other Collateral Documents, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law); and

(v) upon request of the Administrative Agent, deliver to the Administrative Agent a signed copy of a customary opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties as to such matters set forth in this Section 6.11(a) as the Administrative Agent may reasonably request

provided, that actions relating to Liens on real property are governed by Section 6.11(b) and not this Section 6.11(a).

(b) Material Real Property.

(i) Notice.

(A) Within ninety days (or, in each case, such longer period as the Administrative Agent may agree in its reasonable discretion) after the formation, acquisition or designation of a Restricted Subsidiary (other than any Excluded Subsidiary) or the occurrence of a Grant Event with respect to a Restricted Subsidiary, the Borrower will, or will cause such Restricted Subsidiary to, furnish to the Collateral Agent a description of any Material Real Property (other than any Excluded Asset) owned by such Restricted Subsidiary in reasonable detail.

(B) Within ninety days (or such longer period as the Administrative Agent may agree in its reasonable discretion) after the acquisition of any Material Real Property by a Loan Party after the Closing Date, the Borrower will furnish to the Collateral Agent a description of such Material Real Property in reasonable detail.

(ii) Mortgages, etc. The Borrower will, or will cause the applicable Loan Party to, provide the Collateral Agent with a Mortgage with respect to Material Real Property that is the subject of a notice delivered pursuant to Section 6.11(b)(i), within ninety days (or such longer period as the Administrative Agent may agree in its sole discretion) of the event that triggered the requirement to give such notice, together with:

(A) evidence that counterparts of such Mortgage have been duly executed, acknowledged and delivered and are in a form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on such Material Real Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or are otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;

(B) fully paid Mortgage Policies or signed commitments in respect thereof together with such affidavits, certificates, and instruments of indemnification (including a so-called "gap" indemnification) as shall be required to induce the title insurance company to issue the Mortgage Policies and endorsements contemplated above and evidence of payment of title insurance premiums and expenses and all recording, mortgage, transfer and stamp taxes and fees payable in connection with recording the Mortgage;

(C) customary opinions of local counsel for such Loan Party in the state in which such Material Real Property is located, with respect to the enforceability of the Mortgage and any related fixture filings and, where the applicable Loan Party granting the Mortgage on said Mortgaged Property is organized, an opinion regarding the due authorization, execution and delivery of such Mortgage, and in each case, such other matters as may be reasonably requested by the Administrative Agent;

(D) an ALTA survey or existing survey together with a no change affidavit of such Mortgaged Property, sufficient for the title insurance company to remove the standard survey exception and issue related endorsements and otherwise reasonably satisfactory to the Administrative Agent (if reasonably requested by the Administrative Agent); and

(E) a Flood Insurance Certificate, provided, however, that in the event any such property is located in an area determined by the Federal Emergency Management Agency (or any successor agency) to be located in special flood hazard area, that property shall be excluded and any mortgages thereon shall be released.

SECTION 6.12 Further Assurances. Subject to Section 6.11 and any applicable limitations in any Collateral Document, and in each case at the expense of the Borrower, promptly upon the reasonable request by the Administrative Agent or the Collateral Agent or as may be required by applicable Laws (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

Notwithstanding anything to the contrary in any Loan Document, other than with respect to the Equity Interests and assets of a Foreign Subsidiary that becomes a Loan Party, neither Holdings, the

Borrower, nor any Restricted Subsidiary will be required to, nor will the Administrative Agent or the Collateral Agent be authorized,

(a) to perfect security interests in the Collateral other than by,

(i) filings pursuant to the Uniform Commercial Code in the office of the secretary of state (or similar central filing office) of the relevant state(s) and filings in the applicable real estate records with respect to Material Real Property;

(ii) filings in (A) the United States Patent and Trademark Office with respect to any U.S. registered patents and trademarks and (B) the United States Copyright Office of the Library of Congress with respect to material copyright registrations, in the case of each of (A) and (B), constituting Collateral;

(iii) mortgages (or local law equivalent) in respect of Material Real Property; and

(iv) delivery to the Administrative Agent or Collateral Agent to be held in its possession of all Collateral consisting of (x) certificates representing Pledged Equity, (y) the Global Intercompany Note and (z) all other promissory notes and other instruments constituting Collateral; provided that promissory notes and instruments having an aggregate principal amount equal to \$2,500,000 or less need not be delivered to the Collateral Agent; in each case, in the manner provided in the Collateral Documents;

(b) to enter into any control agreement, lockbox or similar arrangement with respect to any deposit account, securities account, commodities account or other bank account, or otherwise perfect a security interest with control;

(c) to take any action (i) outside of the United States with respect to any assets located outside of the United States, (ii) in any non-U.S. jurisdiction or (iii) required by the laws of any non-U.S. jurisdiction to create, perfect or maintain any security interest or otherwise;

(d) to take any action with respect to perfecting a Lien with respect to letters of credit, letter of credit rights, commercial tort claims, chattel paper or assets subject to a certificate of title or similar statute (in each case, other than the filing of customary "all asset" UCC-1 financing statements) or to deliver landlord lien waivers, estoppels, bailee letters or collateral access letters, in each case, unless required by the terms of the Security Agreement or the relevant Collateral Document; or

the Loan Parties shall not be required to perform any period collateral reporting, if any, with any frequency greater than once per fiscal year (*provided* that this clause shall not limit the obligation of the Loan Parties to comply with Section 6.11).

SECTION 6.13 Designation of Subsidiaries. The Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that:

(a) immediately before and after such designation (or re-designation), no Specified Event of Default shall have occurred and be continuing;

(b) the Investment resulting from the designation of such Restricted Subsidiary as an Unrestricted Subsidiary as described above is permitted by Section 7.02; and

(c) no Subsidiary may be designated as an Unrestricted Subsidiary unless it is also designated as an “unrestricted subsidiary” under (i) the Second Lien Credit Agreement (and the terms of any Permitted Refinancings of the Indebtedness thereunder) and (ii) the terms of any Incremental Equivalent Debt, Permitted Ratio Debt, Pari Passu Lien Debt and Junior Lien Debt (any Permitted Refinancings thereof).

The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the Borrower’s or its Restricted Subsidiary’s (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value at the date of such designation of the Borrower’s or its Restricted Subsidiary’s (as applicable) Investment in such Subsidiary. Except as set forth in this paragraph, no Investment will be deemed to exist or have been made, and no Indebtedness or Liens shall be deemed to have been incurred or exist, by virtue of a Subsidiary becoming an Excluded Subsidiary or an Excluded Subsidiary becoming a Restricted Subsidiary.

SECTION 6.14 Maintenance of Ratings. Use commercially reasonable efforts to maintain (a) a public corporate credit rating or public corporate family rating, as applicable, from any two of S&P, Moody’s and Fitch, in each case, in respect of the Borrower (but not a specific rating), and (b) a public rating in respect of the Initial Term Loans from any two of S&P, Moody’s and Fitch (but not a specific rating).

SECTION 6.15 Post-Closing Matters. The Borrower will, and will cause each of its Restricted Subsidiaries to, take each of the actions set forth on Schedule 6.15 within the time period prescribed therefor on such schedule (as such time period may be extended by the Administrative Agent).

SECTION 6.16 Use of Proceeds.

(a) The proceeds of the Initial Term Loans, together with the proceeds of the Second Lien Term Loans, will be used on the Closing Date to finance, in part, the Transactions.

(b) The proceeds of Revolving Loans will be used for working capital and general corporate purposes of the Borrower and its Restricted Subsidiaries, including the financing of transactions that are not prohibited by the terms of this Agreement (including Permitted Investments).

(c) Letters of Credit will be used by the Borrower for general corporate purposes of the Borrower and its Restricted Subsidiaries, including supporting transactions not prohibited by the Loan Documents.

(d) With respect to Delayed Draw Term Loans, the Borrower will, at the time of funding thereof, have a good faith expectation to use the proceeds thereof (i) to finance one or more Permitted Investments, (ii) to finance earn-outs related to Permitted Investments and/or (iii) to repay Revolving Loans that were used to fund Permitted Investments and/or earn-outs, in each case together with payment of related fees and expenses (it being understood that the events in clauses (i) and (ii) may or may not close simultaneously with such funding).

ARTICLE VII
Negative Covenants

So long as the Termination Conditions are not satisfied, the Borrower shall not (and, with respect to Section 7.11 only, Holdings shall not), nor shall the Borrower permit any Restricted Subsidiary to:

SECTION 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, that secures Indebtedness other than the following:

(a) Liens securing obligations in respect of (i) Indebtedness incurred pursuant to Section 7.03(a), including obligations under any Loan Document or (ii) Incremental Equivalent Debt (with the lien priority permitted in such definition and other than to the extent such Indebtedness is only permitted to be incurred as unsecured Indebtedness);

(b) Liens securing obligations in respect of Indebtedness incurred pursuant to Section 7.03(b), including obligations under the Second Lien Credit Documents;

(c) Liens existing on the Closing Date (other than Liens incurred under Sections 7.01(a) and 7.01(b));

(d) Liens securing obligations in respect of Indebtedness permitted under Section 7.03(d), including in respect to Attributable Indebtedness, Capital Lease Obligations, and Indebtedness financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; *provided* that (i) such Liens attach concurrently with or within two hundred and seventy days after completion of the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens and (ii) such Liens do not at any time extend to or cover any assets (except for additions and accessions to such assets, replacements and products thereof and customary security deposits) other than the assets subject to, or acquired, constructed, repaired, replaced or improved with the proceeds of such Indebtedness; *provided* that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender or its affiliates;

(e) Liens in favor of the Borrower or a Loan Party securing Indebtedness permitted under Section 7.03;

(f) Liens securing Obligations in respect of any Secured Hedge Agreement and other Indebtedness permitted by Section 7.03(f);

(g) Liens on assets of Non-Loan Parties and Liens on Excluded Assets;

(h) Liens on the Collateral securing obligations in respect of Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt and any Permitted Refinancing of any of the foregoing incurred pursuant to Section 7.03(h); *provided* that any Permitted Pari Passu Secured Refinancing Debt or any Permitted Refinancing thereof with Pari Passu Lien Debt, in either case, that is in the form of term loans shall be subject to Section 2.16(h) as if such Permitted Pari Passu Secured Refinancing Debt or Permitted Refinancing thereof was Incremental Term Loans;

(i) Liens securing Indebtedness permitted by Sections 7.03(j);

(j) (i) Liens existing on property at the time of (and not in contemplation of) its acquisition or existing on the property of any Person or on Equity Interests of any Person, in each case, at the time such

Person becomes (and not in contemplation of such Person becoming) a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to [Section 6.14](#)), in each case after the Closing Date; *provided* that (A) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property of such acquired Restricted Subsidiary covered by an applicable grant clause) and (B) the Indebtedness secured thereby is permitted under [Section 7.03\(d\)](#) or [\(l\)](#), (ii) Liens on any cash earnest money deposits made by the Borrower or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement relating to an Investment and (iii) Liens incurred in connection with escrow arrangements or other agreements relating to an acquisition or Investment permitted hereunder;

(k) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to [Section 7.02](#) to be applied against the purchase price for such Investment or (ii) consisting of an agreement to Dispose of any property in a Disposition, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(l) (i) pledges or deposits in the ordinary course of business in connection with workers' compensation, health, disability or employee benefits, unemployment insurance and other social security laws or similar legislation or regulation or other insurance-related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Holdings, the Borrower or any Restricted Subsidiaries;

(m) (i) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto and (ii) Liens on cash securing obligations to insurance companies with respect to insurable liabilities incurred in the ordinary course of business;

(n) deposits to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(o) Liens on the Securitization Assets arising in connection with a Qualified Securitization Financing;

(p) Liens in respect of the cash collateralization of letters of credit;

(q) Liens (i) of a collection bank arising under [Section 4-208](#) or [4-210](#) of the Uniform Commercial Code on the items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and not for speculative purposes and (iii) in favor of a banking or other financial institution arising as a matter of law encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry;

(r) Liens securing Cash Management Obligations permitted by [Section 7.03](#);

(s) Liens that are customary contractual rights of setoff (i) relating to the establishment of depository relations with banks or other deposit-taking financial institutions in the ordinary course and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of

Holdings, the Borrower or any of the Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Holdings, the Borrower or any of the Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;

(t) statutory or common law Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, or other customary Liens (other than in respect of Indebtedness) in favor of landlords, so long as, in each case, such Liens arise in the ordinary course of business that secure amounts not overdue for a period of more than sixty days or, if more than sixty days overdue, are unfiled and no other action has been taken to enforce such Lien or that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(u) any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under leases or licenses entered into by the Borrower or any of the Restricted Subsidiaries as lessee or licensee in the ordinary course of business;

(v) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(w) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries, taken as a whole;

(x) deposits of cash with the owner or lessor of premises leased and operated by the Borrower or any of its Subsidiaries in the ordinary course of business of the Borrower and such Subsidiary to secure the performance of the Borrower's or such Subsidiary's obligations under the terms of the lease for such premises;

(y) Liens for taxes, assessments or governmental charges that are not overdue for a period of more than sixty days or that are being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or for property taxes on property the Borrower or its Subsidiaries has decided to abandon if the sole recourse for such tax, assessment or charge is to such property;

(z) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and title defects affecting real property that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries taken as a whole, or the use of the property for its intended purpose, and any other exceptions to title on the Mortgage Policies provided in accordance with this Agreement;

(aa) Liens arising from judgments or orders for the payment of money not constituting an Event of Default under Section 9.01(g);

(bb) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business (or other agreement under which the Borrower or any Restricted Subsidiary has granted rights to end users to access and use the Borrower's or any Restricted Subsidiary's products, technologies, facilities or services) which do not interfere in any material respect with the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(cc) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business and (ii) on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the ordinary course of business;

(dd) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;

(ee) Liens imposed by law or incurred pursuant to customary reservations or retentions of title (including contractual Liens in favor of sellers and suppliers of goods) incurred in the ordinary course of business for sums not constituting borrowed money that are not overdue for a period of more than sixty days or that are being contested in good faith by appropriated proceedings and for which adequate reserves have been established in accordance with GAAP (if so required);

(ff) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.02 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;

(gg) Liens on cash and Cash Equivalents earmarked to be used to satisfy or discharge Indebtedness where such satisfaction or discharge of such Indebtedness is not otherwise prohibited;

(hh) purported Liens evidenced by the filing of precautionary Uniform Commercial Code financing statements or similar public filings;

(ii) the modification, replacement, renewal or extension of any Lien permitted by this Section 7.01; *provided* that (i) the Lien does not extend to any additional property other than (A) after-acquired property covered by any applicable grant clause or financed by Indebtedness permitted under Section 7.03(d) and (B) proceeds and products thereof and (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 7.03;

(jj) Liens securing:

(i) a Permitted Refinancing of Indebtedness; *provided* that:

(A) such Indebtedness was permitted by Section 7.03 and was secured by a Lien permitted by Section 7.01;

(B) such Permitted Refinancing is permitted by Section 7.03;

(C) the Lien does not extend to any additional property other than after-acquired property that is affixed or incorporated into the property covered by such Lien and proceeds and products thereof;

(D) such modification, replacement, renewal or extension is subject to the limitations under clause (d)(iii)(B) of the definition of Permitted Refinancing; and

(E) such Permitted Refinancing shall be secured by no greater priority in relation to the Obligations than the Indebtedness being refinanced; and

(ii) Guarantees and other obligations permitted by Sections 7.03(w) and (y) to the extent that the underlying Indebtedness subject to such Guarantee is permitted to be secured by a Lien; *provided* that the Indebtedness referenced in such Sections was otherwise permitted to be secured by a Lien pursuant to another subsection of this Section 7.01;

(kk) Liens securing Pari Passu Lien Debt and/or Junior Lien Debt; *provided* that:

(i) after giving Pro Forma Effect to the incurrence of such Indebtedness,

(A) if such Indebtedness is Pari Passu Lien Debt, then the First Lien Net Leverage Ratio measured as of the date of initial attachment of such Lien shall be no greater than (1) the Closing Date First Lien Net Leverage Ratio or (2) the First Lien Net Leverage Ratio immediately prior to such incurrence, or

(B) if such Indebtedness is Junior Lien Debt, either (1) the Total Net Leverage Ratio measured as of the date of incurrence of such Indebtedness (or revolving commitments) shall be no greater than (x) the Closing Date Total Net Leverage Ratio or (y) the Total Net Leverage Ratio immediately prior to such incurrence or (2) the Interest Coverage Ratio for the applicable Test Period is equal to or greater than (x) 2.00 to 1.00 or (y) the Interest Coverage Ratio immediately prior to such incurrence; and

(ii) such Liens (other than with respect to purchase money and similar obligations) are, in each case, subject to an Equal Priority Intercreditor Agreement or Junior Lien Intercreditor Agreement, as applicable; and

(ll) Liens securing Indebtedness or other obligations in an aggregate principal amount as of the date such Indebtedness is incurred, not to exceed the sum of (i) the greater of (A) 50% of Closing Date EBITDA and (B) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined as of the date such Indebtedness is incurred and (ii) Indebtedness incurred pursuant to the Fixed Incremental Amount pursuant to Section 7.03(y)(ii).

For purposes of determining compliance with this Section 7.01, in the event that any Lien (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Lien (or any portion thereof) in any manner that complies with this covenant on the date such Lien is incurred or such later time, as applicable; *provided* that all Liens created pursuant to (x) the Loan Documents or (y) the Second Lien Credit Documents on the Closing Date (including, in the case of clause (x), any such Liens securing the Delayed Draw Term Loans) will be deemed to have been incurred in reliance on the exception in clause (a) or (b) above, respectively, and shall not be permitted to be reclassified pursuant to this paragraph.

Any Lien incurred in compliance with this Section 7.01 after the Closing Date that is intended to be contractually secured on *apari passu* basis with the Obligations will be subject to an Equal Priority Intercreditor Agreement, and any Lien incurred in compliance with this Section 7.01 on or after the Closing Date that is intended to be contractually secured on a junior basis will be subject to the Closing Date Intercreditor Agreement or a Junior Lien Intercreditor Agreement.

SECTION 7.02 Investments. Make or hold any Investments, except:

(a) Investments,

(i) by the Borrower or any Restricted Subsidiary in the Borrower or any Restricted Subsidiary; and

(ii) by the Borrower or any Restricted Subsidiary in a Person, if as a result of such Investment (A) such Person becomes a Restricted Subsidiary or (B) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary;

(b) Investments existing on the Closing Date or made pursuant to legally binding written contracts in existence on the Closing Date and any modification, replacement, renewal, reinvestment or extension of any of the foregoing; *provided* that the amount of any Investment permitted pursuant to this Section 7.02(b) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by another clause of this Section 7.02;

(c) the purchase or other acquisition by the Borrower or a Subsidiary of the Borrower (in one transaction or a series of transactions, including by merger or otherwise) of property and assets or businesses of any Person or of assets constituting a business unit, line of business or division of any Person or Equity Interests in a Person that, upon the consummation thereof, will be a Restricted Subsidiary of the Borrower (including as a result of a merger or consolidation) or, in the case of a purchase or acquisition of assets (other than Equity Interests), will be owned by the Borrower or a Restricted Subsidiary of the Borrower; *provided* that with respect to each purchase or other acquisition made pursuant to this Section 7.02(c) (each, a “**Permitted Acquisition**”) immediately before and immediately after giving Pro Forma Effect to any such purchase or other acquisition, no Specified Event of Default shall have occurred and be continuing;

(d) Investments (i) held by a Restricted Subsidiary acquired after the Closing Date or of a Person merged or consolidated into the Borrower or merged or consolidated with a Restricted Subsidiary to the extent that, in each case, such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation and (ii) by Unrestricted Subsidiaries entered into (or committed to be made) prior to the date such Unrestricted Subsidiary is designated as a Restricted Subsidiary pursuant to Section 6.13 to the extent that such Investments were not made (or committed to be made) in contemplation of, or in connection with, such designation and were in existence (or committed to be made) on the date of such designation;

(e) Investments that do not exceed in the aggregate at any time outstanding the sum of:

(i) the greater of (A) 75% of Closing Date EBITDA and (B) 75% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, and

(ii) the Available Amount at such time; *provided* that no Specified Event of Default shall have occurred and be continuing or would result therefrom (except to the extent such Investment is funded exclusively in reliance on clauses (c) and/or (d) of the definition of Available Amount);

provided that, if any Investment pursuant to this clause (e) is made in any Person that is not a Restricted Subsidiary on the date of such Investment (prior to giving effect thereto) and such Person subsequently becomes a Restricted Subsidiary, the Investment initially made in such Person pursuant to this clause (e)

shall thereupon be deemed to have been made pursuant to Section 7.02(a)(i) and to not have been made pursuant to this clause (c);

(f) Investments, so long as the First Lien Leverage Ratio (after giving Pro Forma Effect to the incurrence of such Investment and the use of proceeds thereof) for the Test Period immediately preceding the making of such Investment shall be less than or equal to the Closing Date First Lien Leverage Ratio less 0.25 to 1.00;

(g) Investments in Unrestricted Subsidiaries that do not exceed in the aggregate at any time outstanding the greater of (i) 25% of Closing Date EBITDA and (ii) 25% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination;

(h) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of Holdings (or any direct or indirect parent thereof) or the proceeds from the issuance thereof;

(i) Joint Venture Investments;

(j) loans and advances to Holdings (or any direct or indirect parent thereof) in lieu of, and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof) Restricted Payments to the extent permitted to be made to Holdings (or such direct or indirect parent) in accordance with Section 7.06(f) or (g);

(k) loans or advances to officers, directors and employees of Holdings (or any direct or indirect parent thereof), the Borrower or any Restricted Subsidiary;

(i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes;

(ii) in connection with such Person's purchase of Equity Interests of Holdings (or any direct or indirect parent thereof); *provided* that, to the extent such loans or advances are made in cash, the amount of such loans and advances used to acquire such Equity Interests shall be contributed to Holdings in cash; and

(iii) for any other purpose; *provided* that the aggregate principal amount outstanding under this clause (iii) shall not exceed the greater of (A) 10% of Closing Date EBITDA and (B) 10% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination;

(l) Investments in Hedge Agreements;

(m) promissory notes and other non-cash consideration that is permitted to be received in connection with Dispositions;

(n) Investments held by the Borrower or any of the Restricted Subsidiaries in assets that are cash or Cash Equivalents or were Cash Equivalents when made;

(o) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the ordinary course of business;

(p) Investments consisting of Liens, Indebtedness (including Guarantees), fundamental changes, Dispositions and Restricted Payments permitted under Sections 7.01, 7.03, 7.04 (other than clause (f) thereof), 7.05 (other than clause (e) thereof) and 7.06 (other than clauses (d) and (g)(iv) thereof), respectively;

(q) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(r) Investments (including debt obligations and Equity Interests) (i) received in connection with the bankruptcy, workout, recapitalization or reorganization of, or in settlement of delinquent obligations of, or other disputes with, the issuer of such Investment or an Affiliate thereof, (ii) arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment in default, (iii) in satisfaction of judgments against other Persons and (iv) as a result of the settlement, compromise or resolutions of litigation, arbitration or other disputes with Persons who are not Affiliates;

(s) advances of payroll payments to employees in the ordinary course of business;

(t) Investments consisting of purchases and acquisitions of inventory, supplies, material, services or equipment or the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;

(u) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors in the ordinary course of business;

(v) Guarantees by the Borrower or any of the Restricted Subsidiaries of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(w) (i) Investments in a Securitization Subsidiary or any Investment by a Securitization Subsidiary in any other Person in connection with a Qualified Securitization Financing; *provided, however*, that any such Investment in a Securitization Subsidiary is of Securitization Assets or equity, and (ii) distributions or payments of Securitization Fees and purchases of Securitization Assets pursuant to a Securitization Repurchase Obligation in connection with a Qualified Securitization Financing;

(x) Investments made by a Subsidiary that is not a Loan Party with the cash or other assets received by it pursuant to a substantially concurrent Investment made in such Subsidiary that was permitted by this Section 7.02; *provided* that this clause (x) shall not be used for Investments in Unrestricted Subsidiaries; and

(y) Investments in Similar Businesses that do not exceed in the aggregate at any time outstanding the greater of (i) 50% of Closing Date EBITDA and (ii) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination; *provided* that, if any Investment pursuant to this clause (y) is made in any Person that is not a Restricted Subsidiary on the date of such Investment (prior to giving effect thereto) and such Person subsequently becomes a Restricted Subsidiary, the Investment initially made in such Person pursuant to this clause (y) shall thereupon be deemed to have been made pursuant to Section 7.02(a)(i) and to not have been made pursuant to this clause (y).

For purposes of determining compliance with this Section 7.02, in the event that any Investment (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time such Investment is made, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Investment (or any portion thereof) in any manner that complies with this covenant on the date such Investment is made or such later time, as applicable.

The amount of any non-cash Investments will be the fair market value thereof at the time made. To the extent any Investment in any Person is made in compliance with this Section 7.02 in reliance on a category above that is subject to a Dollar-denominated restriction on the making of Investments and, subsequently, such Person returns to the Borrower, any other Loan Party or, to the extent applicable, any Restricted Subsidiary all or any portion of such Investment (in the form of a dividend, distribution, liquidation or otherwise but excluding intercompany Indebtedness), such return shall be deemed to be credited to the Dollar-denominated category against which the Investment is then charged (but in any event not in an amount that would result in the aggregate dollar amount able to be invested in reliance on such category to exceed such Dollar-denominated restriction). To the extent the category subject to a Dollar-denominated restriction is also subject to a percentage of TTM Consolidated Adjusted EBITDA restriction which, at the date of determination, produces a numerical restriction that is greater than such Dollar amount, then such Dollar equivalent shall be deemed to be substituted in lieu of the corresponding Dollar amount in the foregoing sentence for purposes of determining such credit.

For purposes of determining compliance with any Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction on the making of Investments, the Dollar equivalent amount of the Investment denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Investment was made.

SECTION 7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness or issue any Disqualified Equity Interest, other than:

(a) Indebtedness under the Loan Documents (including Incremental Loans and Extended Loans);

(b) Indebtedness of the Loan Parties in respect of (i) the Second Lien Initial Term Loans incurred on the Closing Date in an aggregate principal amount not to exceed \$225,000,000, (ii) Second Lien Credit Agreement Refinancing Indebtedness (as defined in the Second Lien Credit Agreement as in effect on the date hereof), (iii) any incremental facility permitted under the Second Lien Credit Agreement in accordance with Section 2.16 thereof as such section (including any defined terms used therein) is in effect on the date hereof (including any Incremental Equivalent Debt (as defined in the Second Lien Credit Agreement as in effect on the date hereof) and (iv) any Permitted Refinancing in respect of any of the foregoing; *provided* that, in each case, if such Indebtedness is secured by Liens on assets constituting Collateral such Liens are junior in priority to the Liens on such Collateral that secure the Obligations or is unsecured (*provided* that, for the avoidance of doubt, (A) such Indebtedness may be unsecured and (B) any Incremental Equivalent Debt (as defined in the Second Lien Credit Agreement as in effect on the date hereof) incurred as "Senior Priority Lien Debt" (as defined in the Second Lien Credit Agreement as in effect on the date hereof) may independently be incurred as an Incremental Facility pursuant to Section 7.03(a) or Incremental Equivalent Debt pursuant to Section 7.03(i));

(c) (i) Indebtedness existing on the Closing Date (other than Indebtedness under the Second Lien Credit Documents) and any Permitted Refinancing thereof and (ii) intercompany Indebtedness of Holdings, the Borrower or any Restricted Subsidiary outstanding on the Closing Date;

(d) (i) (A) Attributable Indebtedness relating to any transaction, (B) Indebtedness (including Capitalized Leases) of the Borrower and the Restricted Subsidiaries financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets, whether through the direct purchase of assets or the Equity Interests of any Person owning such assets, so long as such Indebtedness is incurred concurrently with, or within two-hundred and seventy days after, the applicable acquisition, construction, repair, replacement or improvement and (C) Indebtedness arising from the conversion of obligations of the Borrower or any Restricted Subsidiary under or pursuant to any “synthetic lease” transactions to Indebtedness of the Borrower or such Restricted Subsidiary; *provided* that the aggregate principal amount of such Indebtedness at any one time outstanding incurred pursuant to this clause (d) shall not exceed the greater of (I) 50% of Closing Date EBITDA and (II) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined at the time of incurrence, and (ii) any Permitted Refinancing of any Indebtedness incurred under Section 7.03(d)(i); *provided, further*, Attributable Indebtedness incurred in connection with a Sale Leaseback Transaction shall not be subject to the previous proviso if the proceeds thereof are used to prepay Loans or other Indebtedness secured by a Lien on the assets subject to such Sale Leaseback Transaction; *provided further* that for the purposes of determining compliance with this Section 7.03(d), any lease that is treated under GAAP as an operating lease at the time such lease is executed but is subsequently treated under GAAP as a Capitalized Lease as the result of a change in GAAP (or interpretations thereof) after the Closing Date shall not be treated as Indebtedness;

(e) Indebtedness of the Borrower or any of the Restricted Subsidiaries owing to the Borrower or any other Restricted Subsidiary;

(f) Indebtedness in respect of (i) Obligations under Secured Hedge Agreements and (ii) Hedge Agreements designed to hedge against Holdings’, the Borrower’s or any Restricted Subsidiary’s exposure to interest rates, foreign exchange rates or commodities pricing risks, in each case of clauses (i) and (ii), incurred in the ordinary course of business and not for speculative purposes and Guarantees thereof;

(g) (i) Indebtedness incurred by a Non-Loan Party which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this clause (g) and then outstanding, does not exceed the greater of (A) 25% of Closing Date EBITDA and (B) 25% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination and (ii) Indebtedness of Loan Parties that is recourse only to Excluded Assets;

(h) Credit Agreement Refinancing Indebtedness and any Permitted Refinancing thereof;

(i) Incremental Equivalent Debt and any Permitted Refinancing thereof;

(j) Permitted Ratio Debt and any Permitted Refinancing thereof;

(k) Contribution Indebtedness and any Permitted Refinancing thereof;

(l) Indebtedness,

(i) of any Person that becomes a Restricted Subsidiary after the Closing Date pursuant to an Investment permitted hereunder, which Indebtedness is existing at the time such Person becomes a Restricted Subsidiary and is not incurred in contemplation of such Person becoming a Restricted Subsidiary that is non-recourse to (and is not assumed by any of) the Borrower, Holdings or any Restricted Subsidiary (other than any Subsidiary of such Person that is a Subsidiary on the date such Person becomes a Restricted Subsidiary after the Closing Date) and is either (A)

unsecured or (B) secured only by the assets of such Restricted Subsidiary by Liens permitted under Section 7.01;

(ii) of the Borrower or any Restricted Subsidiary assumed in connection with any Permitted Acquisition; *provided* the amount of debt assumed by Restricted Subsidiaries that are not Subsidiary Guarantors pursuant to this clause (i)(ii), when aggregated with the amount of Indebtedness incurred or assumed by Restricted Subsidiaries that are not Subsidiary Guarantors pursuant to clause (i)(iii) below does not exceed the greater of (A) 25% of Closing Date EBITDA and (B) 25% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis in each case determined at the time of incurrence;

(iii) of the Borrower or any Restricted Subsidiary incurred or assumed in connection with any permitted Investment (other than pursuant to Section 7.02(p)); *provided* the aggregate principal amount of such Indebtedness incurred or assumed by Restricted Subsidiaries that are not Subsidiary Guarantors, at any time outstanding pursuant to this clause (i)(iii) does not exceed, when aggregated with all Indebtedness assumed by Restricted Subsidiaries that are not Subsidiary Guarantors pursuant to clause (i)(ii) above, the greater of (A) 25% of Closing Date EBITDA and (B) 25% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis, in each case determined at the time of incurrence; and

(iv) any Permitted Refinancing of the foregoing;

provided that, with respect to each of the foregoing clauses (ii) through (iv), immediately after giving effect to the incurrence or assumption of such Indebtedness and such other transactions contemplated in such clauses, either (I) the Interest Coverage Ratio shall be equal to or greater than 2.00 to 1.00 or the Interest Coverage Ratio immediately prior to such incurrence or assumption of such Indebtedness or (II) the Total Net Leverage Ratio shall be no greater than the Closing Date Total Net Leverage Ratio or the Total Net Leverage Ratio immediately prior to such incurrence or assumption of such Indebtedness; in the case of each of clauses (I) and (II), after giving Pro Forma Effect to the incurrence of such Indebtedness and the use of proceeds thereof and measured as of and for the Test Period immediately preceding the incurrence or assumption of such Indebtedness for which financial statements are available;

(m) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in a Permitted Acquisition, any other Investment expressly permitted hereunder (other than pursuant to Section 7.02(p)) or any Disposition, in each case to the extent constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

(n) Indebtedness representing deferred compensation to employees of the Borrower and its Subsidiaries incurred in the ordinary course of business;

(o) Indebtedness consisting of obligations of the Borrower and the Restricted Subsidiaries under deferred compensation or other similar arrangements with employees incurred by such Person in connection with the Transactions and Permitted Acquisitions or any other Investment expressly permitted hereunder (other than pursuant to Section 7.02(p));

(p) Indebtedness to current or former officers, directors, managers, consultants, and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Holdings (or any direct or indirect parent thereof) permitted by Section 7.06;

(q) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business consistent with past practice in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(r) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, incurred in the ordinary course of business;

(s) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any of the Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business or consistent with past practices;

(t) Indebtedness incurred by a Securitization Subsidiary in a Qualified Securitization Financing that is not recourse (except for Standard Securitization Undertakings) to the Borrower or any of the Restricted Subsidiaries;

(u) (i) Indebtedness in respect of letters of credit issued for the account of the Borrower or any Restricted Subsidiary so long as (A) such Indebtedness is unsecured and (B) the aggregate face amount of such letters of credit does not exceed the greater of (I) 10% of Closing Date EBITDA and (II) 10% of TTM Consolidated Adjusted EBITDA, in each case determined at the time of issuance of such letter of credit and (ii) Indebtedness in respect of letters of credit that are fully cash collateralized;

(v) (i) Obligations in respect of Cash Management Obligations and (ii) other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements, in each case of clauses (i) and (ii), incurred in the ordinary course of business and any Guarantees thereof;

(w) Guarantees by the Borrower and the Restricted Subsidiaries in respect of Indebtedness of the Borrower or any of the Restricted Subsidiaries otherwise permitted hereunder; *provided* that (A) no Guarantee by any Restricted Subsidiary of any Junior Financing shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations substantially on the terms set forth in the Guaranty, (B) if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guaranty on terms at least as favorable to the Lenders as those contained in the subordination terms with respect to such Indebtedness and (C) any Guarantee by the Borrower or any Subsidiary Guarantor of Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor is permitted under Section 7.02 (other than Section 7.02(p));

(x) Indebtedness incurred on behalf of, or representing Guarantees of Indebtedness of, any Joint Ventures in an aggregate principal amount at any time outstanding not to exceed the greater of (i) 25% of Closing Date EBITDA and (ii) 25% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined at the time of incurrence, and any Permitted Refinancing of the foregoing;

(y) Indebtedness of the Borrower and the Restricted Subsidiaries in an aggregate principal amount at any time outstanding not to exceed the sum of (i) the greater of (A) 75% of Closing Date EBITDA and (B) 75% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined at the time of incurrence and (ii) the Fixed Incremental Amount, and any Permitted Refinancing of the foregoing; and

(z) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (y) above.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant on the date such Indebtedness is incurred or such later time, as applicable; *provided* that all Indebtedness created pursuant to (i) the Loan Documents or (ii) the Second Lien Credit Documents on the Closing Date (including, in the case of clause (i), any Delayed Draw Term Loans) will be deemed to have been incurred in reliance on the exception in clauses (a) or (b), respectively, above and will not be permitted to be reclassified pursuant to this paragraph.

For purposes of determining compliance with any Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower Dollar equivalent), in the case of revolving credit debt; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (*plus* unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses in connection therewith).

The accrual of interest and the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

SECTION 7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate or amalgamate with or into another Person, or effect a Division, except that:

(a) Holdings or any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); *provided* that:

- (i) the Borrower shall be the continuing or surviving Person;
- (ii) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia; and
- (iii) in the case of a merger or consolidation of Holdings with and into the Borrower, (A) no Event of Default shall exist at such time or after giving effect to such merger or consolidation, (B) after giving effect to such merger or consolidation, the direct parent of the Borrower shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form

reasonably satisfactory to the Administrative Agent and (C) such direct parent of the Borrower shall concurrently become a Guarantor and pledge 100% of the Equity Interest of the Borrower to the Administrative Agent as Collateral to secure the Obligations in form reasonably satisfactory to the Administrative Agent;

(b) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary or liquidate or dissolve;

(c) any merger the purpose of which is to reincorporate or reorganize a Restricted Subsidiary in another jurisdiction shall be permitted;

(d) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and the Restricted Subsidiaries and is not materially disadvantageous to the Lenders, *provided* (i) no Event of Default shall result therefrom and (ii) the surviving Person (or the Person who receives the assets of such dissolving or liquidated Restricted Subsidiary) shall be a Restricted Subsidiary;

(e) so long as no Default exists or would result therefrom, the Borrower may merge or consolidate with any other Person *provided* that:

(i) the Borrower shall be the continuing or surviving corporation; or

(ii) if the Person formed by or surviving any such merger or consolidation is not the Borrower (any such Person, the "**Successor Borrower**");

(A) 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;

(B) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent;

(C) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guaranty confirmed that its Guarantee of the Obligations shall apply to the Successor Borrower's obligations under this Agreement;

(D) each Loan Party, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement;

(E) if requested by the Collateral Agent, each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent) confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement; and

(F) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this

Agreement, and, with respect to such opinion of counsel only, including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent;

it being agreed that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement;

- (f) any Restricted Subsidiary may merge or consolidate with any other Person in order to effect an Investment permitted pursuant to Section 7.02 (other than Section 7.02(p));
- (g) any Loan Party or any Restricted Subsidiary may conduct a Division that produces two or more surviving or resulting Persons *provided* that
- (i) if a Division is conducted by the Borrower, then each surviving or resulting Person shall constitute a “Borrower” for all purposes of the Loan Documents (unless the Administrative Agent otherwise consents in its reasonable discretion) and shall remain jointly and severally liable for all Obligations (other than Excluded Swap Obligations, where applicable) of the Borrower immediately prior to such Division and otherwise comply with Section 7.04(e);
 - (ii) if a Division is conducted by Holdings, then all of the Equity Interests of the Borrower must be owned by only one Person that survives or results from such Division, and such Person owning such Equity Interests in the Borrower shall otherwise comply with Section 7.11(b)(ii), become a Guarantor and pledge 100% of the Equity Interests of the Borrower to the Collateral Agent; and
 - (iii) if a Division is conducted by a Loan Party other than the Borrower or Holdings, then each surviving or resulting Person of such Division shall also be a Loan Party unless and to the extent any such surviving or resulting Loan Party is the subject of a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(e)) or otherwise would constitute an Excluded Subsidiary; *provided, further* that such surviving or resulting Person not becoming a Loan Party and the assets and property of such surviving or resulting Person not becoming Collateral shall, in each case, be treated as an Investment and shall be permitted under this Section 7.04(h)(iii) solely to the extent permitted under Section 7.02;
- (h) as long as no Default exists or would result therefrom, a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(e)).

Notwithstanding anything herein to the contrary, in the event of any merger, dissolution, liquidation, consolidation, amalgamation or Division of any Loan Party or a Restricted Subsidiary effected in accordance with this Section 7.04, the Borrower shall or shall cause, with respect to each surviving Restricted Subsidiary (or new direct parent entity) (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents in accordance with Section 6.11 and as promptly as practicable.

SECTION 7.05 Dispositions. Make any Disposition, except:

(a) Dispositions of obsolete, damaged, worn out, used or surplus property (including for purposes of recycling), whether now owned or hereafter acquired and Dispositions of property of the Borrower and the Restricted Subsidiaries that is no longer used or useful in the conduct of the business or economically practicable or commercially desirable to maintain;

(b) Dispositions of property in the ordinary course of business;

(c) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property; *provided* that to the extent the property being transferred constitutes Collateral such replacement property shall constitute Collateral;

(d) Dispositions of property to the Borrower or a Restricted Subsidiary;

(e) Dispositions permitted by Section 7.02 (other than Section 7.02(p)), Section 7.04 (other Section 7.04(h)) and Section 7.06 (other than Section 7.06(d)) and Liens permitted by Section 7.01 (other than Section 7.01(k)(ii));

(f) Dispositions of property pursuant to Sale Leaseback Transactions; *provided* that (i) no Event of Default exists or would result therefrom (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Event of Default exists) and (ii) such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(g) Dispositions of Cash Equivalents; *provided*, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(h) leases, subleases, licenses or sublicenses (including the provision of software under an open source license), which do not materially interfere with the business of the Borrower and the Restricted Subsidiaries, taken as a whole; *provided*, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(i) Dispositions of property subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event;

(j) Dispositions; *provided* that:

(i) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default exists), no Default shall exist or would result from such Disposition;

(ii) with respect to any Disposition pursuant to this clause (j) for a purchase price in excess of \$15,000,000, the Borrower or any of the Restricted Subsidiaries shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents; *provided, however*, that for the purposes of this clause (ii) each of the following shall be deemed to be cash;

(A) any liabilities (as shown on the Borrower's or such Restricted Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations, that are assumed by the transferee with respect to

the applicable Disposition and for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing;

(B) any securities received by such Borrower or Restricted Subsidiary from such transferee that are converted by such Borrower or Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within one hundred and eighty days following the closing of the applicable Disposition; and

(C) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, not in excess of the greater of (I) 20% of Closing Date EBITDA and (II) 20% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value; and

(iii) such Disposition shall be for no less than the fair market value of such property at the time of such Disposition

(this clause (j), the “**General Asset Sale Basket**”);

(k) Dispositions of Investments in Joint Ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the Joint Venture parties set forth in joint venture arrangements and similar binding arrangements;

(l) Dispositions or discounts of accounts receivable and related assets in connection with the collection, compromise or factoring thereof;

(m) Dispositions (including issuances or sales) of Equity Interests in, or Indebtedness owing to, or of other securities of, an Unrestricted Subsidiary;

(n) Dispositions to the extent of any exchange of like property (excluding any boot thereon permitted by such provision) for use in any business conducted by the Borrower or any of the Restricted Subsidiaries to the extent allowable under Section 1031 of the Code (or comparable or successor provision);

(o) Dispositions in connection with the unwinding of any Hedge Agreement;

(p) Dispositions by the Borrower or any Restricted Subsidiary of assets in connection with the closing or sale of a facility in the ordinary course of business of the Borrower and its Restricted Subsidiaries, which consist of fee or leasehold interests in the premises of such facility, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such facility; *provided* that as to each and all such sales and closings, (i) no Event of Default shall result therefrom and (ii) such sale shall be on commercially reasonable prices and terms in a bona fide arm’s-length transaction;

(q) Dispositions (including bulk sales) of the inventory of a Loan Party not in the ordinary course of business in connection with facility closings, at arm’s length;

(r) Disposition of Securitization Assets to a Securitization Subsidiary, *provided*, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(s) the lapse, abandonment or discontinuance of the use or maintenance of any Intellectual Property if previously determined by the Borrower or any Restricted Subsidiary in its reasonable business judgment that such lapse, abandonment or discontinuance is desirable in the conduct of its business;

(t) Disposition of any property or asset with a fair market value not to exceed with respect to any transaction the greater of (i) 10% of Closing Date EBITDA and (ii) 10% of TTM Consolidated Adjusted EBITDA as of the applicable date of measurement;

(u) Disposition of assets acquired in a Permitted Acquisition or other Investment permitted hereunder that the Borrower determines will not be used or useful in the business of the Borrower and its Subsidiaries; and

(v) Dispositions of Excluded Assets by Non-Loan Parties and Dispositions of Excluded Assets by Loan Parties for fair market value.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and, if requested by the Administrative Agent, upon the certification by the Borrower that such Disposition is permitted by this Agreement, and without limiting the provisions of Section 10.11 the Administrative Agent shall be authorized to, and shall, take any actions reasonably requested by the Borrower in order to effect the foregoing (and the Lenders hereby authorize and direct the Administrative Agent to conclusively rely on any such certification by the Borrower in performing its obligations under this sentence).

SECTION 7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

(a) each Restricted Subsidiary may make Restricted Payments to the Borrower and to any other Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to the Borrower or any such other Restricted Subsidiaries and to each other owner of Equity Interests of such Restricted Subsidiary ratably according to their relative ownership interests of the relevant class of Equity Interests);

(b) the Borrower and each of the Restricted Subsidiaries may declare and make dividend payments or other distributions payable solely in the form of Equity Interests (other than Disqualified Equity Interests not otherwise permitted to be incurred under Section 7.03) of such Person;

(c) Restricted Payments made on the Closing Date to consummate the Transactions, including the Specified Dividend;

(d) to the extent constituting Restricted Payments, the Borrower and the Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.02 (other than Section 7.02(p)), 7.04 (other than a merger or consolidation involving the Borrower) or 7.08 (other than Section 7.08(a), (i) or (k));

(e) repurchases of Equity Interests in Holdings, the Borrower or any of the Restricted Subsidiaries deemed to occur upon exercise of stock options or warrants or similar rights if such Equity Interests represent a portion of the exercise price of such options or warrants or similar rights;

(f) the Borrower may pay (or make Restricted Payments to allow Holdings or any direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of Holdings (or of any direct or indirect parent thereof) held by any future, present or former

employee, director, consultant or distributor (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries upon the death, disability, retirement or termination of employment of any such Person or otherwise pursuant to any employee or director equity plan, employee or director stock option or profits interest plan or any other employee or director benefit plan or any agreement (including any separation, stock subscription, shareholder or partnership agreement) with any employee, director, consultant or distributor of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries; *provided*, the aggregate Restricted Payments made pursuant to this Section 7.06(f) after the Closing Date together with the aggregate amount of loans and advances to Holdings made pursuant to Section 7.02(f) in lieu of Restricted Payments permitted by this clause (f) shall not exceed:

- (i) \$10,000,000 in any calendar year, with unused amounts in any calendar year being carried over to succeeding calendar years plus
 - (ii) an amount not to exceed the cash proceeds of key man life insurance policies received by the Borrower or the Restricted Subsidiaries after the Closing Date; plus
 - (iii) to the extent contributed in cash to the common Equity Interests of the Borrower and Not Otherwise Applied, the proceeds from the sale of Equity Interests of Holdings or any direct or indirect parent thereof, in each case to employees, directors, consultants or distributor of the Borrower, a direct or indirect parent thereof, or its Subsidiaries that occurs after the Closing Date; plus
 - (iv) the amount of any cash bonuses or other compensation otherwise payable to any future, present or former director, employee, consultant or distributor of the Borrower, a direct or indirect parent thereof, or its Subsidiaries that are foregone in return for the receipt of Equity Interests of Holdings or a direct or indirect equity holder thereof, Borrower or any Restricted Subsidiary; plus
 - (v) payments made in respect of withholding or other similar taxes payable upon repurchase, retirement or other acquisition or retirement of Equity Interests of Holdings or its Subsidiaries or otherwise pursuant to any employee or director equity plan, employee or director stock option or profits interest plan or any other employee or director benefit plan or any agreement;
- (g) the Borrower may make Restricted Payments to Holdings or to any direct or indirect parent of Holdings:
- (i) the proceeds of which will be used to pay (or make Restricted Payments to allow any direct or indirect corporate parent (or entity treated as a corporation for tax purposes) thereof to pay) the tax liability (including estimated tax payments) to each foreign, federal, state or local jurisdiction in respect of which a tax return is filed by Holdings (or such direct or indirect corporate parent) that includes the Borrower and/or any of its Subsidiaries (including in the case where the Borrower and any Subsidiary is a disregarded entity for income tax purposes), to the extent such tax liability does not exceed the lesser of (A) the taxes (including estimated tax payments) that would have been payable by the Borrower and/or its Subsidiaries as a stand-alone tax group (assuming that the Borrower was classified as a corporation for income tax purposes) and (B) the actual tax liability (including estimated tax payments) of Holdings' tax group (or, if Holdings is not the parent of the actual group, the taxes that would have been paid by Holdings (assuming that Holdings was classified as a corporation for income tax purposes), the Borrower and/or the Borrower's Subsidiaries as a stand-alone tax group), reduced in the case of clauses (A) and (B) by any such taxes paid or to be paid directly by the Borrower or its Subsidiaries; *provided* that in the

case of any such distributions attributable to tax liability in respect of income of an Unrestricted Subsidiary, the Borrower shall use all commercially reasonable efforts to cause such Unrestricted Subsidiary (or another Unrestricted Subsidiary) to make cash distributions to the Borrower or its Restricted Subsidiaries in an aggregate amount that the Borrower determines in its reasonable discretion is necessary to pay such tax liability on behalf of such Unrestricted Subsidiary;

(ii) the proceeds of which will be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) operating costs and expenses (including, following the consummation of a Qualifying IPO, Public Company Costs) of Holdings or its direct or indirect parents thereof which do not own other Subsidiaries besides Holdings, its Subsidiaries and any other direct or indirect parents of Holdings incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business, attributable to the ownership or operations of the Borrower and its Subsidiaries;

(iii) the proceeds of which will be used to pay franchise taxes and other fees, taxes and expenses required to maintain its (or any of such direct or indirect parent's) corporate or legal existence;

(iv) to finance any Investment permitted to be made pursuant to Section 7.02; provided that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) Holdings and the Borrower shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to the Borrower or a Restricted Subsidiary (which shall be a Restricted Subsidiary to the extent required by Section 7.02) or (2) the merger (to the extent permitted in Section 7.04) of the Person formed or acquired by the Borrower or a Restricted Subsidiary in order to consummate such Investment;

(v) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) costs, fees and expenses (other than to Affiliates) related to any successful or unsuccessful equity or debt offering permitted by this Agreement; and

(vi) the proceeds of which (A) will be used to pay customary salary, bonus and other benefits payable to officers and employees of Holdings or any direct or indirect parent company of Holdings to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries or (B) will be used to make payments permitted under Sections 7.08(e), (h), (k) and (q) (but only to the extent such payments have not been and are not expected to be made by the Borrower or a Restricted Subsidiary);

(h) the Borrower or any of the Restricted Subsidiaries may pay cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition;

(i) the declaration and payment of dividends on the Borrower's common stock following the first public offering of the Borrower's common stock or the common stock of any of its direct or indirect parents after the Closing Date, of up to the greater of (A) 6% *per annum* of the net proceeds received by or contributed to the Borrower in or from any such public offering, other than public offerings with respect to the Borrower's common stock registered on Form S-4 or Form S-8 and (B) an amount equal to 6% of the Market Capitalization at the time of such public offering (it being understood that any dividends permitted to be declared pursuant to this clause (i) may be paid to the extent such payment is permitted under Section 7.08(r));

(j) repurchases of Equity Interests (i) deemed to occur on the exercise of options by the delivery of Equity Interests in satisfaction of the exercise price of such options or (ii) in consideration of withholding or similar Taxes payable by any future, present or former employee, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing), including deemed repurchases in connection with the exercise of stock options or the vesting of any equity awards;

(k) Restricted Payments to Holdings or to any direct or indirect parent of Holdings of Equity Interests in, Indebtedness owing to and/or other securities of, any Unrestricted Subsidiaries permitted pursuant to Section 7.02 (other than any Unrestricted Subsidiaries the principal assets of which consist primarily of cash or Cash Equivalents received from an Investment by the Borrower and/or any Restricted Subsidiary);

(l) payments or distributions to satisfy dissenters rights pursuant to a merger, consolidation or transfer of assets that complies with Section 7.04 or 7.13(b);

(m) payments or distributions of a Restricted Payment within 60 days after the date of declaration thereof if at the date of declaration such Restricted Payment would have been permitted hereunder;

(n) Restricted Payments; *provided* that the First Lien Net Leverage Ratio (after giving Pro Forma Effect to such Restricted Payment) would be less than or equal to the Closing Date First Lien Net Leverage Ratio less 0.75 to 1.00; and

(o) the Borrower may make Restricted Payments (the proceeds of which may be utilized by Holdings to make additional Restricted Payments) in an aggregate amount not to exceed the sum of,

(i) the greater of (A) 50% of Closing Date EBITDA and (B) 50% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, and

(ii) the Available Amount at such time;

provided, in each case, that no Event of Default shall have occurred and be continuing or would result therefrom (except to the extent such Restricted Payment is funded exclusively in reliance on clauses (c) and/or (d) of the definition of Available Amount).

The amount set forth in Section 7.06(o)(i) may, in lieu of Restricted Payments, be utilized by the Borrower or any Restricted Subsidiary to (i) make or hold any Investments without regard to Section 7.02 or (ii) prepay, repay redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Junior Financing without regard to Section 7.10(a).

For purposes of determining compliance with this Section 7.06, in the event that any Restricted Payment (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of such Restricted Payment is made, divide, classify or reclassify, or at any later time divide, classify, or reclassify, such Restricted Payment (or any portion thereof) in any manner that complies with this covenant on the date such Restricted Payment is made or such later time, as applicable.

SECTION 7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business or any other activities that are reasonably similar,

corollary, ancillary, incidental, synergistic, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrower and its Restricted Subsidiaries on the Closing Date.

SECTION 7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, other than:

(a) transactions between or among the Borrower or any of the Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction;

(b) transactions on terms substantially as favorable to the Borrower or such Restricted Subsidiary as would be obtainable by the Borrower or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate (as determined by the Borrower in good faith);

(c) the Transactions and the payment of fees and expenses (including the Transaction Expenses) related to the Transactions on or about the Closing Date to the extent such fees and expenses are disclosed to the Administrative Agent prior to the Closing Date;

(d) the issuance or transfer of Equity Interests of Holdings or any direct or indirect parent of Holdings to any Affiliate of the Borrower or any former, current or future officer, director, manager, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower or any of its Subsidiaries or any direct or indirect parent of the Borrower;

(e) (i) the payment of indemnities and expenses (including reimbursement of out-of-pocket expenses) to the Sponsors pursuant to the Sponsor Management Agreement and (ii) so long as no Specified Event of Default shall have occurred and be continuing or would result therefrom, the payment of (A) management, consulting, monitoring, advisory and other fees, indemnities and expenses to the Sponsors pursuant to the Sponsor Management Agreement (*plus* any unpaid management, consulting, monitoring, advisory and other fees accrued in any prior year) and (B) any Sponsor Termination Fees pursuant to the Sponsor Management Agreement; *provided* that payments that would otherwise be permitted to be made under this Section 7.08(e) but for a Specified Event of Default may accrue during the continuance of such Event of Default and be paid when such Event of Default is no longer continuing;

(f) employment and severance arrangements and confidentiality agreements among Holdings, the Borrower and the Restricted Subsidiaries and their respective officers and employees in the ordinary course of business and transactions pursuant to stock option, profits interest and other equity plans and employee benefit plans and arrangements;

(g) the licensing of trademarks, copyrights or other Intellectual Property in the ordinary course of business to permit the commercial exploitation of Intellectual Property between or among Affiliates and Subsidiaries of the Borrower;

(h) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, officers, employees and consultants of Holdings, the Borrower and the Restricted Subsidiaries or any direct or indirect parent of Holdings in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries;

(i) any agreement, instrument or arrangement as in effect as of the Closing Date or any amendment thereto (so long as any such amendment is not adverse to the Lenders in any material respect as compared to the applicable agreement as in effect on the Closing Date);

(j) Restricted Payments permitted under Section 7.06 and Investments permitted under Section 7.02;

(k) so long as no Specified Event of Default shall have occurred and be continuing or would result therefrom, customary payments by the Borrower and any of the Restricted Subsidiaries to the Sponsors made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities (including in connection with acquisitions or divestitures), which payments are approved by a majority of the members of the Board of Directors of Holdings in good faith or a majority of the disinterested members of the Board of Directors of Holdings in good faith; *provided* that payments that would otherwise be permitted to be made under this Section 7.08(k) but for a Specified Event of Default may accrue during the continuance of such Event of Default and be paid when such Event of Default is no longer continuing;

(l) transactions in which the Borrower or any of the Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (b) of this Section 7.08 (without giving effect to the parenthetical phrase at the end thereof);

(m) any transaction with consideration valued at less than the greater of (a) 10% of Closing Date EBITDA and (b) 10% of TTM Consolidated Adjusted EBITDA as of the applicable date of measurement;

(n) investments by the Sponsor in securities of Holdings or Indebtedness of Holdings, Borrower or any of the Restricted Subsidiaries so long as the investment is being offered generally to other investors on the same or more favorable terms;

(o) payments to or from, and transactions with, Joint Ventures;

(p) any Disposition of Securitization Assets or related assets in connection with any Qualified Securitization Financing;

(q) the payment of reasonable out-of-pocket costs and expenses relating to registration rights and indemnities provided to shareholders of Holdings or any direct or indirect parent thereof pursuant to the stockholders agreement or the registration and participation rights agreement entered into on the Closing Date in connection therewith;

(r) the payment of any dividend or distribution within sixty days after the date of declaration thereof, if at the date of declaration (i) such payment would have complied with the provisions of this Agreement and (ii) no Event of Default occurred and was continuing;

(s) transactions between the Borrower or any of the Subsidiaries and any person, a director of which is also a director of the Borrower or any direct or indirect parent company of the Borrower; *provided, however*, that (i) such director abstains from voting as a director of the Borrower or such direct or indirect parent company, as the case may be, on any matter involving such other person and (ii) such Person is not an Affiliate of Holdings for any reason other than such director's acting in such capacity;

(t) payments, loans (or cancellation of loans) or advances to employees or consultants that are (i) approved by a majority of the disinterested members of the Board of Directors of Holdings or either Borrower in good faith, (ii) made in compliance with applicable law and (iii) otherwise permitted under this Agreement; and

(u) transactions (i) with Holdings in its capacity as a party to any Loan Document or to any agreement, document or instrument governing or relating to (A) any Indebtedness permitted to be incurred pursuant to Section 7.03 (including Permitted Refinancings thereof) or (B) or any agreement, document or instrument governing or relating to any Permitted Acquisition (whether or not consummated) and (ii) with any Affiliate in its capacity as a Lender party to any Loan Document or party to any agreement, document or instrument governing or relating to any Indebtedness permitted to be incurred pursuant to Section 7.03 (including Permitted Refinancings thereof) to the extent such Affiliate is being treated no more favorably than all other Lenders or lenders thereunder;

SECTION 7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that prohibits, restricts, imposes any condition on or limits the ability of,

(a) any Restricted Subsidiary that is not a Loan Party to make Restricted Payments to (directly or indirectly) or to make or repay loans or advances to any Loan Party, or

(b) (x) any Loan Party (other than Holdings) to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Lenders with respect to the Facility and the Obligations under the Loan Documents and (y) any Loan Party from providing a Guarantee of Obligations of a Loan Party under the Loan Documents;

provided that the foregoing clauses (a) and (b) shall not apply to Contractual Obligations that:

(i) (A) exist on the Closing Date and (B) to the extent Contractual Obligations permitted by clause (A) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Contractual Obligation;

(ii) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary;

(iii) are Contractual Obligations of or represent Indebtedness of a Restricted Subsidiary that is not a Loan Party, *provided* that such Indebtedness is permitted by Section 7.03;

(iv) are customary restrictions that arise in connection with (A) any Lien permitted by Section 7.01(a), (b), (d), (f), (g), (h), (i), (j), (k), (p), (q), (r), (s)(i), (s)(ii), (dd), (ee), (gg), (jj) or (kk), and relate to the property subject to such Lien or (B) any Disposition permitted by Section 7.05 applicable pending such Disposition solely to the assets (including Equity Interests) subject to such Disposition;

(v) are customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures permitted under Section 7.02 and applicable solely to such Joint Venture entered into in the ordinary course of business;

(vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03 but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness and the proceeds and products thereof;

(vii) are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto;

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 7.03(d), (f), (g), (r)(i) or (v) to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary;

(x) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(xi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(xii) arise in connection with cash or other deposits permitted under Section 7.01;

(xiii) comprise restrictions that are, taken as a whole, in the good faith judgment of the Borrower, no more restrictive with respect to the Borrower or any Restricted Subsidiary than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in this Agreement), or that the Borrower shall have determined in good faith will not affect its obligation or ability to make any payments required hereunder;

(xiv) apply by reason of any applicable Law, rule, regulation or order or are required by any Governmental Authority having jurisdiction over the Borrower or any Restricted Subsidiary;

(xv) customary restrictions contained in Indebtedness permitted to be incurred pursuant to Section 7.03 (h), (i), (j), (k), (l), (m), (x) or (y); or

(xvi) are restrictions contained in the Second Lien Credit Documents and any Permitted Refinancing of any of the foregoing.

SECTION 7.10 Prepayments, Etc. of Junior Financing; Amendments to Junior Financing Documents and Organizational Documents

(a) Prepayments of Junior Financing Prepay, repay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Junior Financing, except:

(i) the refinancing thereof with the Net Cash Proceeds of, or in exchange for, any Permitted Refinancing;

(ii) the conversion of any Junior Financing to Equity Interests (other than Disqualified Equity Interests) of Holdings or any of its direct or indirect parents that are not Loan Parties;

(iii) the prepayment of Indebtedness of the Borrower or any Restricted Subsidiary owed to Holdings, the Borrower or a Restricted Subsidiary;

(iv) the prepayment, repayment, redemption, purchase, defeasance or satisfaction of any Junior Financing with the proceeds of (1) any other Junior Financing or Junior Lien Debt otherwise permitted to be incurred at such time by Section 7.03 or (2) any Qualified Equity Interests or contribution to the common Equity Interests capital of the Borrower after the Closing Date (other than the Equity Contribution or any Specified Equity Contribution) that is Not Otherwise Applied; *provided* that such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made within 60 days after receipt of such proceeds of Qualified Equity Interests and no Default has occurred and is continuing or would result therefrom;

(v) prepayments, repayments, redemptions, purchases, defeasances or satisfactions in an aggregate amount not to exceed the sum of:

(A) the greater of (A) 50% of Closing Date EBITDA and (B) 50% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis as of the applicable date of determination, and

(B) the Available Amount at such time; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom (except to the extent such prepayment, repayment, redemption, purchase, defeasance or satisfaction is funded exclusively in reliance on clauses (c) and/or (d) of the definition of Available Amount);

(vi) the prepayment, repayment, redemption, purchase, defeasance or satisfaction of any Junior Financing within 60 days of giving notice thereof if at the date of such notice, such payment would have been permitted hereunder;

(vii) prepayments, repayments, redemptions, purchases, defeasances or satisfactions, if the First Lien Net Leverage Ratio (after giving Pro Forma Effect to the incurrence of such payments and the use of proceeds thereof) for the Test Period immediately preceding the incurrence of such payments shall be less than or equal to the Closing Date First Lien Net Leverage Ratio less 0.50 to 1.00; and

(viii) prepayments, repayments, redemptions, purchases, defeasances or satisfactions made on the Closing Date to consummate the Transactions;

provided, however, that each of the following shall be permitted: payments of regularly scheduled principal and interest (including default interest and any AHYDO catch-up payment) on Junior Financing, payments of closing and consent fees related to Junior Financing, indemnity and expense reimbursement payments in connection with Junior Financing, and mandatory prepayments, mandatory redemptions and mandatory purchases, in each case pursuant to the terms Junior Financing Documentation.

The amount set forth in Section 7.10(a)(v)(A) may, in lieu of prepayments, repayments, redemptions, purchases, defeasance or satisfaction of any Junior Financing, be utilized by the Borrower or any Restricted Subsidiary to make or hold any Investments without regard to Section 7.02.

For purposes of determining compliance with this Section 7.10(a), in the event that any prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made, divide, classify, or reclassify, or at any later time divide, classify or reclassify, such prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) in any manner that complies with this covenant on the date it was made or such later time, as applicable.

(b) Amendments to Second Lien Credit Agreement and Junior Financing Amend, modify or change in any manner without the consent of the Administrative Agent,

- (i) the Second Lien Credit Documents in a manner that is (or would be) materially adverse to the interests of the Lenders (taken as a whole),
- or
- (ii) any other Junior Financing Documentation in a manner that is (or would be) materially adverse to the interests of the Lenders (taken as a whole),

in each case, other than as a result of a Permitted Refinancing thereof; *provided* that, in each case, a certificate of the Borrower delivered to the Administrative Agent at least five Business Days prior to such amendment or other modification, together with a reasonably detailed description of such amendment or modification, stating that the Borrower has reasonably determined in good faith that such terms and conditions satisfy such foregoing requirement shall be conclusive evidence that such terms and conditions satisfy such foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees).

(c) Amendments to Organizational Documents Amend, modify or change its certificate or articles of incorporation (including by the filing or modification of any certificate or articles of designation), certificate of formation, limited liability company agreement or by-laws (or the equivalent organizational documents), as applicable, in each case, in any manner materially adverse to the interests of the Lenders (taken as a whole); *provided* that, in each case, a certificate of the Borrower delivered to the Administrative Agent at least five Business Days prior to such amendment or other modification, together with a reasonably detailed description of such amendment or modification, stating that the Borrower has reasonably determined in good faith that such terms and conditions satisfy such foregoing requirement shall be conclusive evidence that such terms and conditions satisfy such foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees).

SECTION 7.11 Passive Holding Company.

(a) In the case of Holdings, engage in any active trade or business, it being agreed that the following activities (and activities incidental thereto) will not be prohibited:

- (i) its ownership of the Equity Interests of the Borrower;
- (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance);
- (iii) the performance of its obligations and payments with respect to any Indebtedness permitted to be incurred pursuant to Section 7.03, any Qualified Holding Company Debt or any Permitted Refinancing of any of the foregoing;
- (iv) any public offering of its common stock or any other issuance of its Equity Interests (including Qualified Equity Interests);
- (v) making (i) payments or Restricted Payments to the extent otherwise permitted under this Section 7.11 and (ii) Restricted Payments with any amounts received pursuant to transactions permitted under, and for the purposes contemplated by, Section 7.06;

-
- (vi) the incurrence of Qualified Holding Company Debt;
 - (vii) making contributions to the capital of its Subsidiaries;
 - (viii) guaranteeing the obligations of the Borrower and its Subsidiaries in each case solely to the extent such obligations of the Borrower and its Subsidiaries are not prohibited hereunder;
 - (ix) participating in tax, accounting and other administrative matters as a member of a consolidated, combined or unitary group that includes Holdings and the Borrower;
 - (x) holding any cash or property received in connection with Restricted Payments made by the Borrower in accordance with Section 7.06 pending application thereof by Holdings;
 - (xi) providing indemnification to officers and directors;
 - (xii) making Investments in assets that are Cash Equivalents; and
 - (xiii) activities incidental to the businesses or activities described in clauses (i) to (xii) of this Section 7.11(a).
- (b) Holdings may not merge, dissolve, liquidate or consolidated with or into any other Person; *provided* that, notwithstanding the foregoing, as long as no Default exists or would result therefrom, Holdings may merge or consolidate with any other Person if the following conditions are satisfied:
- (i) Holdings shall be the continuing or surviving Person, or
 - (ii) if the Person formed by or surviving any such merger, amalgamation or consolidation is not Holdings or is a Person into which Holdings has been liquidated,
 - (A) the Successor Holdings shall be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia,
 - (B) the Successor Holdings shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent,
 - (C) the Successor Holdings shall pledge 100% of the Equity Interest of the Borrower to the Collateral Agent as Collateral to secure the Obligations in form reasonably satisfactory to the Administrative Agent, and
 - (D) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement and, with respect to such opinion of counsel only, including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent;
- it being agreed that if the foregoing are satisfied, the Successor Holdings will succeed to, and be substituted for, Holdings under this Agreement.

Notwithstanding anything herein to the contrary, in the event of any merger, dissolution, liquidation, consolidation, amalgamation or Division of Holdings effected in accordance with this Section 7.11, the Borrower shall or shall cause, with respect to the surviving Person (or new direct parent entity) (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents as promptly as practicable.

ARTICLE VIII
Financial Covenant

So long as the Termination Conditions have not been satisfied, the Borrower and each of the Restricted Subsidiaries covenant and agree that:

SECTION 8.01 First Lien Net Leverage Ratio. Commencing with the Test Period ending on the last day of the second full fiscal quarter ended after the Closing Date, the Borrower shall not permit the First Lien Net Leverage Ratio on the last day of each Test Period to be greater than 8.25 to 1.00 if the aggregate outstanding principal amount of Revolving Loans, Swing Line Loans and Letters of Credit (but excluding (i) undrawn amounts under any Letters of Credit to the extent Cash Collateralized and (ii) undrawn amounts under any other Letters of Credit in an aggregate face amount of up to \$7,500,000) exceeds (or exceeded) 35% of the then outstanding Revolving Commitments in effect on such date. To the extent required to be tested with respect to any Test Period pursuant to the preceding sentence, compliance with this Section 8.01 shall be tested on the date that the Compliance Certificate for the applicable Test Period is delivered pursuant to Section 6.02(a).

SECTION 8.02 Borrower’s Right to Cure. Notwithstanding anything to the contrary contained in Section 8.01, in the event that the First Lien Net Leverage Ratio is greater than the amount set forth in Section 8.01 on the last day of any applicable Test Period, any equity contribution (in the form of (x) common Equity Interests or (y) preferred equity or other equity that is on terms reasonably acceptable to the Administrative Agent) made to the Borrower after the last day of such Test Period and on or prior to the day that is ten Business Days after the day on which financial statements are required to be delivered for such Test Period (such date, the “**Cure Expiration Date**”) will, at the request of the Borrower, be included in the calculation of Consolidated Adjusted EBITDA solely for the purposes of determining compliance with the financial covenant set forth in Section 8.01 at the end of such Test Period and any subsequent period that includes a fiscal quarter in such Test Period (any such equity contribution, a “**Specified Equity Contribution**”); *provided that*,

(a) no Revolving Lender shall be required to make any new extension of credit under a Loan Document during the ten Business Day period referred to above if the Borrower has not received the proceeds of such Specified Equity Contribution prior to or concurrently with such extension;

(b) the Borrower shall not be permitted to so request that a Specified Equity Contribution be included in the calculation of Consolidated Adjusted EBITDA with respect to any fiscal quarter unless, after giving effect to such requested Specified Equity Contribution, there would be at least two fiscal quarters in the Relevant Four Fiscal Quarter Period in which no Specified Equity Contribution has been made;

- (c) no more than five Specified Equity Contributions will be made in the aggregate;
- (d) the amount of any Specified Equity Contribution and the use of any proceeds therefrom will be no greater than the amount required to cause the Borrower to be in compliance with Section 8.01;
- (e) any proceeds of Specified Equity Contributions will be disregarded for all other purposes under the Loan Documents (including calculating Consolidated Adjusted EBITDA for purposes of determining basket levels, pricing (including the Applicable Rate and the Applicable Commitment Fee) and other items governed by reference to Consolidated Adjusted EBITDA or any ratio-based basket, and for purposes of the Restricted Payments covenant in Section 7.06 and the other negative covenants); and
- (f) there shall be no reduction in Indebtedness pursuant to a cash netting provision with the proceeds of any Specified Equity Contribution for purposes of determining compliance with the financial covenant set forth in Section 8.01 for the fiscal quarter for which such Specified Equity Contribution was made.

ARTICLE IX
Events of Default and Remedies

SECTION 9.01 Events of Default. Each of the events referred to in clauses (a) through (k) of this Section 9.01 shall constitute an “Event of Default”:

- (a) Non-Payment. The Borrower or any Subsidiary Guarantor fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within five Business Days after the same becomes due, any interest on any Loan or any fee payable pursuant to the terms of a Loan Document; or
- (b) Specific Covenants. The Borrower, any Subsidiary Guarantor or, in the case of Section 7.11, Holdings, fails to perform or observe any term, covenant or agreement contained in,
- (i) any of Section 6.03(a), 6.05(a) (solely with respect to the Borrower) or Article VII, or
- (ii) Section 8.01 (any such failure to observe any term, covenant or agreement contained in Section 8.01 and any failure to observe other Financial Covenants contained from time to time in a Loan Document, a “**Financial Covenant Event of Default**”); *provided* that a Financial Covenant Event of Default shall not constitute an Event of Default with respect to any Term Loans or any other Facility (other than the Revolving Facility incurred on the Closing Date unless such Financial Covenant is, by its terms, applicable to such other Facility) unless and until the date on which the Revolving Lenders have terminated all Revolving Commitments and declared all Revolving Loans to be immediately due and payable in accordance with Section 9.02(b), and such termination and declaration has not been rescinded (a “**Financial Covenant Cross Default**”); or
- (c) Other Defaults. The Borrower or any Subsidiary Guarantor fails to perform or observe any other covenant or agreement (not specified in Section 9.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty days after receipt by the Borrower of written notice thereof from the Administrative Agent; or
- (d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed by any Loan Party in any Loan Document, or in any document required to be delivered pursuant to the terms of a Loan Document, shall be untrue in any material respect (or, with respect

to any representation, warranty, certification or statement already qualified by materiality or “Material Adverse Effect,” shall be untrue in any respect) when made and, to the extent capable of being cured, such incorrect representation or warranty shall remain incorrect for a period of thirty days after written notice thereof from the Administrative Agent to the Borrower; or

(e) Cross-Default. The Borrower or any Subsidiary Guarantor:

(i) fails to make any payment of any principal or interest beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of its Material Indebtedness, or

(ii) fails to observe or perform any other agreement or condition relating to any Material Indebtedness, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of any Material Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Material Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;

provided that (A) this clause (e) shall not apply to (1) any Indebtedness under a Loan Document, (2) terminations or similar events with respect to Indebtedness under Hedge Agreements, or (3) any Indebtedness held exclusively by Affiliates, (B) clause (e)(ii) shall not apply (i) to any secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness or (ii) to the failure to observe or perform any covenant that requires compliance with any measurement of financial or operational performance (including any leverage, interest coverage or fixed charge ratio or minimum EBITDA, a “**Financial Covenant**”) unless and until the holders of such Indebtedness have terminated all commitments (if any) and accelerated all obligations with respect thereto, and (C) clause (e)(ii) shall only apply if such failure is unremedied and is not waived by the holders of such Indebtedness prior to the termination of the Commitments and acceleration of the Loans pursuant to Section 9.02; or

(f) Insolvency Proceedings, Etc. The Borrower, Holdings or any Subsidiary Guarantor institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty calendar days, or an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against the Borrower, Holdings or any Subsidiary Guarantor a final, enforceable, and non-appealable judgment for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance or another indemnity obligation) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty consecutive days; or

(h) Invalidity of Loan Documents. The material provisions of the Loan Documents, taken as a whole, at any time after their execution and delivery thereof and for any reason cease to be in full force and effect, except (A) as expressly permitted under a Loan Document (including as a result of a transaction

permitted under Section 7.04, 7.05 or 7.13(b), (B) as a result of the satisfaction of the Obligations or (C) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(i) Collateral Documents and Guarantee. Any:

(i) Collateral Document with respect to a material portion of the Collateral after delivery thereof shall for any reason cease to create a valid and perfected Lien, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) resulting from the failure of the Administrative Agent or the Collateral Agent to maintain possession or control of Collateral, (C) resulting from the making of a filing, or the failure to make a filing, under the Uniform Commercial Code, (D) as to Collateral consisting of real property to the extent that such losses are covered by a lender's title insurance policy (unless the Borrower in good faith reasonably believes that payment thereunder will not be made by the applicable insurer) or (E) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(ii) Guarantee with respect to a Guarantor that is Holdings or a Material Subsidiary shall for any reason cease to be in full force and effect, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) upon the satisfaction in full of the Obligations, (C) upon the release of such Guarantor as provided for under the Loan Document or in accordance with its terms or (D) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(j) Change of Control. There occurs any Change of Control; or

(k) ERISA. An ERISA Event shall have occurred and be continuous that, when taken alone or together with all other ERISA Events, has resulted or would reasonably be expected to result in a Material Adverse Effect.

SECTION 9.02 Remedies upon Event of Default

(a) Except as otherwise provided in Section 9.02(b) below, if any Event of Default occurs and is continuing, the Administrative Agent may, and shall at the request of the Required Lenders, take any or all of the following actions:

(i) declare the Commitments (including, for the avoidance of doubt, Delayed Draw Commitments) of each Lender and the obligation of each Issuing Bank to issue Letters of Credit to be terminated, whereupon such Commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest and premium accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and each Guarantor;

(iii) require that the Borrower Cash Collateralize its Letters of Credit (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit); and

(iv) exercise on behalf of itself, the Issuing Banks and the Lenders all rights and remedies available to it, the Issuing Banks and the Lenders under the Loan Documents and/or under applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, the Commitments of each Lender and the obligations of each Issuing Bank to issue Letters of Credit shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable and the obligation of the Borrower to Cash Collateralize the Letters of Credit as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

(b) If a Financial Covenant Event of Default has occurred and is continuing as a result of a breach of Section 8.01, the Required Revolving Lenders may either (i) terminate the Revolving Commitments and/or (ii) take the actions specified in Section 9.02(a) in respect of the Revolving Commitments, the Revolving Loans, Letters of Credit and Swing Line Loans. The Required Lenders may take any of the actions specified in Section 9.02(a) in respect of a Financial Covenant Event of Default that has occurred and is continuing only upon the occurrence and during the continuance of a Financial Covenant Cross Default.

(c) Notwithstanding anything to the contrary herein, if the only Event of Default then having occurred and continuing is the Financial Covenant Event of Default, then the Revolving Lenders and the Administrative Agent may not take any of the actions set forth in Section 9.02(a) or (b) during the period commencing on the date that the Administrative Agent receives a Notice of Intent to Cure and ending on the Cure Expiration Date with respect thereto in accordance with and to the extent permitted by Section 8.02.

SECTION 9.03 Application of Funds. After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 9.02(a)), any amounts received on account of the Obligations shall, subject to the Intercreditor Agreements, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 11.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent in their capacities as such;

Second, to payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed between or among, as applicable, the Administrative Agent and the Issuing Banks *pro rata* in accordance with the amounts of Unfunded Advances/Participations owed to them on the date of any such distribution);

Third, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, Letter of Credit fees, Obligations under Secured Hedge Agreements and Cash Management Obligations) payable to the Lenders and the Issuing Banks (including Attorney Costs payable under Section 11.04 and amounts payable under Article III) ratably among them in proportion to the amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and interest on the Loans and Letter of Credit Usage, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, (a) to payment of that portion of the Obligations constituting unpaid principal of the Loans, the Letter of Credit Usage and the Obligations under Secured Hedge Agreements and Cash Management Obligations and (b) to Cash Collateralize Letters of Credit (to the extent not otherwise

Cash Collateralized pursuant to the terms of this Agreement) (in an amount equal to 103% of the maximum face amount of all outstanding Letters of Credit) and to further permanently reduce the Revolving Commitments by the amount of such Cash Collateralization, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fifth held by them; *provided* that (i) any such amounts applied pursuant to the foregoing subclause (b) shall be paid to the Administrative Agent for the ratable account of the Issuing Banks to Cash Collateralize such Letters of Credit, (ii) subject to Sections 2.04 and 2.19, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to this clause Fifth shall be applied to satisfy drawings under such Letters of Credit as they occur and (c) upon the expiration of any Letter of Credit, the *pro rata* share of Cash Collateral attributable to such expired Letter of Credit shall be applied by the Administrative Agent in accordance with the priority of payments set forth in this Section 9.03;

Sixth, to the payment of all other Obligations that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE X
Administrative Agent and Other Agents

SECTION 10.01 Appointment and Authority of the Administrative Agent.

(a) Each Lender and each Issuing Bank hereby irrevocably appoints Jefferies Finance to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X (other than Sections 10.09 and 10.11) are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall not have any rights as a third party beneficiary of any such provision. Each Issuing Bank shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities (i) provided to the Agents in this Article X 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 the Letter of Credit Documents pertaining to such Letters of Credit as fully as if the term "Agent" as used in this Article X and the definition of "Agent Related Person" included such Issuing Bank with respect to such acts or omissions, and (ii) as additionally provided herein with respect to each Issuing Bank.

(b) The Administrative Agent shall also irrevocably act as the "collateral agent" under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and/or Cash Management Bank) and each of the Issuing Banks hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender and such Issuing Bank 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 Administrative Agent, as "collateral agent" (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Sections 10.05 and 10.12 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or

for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article X (including Section 10.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Intercreditor Agreements), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 10.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers (and no additional duties or obligations) in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any Person serving as an Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 10.03 Exculpatory Provisions. None of the Administrative Agent, any of the other Agents, any of their respective Affiliates, nor any of the officers, partners, directors, employees or agents of the foregoing 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, an Agent (including the Administrative Agent) or any of their respective officers, partners, directors, employees or agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing 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 no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower

or any of its Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity; and

(d) shall not be liable to the Lenders for any action taken or omitted to be taken under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.02 and 11.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Administrative Agent by the Borrower or a Lender.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report, statement or agreement or other document delivered hereunder or thereunder or in connection herewith or therewith or referred to or provided for in, or received by the Administrative Agent under or in connection with this Agreement or any other Loan Document, (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 (including compliance with the terms and conditions of Section 11.07(h)(iii) or (h)(iv)), (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 Collateral 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, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof. The Administrative Agent shall have no responsibility or liability for monitoring or enforcing the list of Disqualified Lenders or for any assignment or participation to a Disqualified Lender.

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 (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.

SECTION 10.04 Reliance by the Agents. The Agents 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 the making of a Loan or the issuance of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, each Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. Each Agent may consult with legal counsel (who may

be counsel for 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 shall be fully justified in failing or refusing to take any action that is not required or explicitly approved by the Lenders under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that the Agents shall not be required to take any action that, in their opinion or in the opinion of their counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law.

SECTION 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by such Agent. Each Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agents. Notwithstanding anything herein to the contrary, with respect to each sub agent appointed by an Agent, (i) such sub agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub agent, and (iii) such sub agent shall only have obligations to the Agent that appointed it as sub agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub agent. Each Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

SECTION 10.06 Non-Reliance on Agents and Other Lenders: Disclosure of Information by Agents

(a) Each Lender and each Issuing Bank acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender and each Issuing Bank represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated

hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender and each Issuing Bank also represents that it will, independently and without reliance upon any Agent, any other Lender or any Agent-Related Person 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 investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption and funding its Term Loan and/or Revolving Loans on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date.

(c) Each Lender acknowledges that certain Affiliates of the Loan Parties, including the Sponsors or entities controlled by the Sponsors, are Eligible Assignees hereunder and may purchase Loans and/or Commitments hereunder from the Lenders from time to time, subject to the restrictions set forth herein.

SECTION 10.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Administrative Agent, each Agent, each Issuing Bank, the Swing Line Lender and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, any Issuing Bank or the Swing Line Lender, as applicable) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Administrative Agent, each Agent, each Issuing Bank, the Swing Line Lender and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, each Issuing Bank or the Swing Line Lender, as applicable) from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction; *provided* that, to the extent each Issuing Bank or Swing Line Lender is entitled to indemnification under this Section 10.07 solely in its capacity and role as an Issuing Bank or as a Swing Line Lender, as applicable, only the Revolving Lenders shall be required to indemnify the applicable Issuing Bank or the Swing Line Lender, as the case may be, in accordance with this Section 10.07 (determined as of the time that the applicable payment is sought based on each Revolving Lender's Pro Rata Share thereof at such time); *provided, further*, that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.07. If any indemnity furnished to any Agent, any Issuing Bank or the Swing Line Lender for any purpose shall, in the opinion of such Agent, such Issuing Bank or the Swing Line Lender, as applicable, be insufficient or become impaired, such Agent, such Issuing Bank or the Swing Line Lender, as applicable, may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify any Agent, any Issuing Bank or the Swing Line Lender against any Indemnified Liabilities in excess of such Lender's pro rata share thereof; and *provided further*, this sentence shall not be deemed to require any Lender to

indemnify any Agent, any Issuing Bank or the Swing Line Lender against any Indemnified Liabilities described in the first proviso in the immediately preceding sentence. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 10.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent, each Issuing Bank and the Swing Line Lender, as applicable, upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent, such Issuing Bank or the Swing Line Lender, as applicable, in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent, such Issuing Bank or the Swing Line Lender, as applicable, is not reimbursed for such expenses by or on behalf of the Borrower; *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto; *provided, further*, that the failure of any Lender to indemnify or reimburse such Agent, such Issuing Bank or the Swing Line Lender, as applicable, shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 10.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, Collateral Agent, other Agents, any Issuing Bank and the Swing Line Lender.

SECTION 10.08 No Other Duties; Other Agents, Lead Arrangers, Managers, Etc. Jefferies Finance, BMOCM, UBS and Nomura are each hereby appointed as Lead Arrangers hereunder, and each Lender hereby authorizes each of Jefferies Finance, BMOCM, UBS and Nomura to act as Lead Arrangers in accordance with the terms hereof and the other Loan Documents.

Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Lead Arrangers or the other Agents listed on the cover page hereof (or any of their respective Affiliates) shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except (x) in its capacity, as applicable, as the Administrative Agent, the Collateral Agent or a Lender hereunder and (y) as provided in Section 11.01(d) and the last sentence of Section 11.01, and such Persons shall have the benefit of this Article X. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, Holdings, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Any Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 10.09 Resignation of Administrative Agent or Collateral Agent. The Administrative Agent or the Collateral Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed), at all times other than during the existence of a Specified Event of Default, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty days after the retiring Administrative Agent or Collateral Agent, as applicable, gives notice of its resignation, then the retiring Administrative Agent or Collateral Agent, as applicable, may on behalf of the Lenders, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above; *provided* that if the Administrative Agent or Collateral Agent, as applicable, shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged

from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (b) except for any indemnity payments or other amounts owed to the retiring or retired Administrative Agents, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent (subject to the proviso in the sentence above). Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as applicable, hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent or Collateral Agent, as applicable (other than any rights to indemnity payments or other amounts owed to the retiring or retired Administrative Agent), and the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Sections 10.07, 11.04 and 11.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Administrative Agent or Collateral Agent, as applicable.

SECTION 10.10 Administrative Agent May File Proofs of Claim; Credit Bidding In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or in respect of Letter of Credit Obligations 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 (but not obligated), by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under Sections 2.11 and 11.04) allowed in such judicial proceeding; and

(c) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders or the Issuing Banks may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Bank in any such proceeding.

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 (as defined in the Security Agreement) 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 (i) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (ii) 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 (A) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) 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 (a) through (g) of Section 11.01 of this Agreement, (C) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by 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 (D) 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.

SECTION 10.11 Collateral and Guaranty Matters.

(a) Each Agent, each Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank), each Issuing Bank and each other Secured Party agrees that, notwithstanding anything to the contrary in any Loan Document:

(i) Liens on any property granted to or held by an Agent or in favor of any Secured Party under any Loan Document will be automatically and immediately released, and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each agrees that it will enter into, the necessary or advisable documents requested by the Borrower and associated therewith, upon the occurrence of any of the following events (each, a “**Lien Release Event**”),

(A) the payment in full in cash of all the Obligations (other than (1) Secured Cash Management Obligations, Secured Swap Obligations and contingent obligations in respect of which no claim has been made and (2) obligations in respect of Letters of Credit that have been backstopped or cash collateralized on terms satisfactory to the applicable Issuing Bank);

(B) a transfer of the property subject to such Lien as part of, or in connection with, a transaction that is permitted (or not prohibited) by the terms of the Loan Documents to any Person that is not a Loan Party;

(C) with respect to property owned by any Guarantor, the release of such Guarantor from its obligations under its Guaranty pursuant to clause (iii) below;

(D) the approval, authorization or ratification of the release of such Lien by the Required Lenders, or such percentage as may be required pursuant to Section 11.01;

(E) such property becoming an Excluded Asset, Excluded Equity Interest or an asset owned by an Excluded Subsidiary;

(F) as to the assets owned by such Excluded Subsidiary, upon any Person becoming an Excluded Subsidiary; and/or

(G) any such property becoming subject to a Securitization Financing to the extent required by the terms of such Securitization Financing;

(ii) upon the request of the Borrower (such request, the “**Release/Subordination Event**”) it will release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(d);

(iii) a Subsidiary Guarantor will be automatically and immediately released from its obligations under the Guaranty as a result of (A) such Subsidiary Guarantor ceasing to be a Subsidiary, (B) such Subsidiary Guarantor ceasing to be a Material Subsidiary, or (C) such Subsidiary Guarantor becoming an Excluded Subsidiary (clauses (A)-(C), each a “**Guaranty Release Event**”), and each Secured Party irrevocably authorizes and directs the Agents to enter

into, and each agrees it will enter into, the necessary and advisable documents requested by the Borrower to (1) release such Subsidiary Guarantor from its obligations under the Guaranty and (2) release any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary; and

(iv) the Administrative Agent and the Collateral Agent will exclusively exercise the rights and remedies under the Loan Documents, and neither the Lenders nor any other Secured Party will exercise such rights and remedies (other than the Required Lenders through the Administrative Agent); *provided* that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 11.09 or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it or filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law.

Each Agent, each Lender and each other Secured Party agrees that it will promptly take such action and execute any such documents as may be reasonably requested by the Borrower (such actions and such execution, the "**Release Actions**"), at the Borrower's sole cost and expense, in connection with a Lien Release Event, Subordination/Release Event or Guaranty Release Event and that such actions are not discretionary. Without limitation, the Release Actions may include, as applicable, (a) executing (if required) and delivering to the Loan Parties (or any designee of the Loan Parties) any such lien releases, mortgage releases, discharges of security interests, pledges and guarantees and other similar discharge or release documents, as are reasonably requested by a Loan Party in connection with the release, as of record, of the Liens (and all notices of security interests and Liens previously filed) the subject of a Lien Release Event or Release/Subordination Event or the release of any applicable Guarantee in connection with a Guarantee Release Event and (b) delivering to the Loan Parties (or any designee of the Loan Parties) all instruments evidencing pledged debt and all equity certificates and any other collateral previously delivered in physical form by the Loan Parties to a Secured Party.

In connection with any Lien Release Event, Release/Subordination Event, Guarantee Release Event or Release Action, each of the Collateral Agent and the Administrative Agent shall be entitled to rely and shall rely exclusively on an officer's certificate of the Borrower (the "**Release Certificate**") confirming that (a) such Lien Release Event, Subordination/Release Event or a Guaranty Release Event, as applicable, has occurred or will upon consummation of an identified transaction (an "**Identified Transaction**") occur, (b) the conditions to any such Lien Release Event, Subordination/Release Event or Guaranty Release Event have occurred or will occur upon consummation of an Identified Transaction, and (c) that any such Identified Transaction is permitted by (or not prohibited by) the Loan Documents. The Collateral Agent and the Administrative Agent will be fully exculpated from any liability and shall be fully protected and shall not have any liability whatsoever to any Secured Party as a result of such reliance or the consummation of any Release Action. A Release Certificate may be delivered in advance of the consummation of any applicable Identified Transaction.

Each Lender and each Secured Party irrevocably authorizes and irrevocably directs the Collateral Agent and the Administrative Agent to take the Release Actions and consents to reliance on the Release Certificate. The Secured Parties agree not to give any Agent any instruction or direction inconsistent with the provisions of this Section. Neither the Administrative Agent nor the Collateral Agent shall be responsible for, or have a duty to ascertain or inquire into, any statement in a Release Certificate, the compliance of any Identified Transaction with the terms of a Loan Document, any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Agent's Lien thereon, or contained in any certificate prepared or delivered by

any Loan Party in connection with the Collateral or compliance with the terms set forth above or in a Loan Document, nor shall the Administrative Agent or Collateral Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(b) Anything contained in any of the Loan Documents to the contrary notwithstanding, each Agent, each Lender and each Secured Party hereby agree that:

(i) no Lender or other Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty or any other Loan Document, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, for the benefit of the Lenders in accordance with the terms hereof and thereof, and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent for the benefit of the Lenders in accordance with the terms thereof;

(ii) in the event of a foreclosure or similar enforcement action by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code), only the Collateral Agent (except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code) may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Collateral Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities), shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Loan Document Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition;

(iii) no provision of any Loan Documents shall require the creation, perfection or maintenance of pledges of or security interests in, or the obtaining of title insurance or abstracts with respect to, any Excluded Assets and any other particular assets, if and for so long as, in the reasonable judgment of the Collateral Agent, the cost of creating, perfecting or maintaining such pledges or security interests in such other particular assets or obtaining title insurance or abstracts in respect of such other particular assets is excessive in view of the fair market value of such assets or the practical benefit to the Lenders afforded thereby;

(iv) the Collateral Agent may grant extensions of time for the creation or perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the creation or perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents;

(v) other than with respect to the Equity Interests and assets of a Foreign Subsidiary that becomes a Loan Party, no actions required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in any assets or to perfect such security interests (including any intellectual property registered in any non-U.S. jurisdiction) (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction); and

(vi) no control agreements or control shall be required with respect to assets (other than in respect of Pledged Equity or Pledged Debt) requiring perfection through control agreements or perfection by "control" (as defined in the Uniform Commercial Code).

SECTION 10.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrativesub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually, as a "**Supplemental Administrative Agent**" and, collectively, as "**Supplemental Administrative Agents**").

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article X and of Sections 11.04 and 11.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 10.13 Intercreditor Agreements. The Administrative Agent and the Collateral Agent are authorized to enter into the Intercreditor Agreements (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in order to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrower or relevant Subsidiary, to the extent such priority is permitted by the Loan Documents)), and the Lenders acknowledge that the Intercreditor Agreements will be binding upon them. Each Lender (i) understands, acknowledges and agrees

that Liens may be created on the Collateral pursuant to the definitive documents governing such Indebtedness, which liens shall be subject to the terms and conditions of any Intercreditor Agreement, (ii) hereby agrees that it will be bound by and will take no actions contrary to the provisions of any Intercreditor Agreement and (iii) hereby authorizes and instructs the Administrative Agent and Collateral Agent to enter into any Intercreditor Agreement (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in order to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrower or relevant Subsidiary, to the extent such priority is permitted by the Loan Documents)), and to subject the Liens on the Collateral securing the Obligations to the provisions thereof.

SECTION 10.14 Secured Cash Management Agreements and Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 9.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral 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 or any Guaranty (including the release or impairment of any Collateral or Guaranty) 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 X 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, Cash Management Obligations or Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Cash Management Obligations or such Obligations arising under Secured Hedge Agreements, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

SECTION 10.15 Withholding Taxes. To the extent required by any applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding tax from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

SECTION 10.16 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each other Lead Arranger and their respective Affiliates, 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:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE84-14 (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), PTE91-38 (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 so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the 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 PTE84-14 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

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, 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 each other Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or any other Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in 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 to hereto or thereto).

ARTICLE XI Miscellaneous

SECTION 11.01 Amendments, Waivers, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided* that, no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender or extend the final expiration date of any Letter of Credit beyond the Letter of Credit Expiration Date, without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any condition precedent set

forth in Section 4.02 or Section 4.03 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest with respect to any Loan or Letter of Credit or with respect to any fees payable under Section 2.11(b) without the written consent of each Lender directly and adversely affected thereby, it being understood that (i) the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest, (ii) the agreement, consent or waiver by (A) the Required Revolving Lenders to postpone or reduce or waive unused commitment fees as set forth in the paragraph immediately succeeding the table in the definition of "Applicable Commitment Fee," (B) the Required Revolving Lenders to postpone or reduce or waive interest with respect to Revolving Loans as set forth in the paragraph immediately succeeding the table in the definition of "Applicable Rate" in Section 1.01 or (C) the Required Facility Lenders of interest with respect to any Initial Term Loans (including the Delayed Draw Term Loans, if any) as set forth in the paragraph immediately succeeding the table in the definition of "Applicable Rate" in Section 1.01, in any such case, shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees and (iii) a waiver of any condition precedent set forth in Section 4.02 or Section 4.03 or the waiver of any Default (other than a Default under Section 9.01(a)) or mandatory reduction of the Commitments shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or Letter of Credit or any fees or other amounts payable hereunder or under any other Loan Document (except as expressly set forth in clause (iii) of the second proviso immediately succeeding clause (g) of this Section 11.01) without the written consent of each Lender directly and adversely affected thereby, it being understood that (i) any change to the definitions of First Lien Net Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest, (ii) the agreement, consent or waiver by the Required Revolving Lenders to waive or reduce interest or unused commitment fees as set forth in the paragraph immediately succeeding the table in the definitions of "Applicable Rate" and "Applicable Commitment Fee" in Section 1.01 shall not constitute a reduction in the rate of interest specified herein or any fees or other amounts payable hereunder or under any other Loan Document, and (iii) the agreement, consent or waiver by the Required Facility Lenders to waive or reduce interest with respect to the Initial Term Loans (including the Delayed Draw Term Loans, if any) as set forth in the paragraph immediately succeeding the table in the definition of "Applicable Rate" in Section 1.01 shall not constitute a reduction in the rate of interest specified herein or any fees or other amounts payable hereunder or under any other Loan Document; *provided* that (A) only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" and (B) with respect to any Facility, only the consent of the Required Facility Lenders or, solely with respect to the Revolving Facility, the Required Revolving Lenders, shall be necessary to waive any obligation of the Borrower to pay interest at the Default Rate;

(d) change (i) any provision of this Section 11.01 (except as expressly set forth in clause (i) of the second proviso immediately succeeding clause (g) of this Section 11.01) or the definition of "Required Lenders," "Required Facility Lenders" or "Pro Rata Share" or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents, without the written consent of each Lender, (ii) the definition of "Required Revolving Lenders" without the consent of each Revolving Lender or (iii) the definition of "Required Delayed Draw Lenders" without the consent of each Lender holding Delayed Draw Commitments;

(e) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(f) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors, without the written consent of each Lender; or

(g) modify Section 2.15 or 9.03 without the written consent of each lender directly and adversely affected thereby;

provided that:

(i) no amendment, waiver or consent shall, unless in writing and signed by an Issuing Bank in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, such Issuing Bank under this Agreement, any Issuance Notice or any other Loan Document relating to any Letter of Credit issued or to be issued by it,

(ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Swing Line Lender under this Agreement or any other Loan Document,

(iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document,

(iv) no amendment, waiver or consent shall, unless in writing and signed by the Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Collateral Agent under this Agreement or any other Loan Document,

(v) Section 11.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification,

(vi) the consent of Required Revolving Lenders, Required Delayed Draw Lender or Required Facility Lenders, as applicable, shall be required with respect to any amendment that by its terms adversely affects the rights of Lenders under such Facility in respect of payments hereunder in a manner different than such amendment affects other Facilities,

(vii) the consent of the Required Revolving Lenders (but without the consent of other Lenders, including the Required Lenders) shall be required (x) to amend, waive or otherwise modify any provision of the paragraph immediately succeeding the table in the definition of "Applicable Rate" in Section 1.01 which provides for an agreement, consent or waiver by the Required Revolving Lenders and (y) to amend, modify or waive any condition precedent set forth in Section 4.02 with respect to making Revolving Loans, Swing Line Loans or the issuance of Letters of Credit,

(viii) the consent of only the Required Delayed Draw Lenders shall be required to amend, waive or otherwise modify any condition precedent set forth in Section 4.03 with respect to the making of Delayed Draw Term Loans, and

(ix) no Lender or Issuing Bank consent is required to effect any amendment or supplement to the Intercreditor Agreement or any other intercreditor agreement that is,

(A) for the purpose of adding the holders of Pari Passu Lien Debt, Junior Lien Debt, Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt (or a Debt Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of such intercreditor agreement (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing), or

(B) expressly contemplated by the Intercreditor Agreement or any other intercreditor agreement;

provided further that, notwithstanding the foregoing,

(i) unless and until a Financial Covenant Cross Default has occurred and remains continuing, only the consent of the Required Revolving Lenders shall be necessary to, and upon the occurrence and continuance of a Financial Covenant Cross Default, the consent of the Required Lenders shall be necessary to (A) waive or consent to any Financial Covenant Event of Default or amend or modify the terms of, or waive or consent to any Default or Event of Default with respect to, Section 9.02(b) (including the related definitions as used in such Sections, but not as used in other Sections of this Agreement) and no such amendment, modification, waiver or consent shall be permitted (1) without the consent of the Required Revolving Lenders (unless and until a Financial Covenant Cross Default has occurred) and (2) without the consent of the Required Lenders (upon the occurrence and during the continuance of a Financial Covenant Cross Default) and/or (B) amend this sentence. Notwithstanding that, upon the occurrence of a Financial Covenant Cross Default, the consent of the Required Lenders shall be necessary to waive or consent to any Default or Event of Default resulting from a Financial Covenant Event of Default as set forth in the immediately preceding sentence, only the consent of the Required Revolving Lenders shall be necessary to (a) amend or modify the terms and provisions of Section 8.01 and/or Section 8.02 (in each case, whether or not a Financial Covenant Cross Default has occurred) and/or (b) amend this sentence,

(ii) 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 add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof, (II) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders, and (III) if at any time (A) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in Section 3.03 have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in Section 3.03 have not arisen, but the supervisor for the administrator of ICE LIBOR (or the successor thereto with respect to ICE LIBOR), or a Governmental Authority having jurisdiction over the Administrative Agent, has made a public statement identifying a specific date after which ICE LIBOR shall no longer be used for

determining interest rates for loans or (B) the Required Lenders (including pursuant to Section 3.03) request an amendment to this Agreement as a result of the discontinuation of ICE LIBOR, then, in each case, the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the Eurocurrency Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time (which rate shall in no event be less than 0.00% *per annum*), and may enter into an amendment to this Agreement and the other Loan Documents to amend and/or replace the definition of "Eurocurrency Rate" (and the ancillary terms and other provisions with respect thereto) to reflect such alternate rate of interest and such other related changes to this Agreement (and such other Loan Documents as may be applicable) with the consent of only the Borrower and the Administrative Agent, in each case, only so long as the Administrative Agent provides the Lenders with written notice of the terms thereof at least five Business Days prior to the effectiveness of any such amendment and the Required Lenders do not object thereto during such notice period, and

(iii) this Agreement may be amended with the written consent of the Borrower and the Lenders providing the Replacement Loans (as defined below) to permit the refinancing, replacement or exchange of all outstanding Term Loans of any Class ("**Refinanced Loans**") with replacement term loans ("**Replacement Loans**") hereunder; *provided that*,

(A) the aggregate principal amount of such Replacement Loans shall not exceed the aggregate principal amount of such Refinanced Loans *(plus* (i) the amount of all unpaid, accrued, or capitalized interest, penalties, premiums (including tender premiums), and other amounts payable with respect to any such Refinanced Loans and (ii) underwriting discounts, fees, commissions, costs, expenses and other amounts payable with respect to such Replacement Loans),

(B) the Weighted Average Life to Maturity of such Replacement Loans shall not be shorter than the remaining Weighted Average Life to Maturity of such Refinanced Loans at the time of such refinancing, and

(C) (1) any such Replacement Loans shall be on terms and conditions that are, taken as a whole, not materially more favorable to the lenders or holders providing such Indebtedness than, those applicable to the Initial Term Loans, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (except (x) for covenants applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (y) any term or condition to the extent such term or condition is also added for the benefit of the Lenders under the Term Loans) or (2) solely to the extent that any terms and conditions applicable to any Replacement Loans are not the same as, or substantially similar to, those then applicable to the Term Loans, shall otherwise reflect customary market terms and conditions at the time of such incurrence, including with respect to high yield debt securities to the extent applicable, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (*provided that* a certificate of a Responsible Officer delivered to the Administrative Agent at least four Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Replacement Loans, together with a reasonably detailed description of the material covenants and events of default of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (C) shall be conclusive evidence that such material covenants and events of default satisfy such requirement unless the Administrative Agent notifies the Borrower within such four

Business Day (or shorter) period that it disagrees with such determination (including a description of the basis upon which it disagrees)); *provided further* that this clause (C) will not apply to (w) terms addressed in the other clauses of this clause (iii), (x) interest rate, rate floors, fees, funding discounts and other pricing terms and optional prepayment provisions, (y) redemption, prepayment or other premiums, and (z) optional prepayment or redemption terms. For the avoidance of doubt, any Affiliated Lender that provides any Replacement Loans shall be subject to the limitations on Affiliated Lenders set forth in Section 11.07(h) (including the Affiliated Lender Term Loan Cap).

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any 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, the Required Lenders, the Required Facility Lenders, the Required Delayed Draw Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (1) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender and (2) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

In addition, notwithstanding anything to the contrary contained in this Section 11.01, no amendment, modification or waiver of this Agreement or any Loan Document altering the ratable treatment of Obligations arising under Secured Hedge Agreements or under Cash Management Obligations resulting in such Obligations being junior in right of payment to principal on the Loans or resulting in Obligations owing to any Hedge Bank or any Cash Management Obligations becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof), in each case in a manner materially adverse to any Hedge Bank or any Cash Management Bank, shall be effective without the written consent of such Hedge Bank or such Cash Management Bank, as applicable.

In addition, notwithstanding anything to the contrary contained in this Section 11.01, the Guaranty, the Collateral Documents and related documents executed by Holdings, the Borrower and/or the Restricted Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects (as reasonably determined by the Administrative Agent and the Borrower) or (iii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents.

SECTION 11.02 Notices and Other Communications; Facsimile Copies.

(a) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (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 fax 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:

(i) if to Holdings, the Borrower, the Issuing Banks, the Swing Line Lender, the Collateral Agent or the Administrative Agent, to the address, fax number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, fax number, electronic mail addresses or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax 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); and notices deposited in the United States mail with postage prepaid and properly addressed shall be deemed to have been given within three Business Days of such deposit; *provided* that no notice to any Agent shall be effective until received by such Agent. Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communication. Notices and other communications to any Agent, the Lenders, the Swing Line Lender and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Agent, Lender, Swing Line Lender or the Issuing Banks pursuant to Article II if such Person, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Each Loan Party understands that the distribution of materials through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent, any Lender, the Swing Line Lender or any Issuing Bank as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(e) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) 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 OR IN THE PLATFORM. 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 ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons or any Lead Arranger (collectively, the "**Agent**")

Parties”) have any liability to Holdings, the Borrower, any Lender, the Swing Line Lender, any Issuing Bank or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however*, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender, the Swing Line Lender, any Issuing Bank or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages). Each Loan Party, each Lender, each Issuing Bank and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Borrower Materials on the Platform in accordance with the Administrative Agent’s customary document retention procedures and policies.

(f) Change of Address. Each of Holdings, the Borrower, the Administrative Agent, the Swing Line Lender and the Issuing Banks may change its address, fax or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, fax or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the Collateral Agent, the Swing Line Lender and the Issuing Banks. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, fax number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(g) Reliance by the Administrative Agent, the Issuing Banks and the Lenders. The Administrative Agent, the Issuing Banks and the Lenders shall be entitled to rely and act upon any notices (including Committed Loan Notices, Swing Line Loan Requests and Issuance Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording. The Borrower shall indemnify the Administrative Agent, the Issuing Banks and the Lenders and each Agent-Related Person from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence, bad faith or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(h) Private-Side Information Contacts. Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private-Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to information that is not made available through the “Public-Side Information” portion of the Platform and that may contain Private-Side Information with respect to Holdings, its Subsidiaries or their respective securities for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither the Borrower nor the Administrative Agent has (A) any responsibility for such Public Lender’s decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents and (B) any duty to disclose such information to such Public Lender or to use such information on behalf of such Public Lender, and shall not be liable for the failure to so disclose or use, such information.

SECTION 11.03 No Waiver: Cumulative Remedies. No forbearance, failure or delay by any Lender or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall impair such right, remedy, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and independent of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article IX for the benefit of all the Lenders and the Issuing Banks; *provided* that the foregoing shall not prohibit (i) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (ii) any Issuing Bank or the Swing Line Lender from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Bank or the Swing Line Lender, as applicable) hereunder and under the other Loan Documents, (iii) any Lender from exercising setoff rights in accordance with Section 11.09 (subject to the terms of Section 2.15) or (iv) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise provided to the Administrative Agent pursuant to Article IX and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

SECTION 11.04 Attorney Costs and Expenses. The Borrower agrees (a) if the Closing Date occurs, to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Supplemental Administrative Agents, the Issuing Banks and the Swing Line Lender for all reasonable and documented in reasonable detail out-of-pocket expenses incurred on or after the Closing Date in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), limited, in the case of legal fees and expenses, to the Attorney Costs of one primary counsel and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole (which may be a single local counsel acting in multiple material jurisdictions), and (b) to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Supplemental Administrative Agents, the Issuing Banks, the Swing Line Lender and the Lenders for all reasonable and documented in reasonable detail out-of-pocket costs and expenses incurred in connection with the enforcement or protection of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of one counsel to the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Supplemental Administrative Agents, the Issuing Banks, the Swing Line Lender and the Lenders taken as a whole (and, if reasonably necessary, one local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) and, solely in the event of a conflict of interest between the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Supplemental Administrative Agents, the Issuing Banks, the Swing Line Lender and the Lenders, where the Person or Persons affected by such conflict of interest inform the Borrower in writing of such conflict of interest, one additional counsel in each relevant material jurisdiction to each group of affected Persons similarly situated

taken as a whole)). The agreements in this Section 11.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 11.04 shall be paid promptly following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document.

SECTION 11.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Agent, the Issuing Banks, the Swing Line Lender, each Lender, each Lead Arranger, each Joint Bookrunner and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives (collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the Attorney Costs of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, a single local counsel for all Indemnitees taken as a whole in each relevant jurisdiction that is material to the interest of such Indemnitees (which may be a single local counsel acting in multiple material jurisdictions), and solely in the case of a conflict of interest between Indemnitees (where the Indemnitee affected by such conflict of interest informs the Borrower in writing of such conflict of interest), one additional counsel in each relevant jurisdiction to each group of affected Indemnitees similarly situated taken as a whole),

(a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including the reliance in good faith by any Indemnitee on any notice purportedly given by or on behalf of the Borrower),

(b) the Transaction,

(c) any Commitment, Loan, Letter of Credit or the use or proposed use of the proceeds therefrom (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),

(d) any actual or alleged presence or release of, or exposure to, any Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any other Loan Party, or any Environmental Claim or Environmental Liability arising out of the activities or operations of or otherwise related to the Borrower or any other Loan Party, or

(e) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”);

provided that such indemnity shall not, as to any Indemnitee, be available to the extent that a court of competent jurisdiction determines in a final-non-appealable judgment that any such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (i) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any Related Indemnified Person of such Indemnitee, (ii) a material breach of any obligations of such Indemnitee under any Loan Document by such Indemnitee or Related Indemnified Person, or (iii) any dispute solely among Indemnitees or of any Related Indemnified Person of such Indemnitee other than any claims against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent, the Collateral Agent, an Issuing Bank, the Swing Line Lender or a Lead Arranger (or other Agent role) under the Facility and other than any claims arising out of any act or omission of the Borrower or any of its Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 11.05 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct, bad faith or gross negligence of such Indemnitee or any Related Indemnified Person (as determined by a final and non-appealable judgment of a court of competent jurisdiction), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 11.05 (after the determination of a court of competent jurisdiction, if required pursuant to the terms of this Section 11.05) shall be paid within twenty Business Days after written demand therefor. The agreements in this Section 11.05 shall survive the resignation of the Administrative Agent, the Collateral Agent, the Swing Line Lender or any Issuing Bank, replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 11.05 shall not apply to Taxes, except it shall apply to any taxes that represent losses, claims, damages, etc. arising from a non-tax claim (including a value added tax or similar tax charged with respect to the supply of legal or other services).

SECTION 11.06 Marshaling; Payments Set Aside. None of the Administrative Agent, any Lender, the Collateral Agent or any Issuing Bank shall be under any obligation to marshal any assets in favor of the Loan Parties or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent, any Lender or any Issuing Bank (or to the Administrative Agent, on behalf of any Lender or any Issuing Bank), or any Agent or any Lender enforces any security interests or exercises its right of setoff, and such payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any 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 and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred 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.

SECTION 11.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Holdings nor the Borrower may, except as permitted by Section 7.04 or 7.11(b), assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except,

- (i) to an assignee in accordance with the provisions of subsection (b) of this Section,
- (ii) by way of participation in accordance with the provisions of subsection (d) of this Section,
- (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or
- (iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void).

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, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment and the Loans (including for purposes of this Section 11.07(b), participations in Letters of Credit and in Swing Line Loans) at the time owing to it; *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Term Loans at the time held by it, in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Commitment and Revolving Loans at the time held by it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) with respect to any assignment not described in subsection (b)(i)(A) of this Section, such assignment shall be in an aggregate amount of not less than (1) with respect to the assigning Lender's Term Loans, \$1,000,000 and (2) with respect to the assigning Lender's Revolving Commitment and Revolving Loans, \$2,500,000, unless in each case of clauses (1) and (2) each of the Administrative Agent, and so long as no Specified Event of Default has occurred and is continuing at the time of such assignment, the Borrower otherwise consents (such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment of Term Loans or Delayed Draw Commitments shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Term Loans or Delayed Draw Commitments assigned, and each partial assignment of Revolving Commitments and/or Revolving Loans shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Revolving Commitments and/or Revolving Loans being assigned, except that this clause (ii) shall not (x) apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans or (y) prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 11.07(b)(i)(B) of this Section and the following:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is made (a) with respect to Term Loans or Delayed Draw Commitments to a Lender, an Affiliate of a Lender or an Approved Fund and (b) with respect to Revolving Commitments and Revolving Loans, to a Revolving Lender or an Affiliate of the assigning Revolving Lender; *provided, however*, that the Borrower shall be deemed to have consented to any assignment of Term Loans or Delayed Draw Commitments if the Borrower does not respond within ten Business Days of a written request for its consent with respect to such assignment;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund; *provided, however*, that the consent of the Administrative Agent shall not be required for any assignment to an Affiliated Lender or a Person that upon effectiveness of an assignment would be an Affiliated Lender, except for the separate consent rights of the Administrative Agent pursuant to clause (h)(v) of this Section 11.07;

(C) with respect to assignments of Revolving Loans and/or Revolving Commitments, the Swing Line Lender (such consent not to be unreasonably withheld, conditioned or delayed); and

(D) with respect to assignments of Revolving Loans and/or Revolving Commitments, each Issuing Bank (such consent not to be unreasonably withheld, conditioned or delayed).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that (A) the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment and (B) no processing and recordation fee shall be payable in connection with an assignments by or to a Lead Arranger or its Affiliates. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms required under Sections 3.01(b), (c), (d) and (e), as applicable. Upon receipt of the processing and recordation fee and any written consent to assignment required by Section 11.07(b)(iii), the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register.

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- (v) No Assignments to Certain Persons No such assignment shall be made,
- (A) to Holdings, the Borrower or any of the Borrower's Subsidiaries except as permitted under Section 2.07(a)(iv) or under subsection (l) below,
 - (B) subject to subsection (h) below, any of the Borrower's Affiliates (other than Holdings or any of the Borrower's Subsidiaries),
 - (C) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing persons described in this clause,
 - (D) to a natural person, or
 - (E) to a Disqualified Lender or Lender who has become a Disqualified Lender.

To the extent that any assignment is purported to be made to a Disqualified Lender (notwithstanding clause (E) of the foregoing sentence), such Disqualified Lender shall be required immediately (and in any event within five Business Days) to assign all Loans and Commitments then owned by such Disqualified Lender to another Lender (other than a Defaulting Lender) or Eligible Assignee (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence).

(vi) Defaulting Lenders Assignments. 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 sub-participations, 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 (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Banks, the Swing Line Lender and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full Pro Rata Share of all Loans and participations in Letters of Credit and Swing Line Loans. 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.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section (and, in the case of an Affiliated Lender or a Person that, after giving effect to such assignment, would become an Affiliated Lender, subject to the requirements of clause (h) of this Section), from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement (except in the case of an assignment to or purchase by Holdings, the Borrower or any of Holdings' Subsidiaries) and, to the extent of the interest assigned by such Assignment and Assumption and as permitted by this Section 11.07, 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 Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this

Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 11.04 and 11.05 with respect to facts and circumstances occurring prior to the effective date of such assignment); *provided* that anything contained in any of the Loan Documents to the contrary notwithstanding, each Issuing Bank shall continue to have all rights and obligations with respect to any Letters of Credit issued by it until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder. Upon request, and the surrender by the assigning Lender of its applicable Notes, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans and Letter of Credit Obligations (specifying the Reimbursement Obligations), Letter of Credit Borrowings and other amounts due under Section 2.04 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 Agents 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 or any Lender (but only, in the case of a Lender at the Administrative Agent's Office and with respect to any entry relating to such Lender's Commitments, Loans, Letter of Credit Obligations and other Obligations), at any reasonable time and from time to time upon reasonable prior notice. This Section 11.07(c) and Section 2.13 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, the Issuing Banks, the Swing Line Lender or any other Person sell participations to any Person (other than a natural person, a Disqualified Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in Letters of Credit and/or Swing Line Loans) owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso of the first paragraph of Section 11.01 (other than clause (d) and (g) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Sections 3.01(b), (c), (d) and (e), as applicable (it being understood that the documentation required under such Sections shall be delivered to the participating Lender)), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 11.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.15 as though it were a Lender. To

the extent that any participation is purported to be made to a Disqualified Lender, such transaction shall be required immediately (and in any event within five Business Days) to be unwound and shall be deemed null and void (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence).

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 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 or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation. Each Lender that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations) issued thereunder relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) or proposed Section 1.163-5(b) of the United States Treasury regulations (or any amended or successor version). 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.

(f) Liens on Loans. Any Lender may, at any time without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "**SPC**") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Sections 3.01, 3.04 and 3.05), (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (C) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (1) with notice to, but without prior consent of the Borrower and

the Administrative Agent and with the payment of a processing fee of \$3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (2) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) Affiliated Lenders. Any Lender may, at any time, assign all or a portion of its rights and obligations with respect to Loans and Commitments under this Agreement (including under Incremental Term Facilities) to a Person who is or will become, after such assignment, an Affiliated Lender (including any Affiliated Debt Fund) through (i) Dutch auctions open to all Lenders in accordance with the procedures set forth on Exhibit L or (ii) open market purchase on a non-*pro rata* basis, in each case subject to the following limitations applicable to Affiliated Lenders that are not Affiliated Debt Funds:

(i) Such Affiliated Lenders (A) will not receive information provided solely to Lenders by the Administrative Agent or any Lender except to the extent such materials are made available to the Borrower and will not be permitted to attend or participate in conference calls or meetings attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Term Loans or Commitments required to be delivered to Lenders pursuant to Article II, (B) will not receive the advice of counsel provided solely to the Administrative Agent or the Lenders, and (C) may not challenge the attorney-client privilege between the Administrative Agent and counsel to the Administrative Agent or between the Lenders and counsel to the Lenders;

(ii) the Assignment and Assumption will include either (A) a representation by the applicable Affiliated Lender acquiring or disposing of Term Loans in such assignment that, as of the date of any such purchase or sale, it is not in possession of material non-public information with respect to the Borrower, its Subsidiaries or their respective securities or (B) a statement by the applicable Affiliated Lender acquiring or disposing of Term Loans in such assignment that it cannot make the representation set forth in the foregoing clause (A);

(iii) (A) the aggregate principal amount of Term Loans held by all Affiliated Lenders that are not Affiliated Debt Funds shall not exceed 25% of the aggregate outstanding principal amount of all Term Loans at the time of purchase or assignment (such percentage, the “**Affiliated Lender Term Loan Cap**”), (B) unless otherwise agreed to in writing by the Required Facility Lenders, regardless of whether consented to by the Administrative Agent or otherwise, no assignment which would result in Affiliated Lenders that are not Affiliated Debt Funds holding Term Loans with an aggregate principal amount in excess of the Affiliated Lender Term Loan Cap, shall in either case be effective with respect to such excess amount of the Term Loans (and such excess assignment shall be and be deemed null and void); *provided* that each of the parties hereto agrees and acknowledges that the Administrative Agent shall not be liable for any losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever incurred or suffered by any Person in connection with any compliance or non-compliance with this clause (h)(iii) or any purported assignment exceeding the Affiliated Lender Term Loan Cap limitation or for any assignment being deemed null and void hereunder and (C) in the event of an acquisition pursuant to the last sentence of this clause (h) which would result in the Affiliated Lender Term Loan Cap being exceeded, the most recent assignment to an Affiliated Lender involved in such acquisition shall be unwound and deemed null and void to the extent that the Affiliated Lender Term Loan Cap, would otherwise be exceeded;

(iv) Affiliated Lenders may not purchase Revolving Loans or Revolving Commitments; and

(v) as a condition to each assignment pursuant to this clause (h), (A) the Administrative Agent shall have been provided a notice in the form of Exhibit D-2 to this Agreement in connection with each assignment to an Affiliated Lender or an Affiliated Debt Fund or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender or an Affiliated Debt Fund, and (without limitation of the provisions of clause (iii) above) shall be under no obligation to record such assignment in the Register until three Business Days after receipt of such notice and (B) the Administrative Agent shall have consented to such assignment (which consent shall not be withheld unless the Administrative Agent reasonably believes that such assignment would violate clause (h)(iii) of this Section 11.07).

Each Affiliated Lender and each Affiliated Debt Fund agrees to notify the Administrative Agent promptly (and in any event within ten Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent promptly (and in any event within ten Business Days) if it becomes an Affiliated Lender or an Affiliated Debt Fund. Such notice shall contain the type of information required and be delivered to the same addressee as set forth in Exhibit D-2.

(i) Voting Limitations. Notwithstanding anything in Section 11.01 or the definition of “Required Lenders” to the contrary:

(i) for purposes of determining whether the Required Lenders have (A) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to Section 11.07(j), any plan of reorganization pursuant to the U.S. Bankruptcy Code, (B) otherwise acted on any matter related to any Loan Document, or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, in each case, that does not require the consent of a specific Lender, each Lender or each affected Lender, or does not affect such Affiliated Lender that is not an Affiliated Debt Fund in a disproportionately adverse manner as compared to other Lenders holding similar obligations, Affiliated Lenders that are not Affiliated Debt Funds will be deemed to have voted in the same proportion as non-affiliated Lenders voting on such matters; and

(ii) Affiliated Debt Funds may not in the aggregate account for more than 49.9% of the amounts set forth in the calculation of Required Lenders and any amount in excess of 49.9% will be subject to the limitations set forth in clause (i)(i) above.

(j) Insolvency Proceedings. Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender that is not an Affiliated Debt Fund hereby agrees that, if a proceeding under any Debtor Relief Law shall be commenced by or against the Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Term Loans held by such Affiliated Lender in any manner in the Administrative Agent’s sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Term Loans held by it as the Administrative Agent directs; *provided* that such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) in connection with any plan of reorganization to the extent any such plan of reorganization proposes to treat any Obligations held by such Affiliated Lender in a manner that is less favorable in any material respect to such Affiliated Lender than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Borrower. The Lenders and each Affiliated Lender that is not an Affiliated Debt Fund agree and acknowledge that the provisions set forth in this Section 11.07(j) and the related provisions set forth in each Assignment and Assumption entered into by an Affiliated Lender constitute a “subordination agreement” as such term is contemplated

by, and utilized in, Section 510(a) of the United States Bankruptcy Code, and, as such, would be enforceable for all purposes in any case where Holdings, the Borrower or any Restricted Subsidiary has filed for protection under any law relating to bankruptcy, insolvency or reorganization or relief of debtors applicable to Holdings, the Borrower or such Restricted Subsidiary, as applicable. Each Affiliated Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender (solely in respect of Term Loans and participations therein and not in respect of any other claim or status such Affiliated Lender may otherwise have), from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to vote on behalf of such Affiliated Lender as set forth in this Section 11.07(j).

(k) Resignation of Swing Line Lender and Issuing Bank. Notwithstanding anything to the contrary contained herein, any Issuing Bank or the Swing Line Lender may, upon thirty days' notice to the Borrower and the Revolving Lenders, resign as an Issuing Bank or the Swing Line Lender, respectively; *provided* that on or prior to the expiration of such 30-day period with respect to such resignation, the relevant Issuing Bank or the Swing Line Lender shall have identified a successor Issuing Bank or Swing Line Lender reasonably acceptable to the Borrower willing to accept its appointment as successor Issuing Bank or Swing Line Lender hereunder. In the event of any such resignation of an Issuing Bank or the Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders willing to accept such appointment a successor Issuing Bank or Swing Line Lender hereunder; *provided* that no failure by the Borrower to appoint any such successor shall affect the resignation of the relevant Issuing Bank or the Swing Line Lender, as the case may be, except as expressly provided above. If an Issuing Bank resigns as an Issuing Bank, it shall retain all the rights and obligations of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank and all Letter of Credit Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Letters of Credit pursuant to Section 2.04(c)). If the Swing Line Lender resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.03(c). Upon the appointment by the Borrower of a successor Issuing Bank or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank or Swing Line Lender, as applicable, (ii) the retiring Issuing Bank or Swing Line Lender, as applicable, shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Bank to effectively assume the obligations of the retiring Issuing Bank with respect to such Letters of Credit.

(l) Assignments to Borrower, etc.

(i) Any Lender may, so long as no Event of Default has occurred and is continuing or would result therefrom, assign all or a portion of its rights and obligations with respect to the Term Loans and the Term Loan Commitments under this Agreement to Holdings, the Borrower or any of its Subsidiaries through (i) Dutch auctions open to all Lenders in accordance with the procedures set forth on Exhibit L or (ii) open market purchase on a non-pro rata basis, in each case subject to the following limitations: *provided*, that:

(A) if the assignee is Holdings or a Restricted Subsidiary of the Borrower, upon such assignment, transfer or contribution, the applicable assignee shall 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

(B) if the assignee is the Borrower (including through contribution or transfers set forth in clause (A) above), (1) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred to the Borrower shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer and (2) the Borrower shall promptly provide notice to the Administrative Agent of such contribution, assignment or transfer of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register; and

(C) if the proceeds of any Revolving Loans are used to finance such purchase and assignment, on a Pro Forma Basis for such assignment the Borrower's Liquidity equals or exceeds 33% of the Revolving Commitments (whether or not drawn) as of the date of determination.

(ii) Any Affiliated Lender may, in its discretion (but is not required to), assign all or a portion of its rights and obligations with respect to the Term Loans and the Term Loan Commitments under this Agreement to Holdings, the Borrower or any of its Subsidiaries (regardless of whether any Default or Event of Default has occurred and is continuing or would result therefrom), on a non-*pro rata* basis, for purposes of cancelling such Term Loans or Term Loan Commitments, which may include contribution (with the consent of the Borrower) to the Borrower (whether through any of its direct or indirect parent entities or otherwise) in exchange for (A) debt on a dollar-for-dollar basis or (B) Equity Interests of the Borrower (or any of its direct or indirect parent entities) that are otherwise permitted to be incurred or issued by the Borrower (or such direct or indirect parent entity) at such time.

(m) Fronted Delayed Draw Term Loans Notwithstanding anything herein to the contrary, assignments pursuant to and in accordance with Section 2.06(b) shall be permitted and shall not be subject to any of the restrictions set forth in this Section 11.07.

SECTION 11.08 Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed,

(a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (a) but only to the extent that a list of such Disqualified Lender is available to all Lenders upon request),

(b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including the Federal Reserve Bank or any other central bank or any self-regulatory authority, such as the National Association of Insurance Commissioners),

(c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, *provided* that the Administrative Agent, the Collateral Agent, such Lead Arranger or such Lender or such Issuing Bank, as applicable, agrees that it will notify the Borrower as soon as practicable in the

event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation,

(d) to any other party hereto (it being understood that in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (d) but only to the extent that a list of such Disqualified Lenders is available to all Lenders),

(e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder,

(f) subject to an agreement containing provisions at least as restrictive as those of this Section 11.08 (it being understood that in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (f) but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request), to (i) any *bona fide* assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and their obligations,

(g) with the prior written consent of the Borrower,

(h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender), or

(i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 11.08 or (ii) becomes available to the Administrative Agent, the Collateral Agent, any Lead Arranger, any Lender, any Issuing Bank, or any of their respective Affiliates on a non-confidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Person to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

In addition, each of the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Issuing Banks and the Lenders may disclose the existence of this Agreement and the information about this Agreement to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Loans, market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Issuing Banks and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

For purposes of this Section 11.08, “**Information**” means all information received from or on behalf of any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, the Collateral Agent or any Lender on a non-confidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that all information received from Holdings, the Borrower or any Subsidiary after the date hereof shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, the Lead Arrangers and the Lenders acknowledges that (A) the Information may include Private-Side Information concerning Holdings, the Borrower or a Subsidiary, as the case may be, (B) it has developed compliance procedures regarding the use of Private-Side Information and (C) it will handle such Private-Side Information in accordance with applicable Law, including United States Federal and state securities Laws.

Notwithstanding anything to the contrary therein, nothing in any Loan Document shall require Holdings or any of their subsidiaries to provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by applicable Law, (iii) that is subject to attorney client or similar privilege or constitutes attorney work product or (iv) the disclosure of which is restricted by binding agreements not entered into primarily for the purpose of qualifying for the exclusion in this clause (iv).

SECTION 11.09 Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, without notice to any Loan Party or to any other Person (other than the Administrative Agent), any such notice being hereby expressly waived, 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, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or such Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank, the Letters of Credit and participations therein, irrespective of whether or not (a) such Lender or such Issuing Bank shall have made any demand under this Agreement or any other Loan Document and (b) the principal of or the interest on the Loans or any amounts in respect of the Letters of Credit or any other amounts due hereunder shall have become due and payable pursuant to Article II and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Sections 2.15 and 2.19 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, the Issuing Banks, and the Lenders, and (ii) 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 and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank or Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 11.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents with respect to any of the Obligations, shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "**Maximum Rate**"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an 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. If the rate of interest under this Agreement at any time exceeds the Maximum Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Maximum Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Maximum Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lenders and the Borrower to conform strictly to any applicable usury laws.

SECTION 11.11 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging (including in.pdf or .tif format) means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 11.12 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 11.13 Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent, each Issuing Bank and each Lender, regardless of any investigation made by the Administrative Agent, any Issuing Bank or any Lender or on their behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default at the time of any Borrowing or issuance of a Letter of Credit, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit remain outstanding. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 3.01, 3.04, 3.05, 11.04, 11.05 and 11.09 and the agreements of the Lenders set forth in Sections 2.15, 10.03 and 10.07 shall survive the satisfaction of the Termination Conditions, and the termination hereof.

SECTION 11.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable in any jurisdiction, (a) the legality, validity and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of

this Section 11.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, any Issuing Bank or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 11.15 GOVERNING LAW.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF ANY UNITED STATES FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ACTIONS BY ANY AGENT IN RESPECT OF RIGHTS UNDER ANY SECURITY AGREEMENT GOVERNED BY A LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK OR WITH RESPECT TO ANY COLLATERAL SUBJECT THERETO), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

SECTION 11.16 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) HEREBY IRREVOCABLY 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 OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON 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 BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 11.16 AND EXECUTED BY EACH OF THE PARTIES HERETO AND THE LEAD ARRANGERS), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

SECTION 11.17 Limitation of Liability. The Loan Parties agree that no Indemnitee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnitee's gross negligence or willful misconduct or bad faith or breach by such Indemnitee of its material obligations under this Agreement. In no event, shall any party hereto, any Loan Party or any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings) (other than, in the case of the Borrower, in respect of any such damages incurred or paid by an Indemnitee to a third party). Each party hereto (and by its acceptance of its appointment in such capacity, each Lead Arranger) hereby waives, releases and agrees (each for itself and on behalf of its Subsidiaries) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

SECTION 11.18 Use of Name, Logo, Etc. Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or any Lead Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name,

product photographs, logo or Trademark; *provided* that any such Trademarks or logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Borrower or any of its Subsidiaries or the reputation or goodwill of any of them. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and such Lead Arranger, as applicable.

SECTION 11.19 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act 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, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each 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. Each Loan Party shall, 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.

SECTION 11.20 Service of Process. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 11.21 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), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding that: (a) (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Agents, the Lenders, the Issuing Banks, the Swing Line Lender and the Lead Arrangers on the one hand, and the Loan Parties and their Affiliates, on the other hand, (ii) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Loan Parties is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Agents, the Issuing Banks, the Swing Line Lender and the Lead Arrangers are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, its stockholders or its Affiliates (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters), or any other Person and (ii) none of the Agents, the Issuing Banks, the Swing Line Lender, the Lead Arrangers nor any Lender has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Issuing Banks, the Swing Line Lender, the Lead Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates, and none of the Agents, the Issuing Banks, the Swing Line Lender, the Lead Arrangers nor any Lender has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Agents, the Issuing Banks, the Swing Line Lender, the Lead Arrangers or any Lender with

respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 11.22 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower, Holdings and the Administrative Agent and the Administrative Agent shall have been notified by each Lender and each Issuing Bank that each such Lender or each such Issuing Bank has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, Holdings, each Agent, each Lender and each Issuing Bank and their respective successors and assigns.

SECTION 11.23 Obligations Several; Independent Nature of Lender's Rights. The obligations of the Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by the Lenders pursuant hereto or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

SECTION 11.24 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 11.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and
- (b) the effects of any Bail-in Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MISTER CAR WASH HOLDINGS, INC., as Borrower

By: /s/ Bruce A. Schumacher

Name: Bruce A. Schumacher

Title: Treasurer

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

By: /s/ Bruce A. Schumacher
Name: Bruce A. Schumacher
Title: Treasurer

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

JEFFERIES FINANCE LLC, as Administrative Agent and
Collateral Agent

By: /s/ Brian Buoye
Name: Brian Buoye
Title: Managing Director

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

JEFFERIES FINANCE LLC, as Term Lender (including with respect to the Initial Term Loans and Delayed Draw Commitments), Revolving Lender, Swing Line Lender and Issuing Bank

By: /s/ Brian Buoye
Name: Brian Buoye
Title: Managing Director

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

BANK OF MONTREAL, as Revolving Lender and Issuing
Bank

By: /s/ Philip Langheim
Name: Philip Langheim
Title: Managing Director

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

UBS AG, STAMFORD BRANCH, as Revolving Lender
and Issuing Bank

By: /s/ Darlene Arias
Name: Darlene Arias
Title: Director

By: /s/ Robert Khan
Name: Robert Khan
Title: Associate Director

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

NOMURA CORPORATE FUNDING AMERICAS, LLC,
as Revolving Lender and Issuing Bank

By: /s/ Garrett P. Carpenter

Name: Garrett P. Carpenter

Title: Managing Director

[SIGNATURE PAGE TO FIRST LIEN CREDIT AGREEMENT]

**AMENDMENT NO. 1
TO
AMENDED AND RESTATED FIRST LIEN CREDIT AGREEMENT**

This AMENDMENT NO. 1 to the Amended and Restated First Lien Credit Agreement, dated as of February 5, 2020 (this "*Amendment*"), is entered into among MISTER CAR WASH HOLDINGS, INC., a Delaware corporation (the "*Borrower*"), HOTSHINE INTERMEDIATECO, INC., a Delaware corporation ("*Holdings*"), the Guarantors listed on the signature pages hereto, JEFFERIES FINANCE LLC, as the initial New Lender (as defined below) and JEFFERIES FINANCE LLC, as administrative agent (in such capacity and including any successors in such capacity, the "*Administrative Agent*"), and amends the Amended and Restated First Lien Credit Agreement, dated as of May 14, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "*Original Credit Agreement*," as amended by this Amendment, the "*Amended Credit Agreement*"), entered into among the Borrower, Holdings, the institutions from time to time party thereto as Lenders (the "*Lenders*") and Jefferies Finance LLC, as Administrative Agent and Collateral Agent. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Amended Credit Agreement.

WITNESSETH:

WHEREAS, the Borrower has requested that the Original Credit Agreement be amended to effect the changes described below;

WHEREAS, pursuant to Section 11.01 of the Original Credit Agreement, (a) the consent of the Borrower and the Required Facility Lenders, and the acknowledgement of the Administrative Agent, on the Amendment No. 1 Effective Date (as defined below) is required to effect this Amendment and the amendments set forth herein and (b) the consent of the Borrower and each Lender directly and adversely affected thereby, and the acknowledgement of the Administrative Agent, on the Amendment No. 1 Effective Date, is required to effect certain amendments set forth herein;

WHEREAS, each Lender holding Term Loans (the "*Existing Term Loans*") and Delayed Draw Commitments (the "*Existing Delayed Draw Commitments*"), in each case, immediately prior to the Amendment No. 1 Effective Date (the Lenders with Existing Term Loans and Delayed Draw Commitments, the "*Existing Term Lenders*") that executes and delivers an executed Consent (as defined below) by the Consent Deadline (as defined below) will have agreed to the terms of this Amendment upon the effectiveness of this Amendment on the Amendment No. 1 Effective Date;

WHEREAS, this Amendment is an amendment made with the consent of the Term Loan Lenders and Lenders holding Delayed Draw Commitments (after giving effect to the assignments described in Section 5 to the initial New Lender) and the Loan Parties, and acknowledgement of the Administrative Agent, pursuant to Section 11.01 of the Original Credit Agreement; and

WHEREAS, the Borrower has requested that Jefferies Finance LLC act as Lead Arranger (the "*Lead Arranger*") in connection with this Amendment.

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

Section 1. Amendments To The Credit Agreement

The Original Credit Agreement is, effective as of the Amendment No. 1 Effective Date, hereby amended to:

(a) replace subsection (a) of the definition of "Applicable Rate" set forth in Section 1.01 of the Original Credit Agreement with the following:

""**Applicable Rate**" means:

(a) with respect to Initial Term Loans and Delayed Draw Term Loans, (x) prior to February 5, 2020, a percentage *per annum* equal to (i) for Eurocurrency Rate Loans, 3.50% and (ii) for Base Rate Loans, 2.50% and (y) from and after February 5, 2020, a percentage *per annum* equal to (i) for Eurocurrency Rate Loans, 3.25% and (ii) for Base Rate Loans, 2.25%; *provided* that from and after the third Business Day after the date on which the Administrative Agent shall have received the applicable financial statements and a Compliance Certificate pursuant to Section 6.02(a) calculating the First Lien Net Leverage Ratio in respect of the first full fiscal quarter ending after March 31, 2020, the "Applicable Rate" for Initial Term Loans shall be the applicable rate *per annum* set forth below under the caption "Alternate Base Rate Spread" or "Eurodollar Rate Spread," respectively, based upon the First Lien Net Leverage Ratio as of the last day of the most recent Test Period as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

First Lien Net Leverage Ratio	Alternate Base Rate Spread	Eurodollar Rate Spread
Above 4.25 to 1.00	2.25%	3.25%
Equal to or below 4.25 to 1.00	2.00%	3.00%

(b) replace Section 2.11(g) of the Original Credit Agreement with the following:

"At the time of the effectiveness of any Repricing Event that is consummated during the period commencing on February 5, 2020 and ending on the day immediately prior to the date that is six months after February 5, 2020, the Borrower agrees to pay to the Administrative Agent, for the ratable account of each Lender with Initial Term Loans or Delayed Draw Term Loans that are either repaid, converted or subjected to a pricing reduction in connection with such Repricing Event (including each Lender that withholds its consent to such Repricing Event and is replaced as a Non-Consenting Lender under

Section 3.07), a fee in an amount equal to 1.0% of (i) in the case of a Repricing Event described in clause (a) of the definition thereof, the aggregate principal amount of all Initial Term Loans and Delayed Draw Term Loans prepaid (or converted) in connection with such Repricing Event and (ii) in the case of a Repricing Event described in clause (b) of the definition thereof, the aggregate principal amount of all Initial Term Loans and Delayed Draw Term Loans outstanding on such date that are subject to an effective pricing reduction pursuant to such Repricing Event. Such fees shall be earned, due and payable upon the date of the effectiveness of such Repricing Event. Notwithstanding anything to the contrary herein or in any other Loan Document, each Lender hereby agrees to waive any amounts payable by the Borrower pursuant to Section 3.05 that would have resulted from a refinancing of this Agreement or a Repricing Event.”

Section 2. Conditions Precedent To The Effectiveness Of This Amendment

This Amendment shall become effective as of the date first written above when, and only when, each of the following conditions precedent shall have been satisfied or waived (the “*Amendment No. 1 Effective Date*”):

(a) *Executed Counterparts.* The Administrative Agent shall have received this Amendment, duly executed by the Borrower, Holdings, the Guarantors listed on the signature pages hereto, the initial New Lender and the Administrative Agent;

(b) *Executed Consents.* The Administrative Agent shall have received a consent (“*Consent*”) in the form of Exhibit A to this Amendment, duly executed by each Lender (including each replacement financial institution that becomes a Lender pursuant to Section 3.07 of the Credit Agreement, but excluding any Non-Consenting Lender (as defined below)) by 12:00 p.m., New York City time on February 3, 2020 (the “*Consent Deadline*”);

(c) *Officer’s Certificate.* The Administrative Agent shall have received a certification by a Responsible Officer of the Borrower that the conditions specified in clauses (d) and (e) below have been satisfied;

(d) *No Default.* After giving effect to this Amendment, no Default or Event of Default shall have occurred and be continuing as of the date hereof or on the Amendment No. 1 Effective Date;

(e) *Representations and Warranties.* The representations and warranties in the Loan Documents will be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) on and as of the Amendment No. 1 Effective Date; *provided, however*, that references therein to the “Credit Agreement” shall be deemed to refer to the Credit Agreement as amended hereby and after giving effect to the consents and waivers set forth herein;

(f) *Other Fees and Expenses Paid.* On or prior to the date hereof, the Borrower shall have paid (i) all reasonable and documented and invoiced out-of-pocket costs and expenses of the Lead Arranger and the Administrative Agent required to be paid or reimbursed by the Borrower as separately agreed by the Borrower, the Lead Arranger and the Administrative Agent in connection with the preparation, reproduction, execution and delivery of this Amendment

(including, without limitation, the reasonable and documented and invoiced fees and out-of-pocket expenses of counsel for Lead Arranger and the Administrative Agent with respect thereto) that have been invoiced on or prior to the date hereof and (ii) all other fees then due and payable to the Lead Arranger and the Administrative Agent in connection with this Amendment; and

(g) *KYC*. The Lead Arranger shall have received at least three (3) Business Days prior to the Amendment No. 1 Effective Date a certification regarding beneficial ownership required by 31 C.F.R. § 1010.230 and all documentation and other information about the Loan Parties reasonably requested in writing by it at least ten (10) Business Days prior to the Amendment No. 1 Effective Date in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act.

(h) *Payment of Accrued Interest and Fees*. The Borrower shall pay to each Lender (including, for the avoidance of doubt, Non-Consenting Lenders (as defined below) holding Existing Term Loans and Existing Delayed Draw Commitments immediately prior to the Amendment No. 1 Effective Date, all accrued and unpaid interest and fees (including commitment fees) on the applicable Existing Term Loans and Existing Delayed Draw Commitments held by such Lender to, but not including, the Amendment No. 1 Effective Date.

Section 3. Reference To The Effect On The Loan Documents

(a) As of the Amendment No. 1 Effective Date, each reference in the Amended Credit Agreement to “*this Agreement*,” “*hereunder*,” “*hereof*” “*herein*” or words of like import, and each reference in the other Loan Documents to the “*Credit Agreement*” (including, without limitation, by means of words like “*thereunder*,” “*thereof*” and words of like import), shall mean and be a reference to the Amended Credit Agreement, and this Amendment and the Amended Credit Agreement shall be read together and construed as a single instrument.

(b) Except as expressly amended hereby or specifically waived above, all of the terms and provisions of the Original Credit Agreement and all other Loan Documents are and shall remain in full force and effect and are hereby ratified and confirmed.

(c) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of the Lenders, the Borrower or the Administrative Agent under any of the Loan Documents, nor constitute a waiver or amendment of any other provision of any of the Loan Documents or for any purpose except as expressly set forth herein.

(d) This Amendment is a Loan Document.

Section 4. Representations And Warranties

On and as of the Amendment No. 1 Effective Date, after giving effect to this Amendment, the Borrower hereby represents and warrants to the Administrative Agent and each Lender (including the initial New Lender) as follows:

(a) this Amendment has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding obligations of the Borrower enforceable

against the Borrower in accordance with its terms and the Original Credit Agreement, as amended by this Amendment, constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or similar laws of general applicability relating to or limiting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law;

(b) each of the representations and warranties contained in Article V (Representations and Warranties) of the Original Credit Agreement and each other Loan Document is true and correct in all material respects (and in all respects if qualified by materiality) on and as of the Amendment No. 1 Effective Date, as if made on and as of such date and except to the extent that such representations and warranties specifically relate to a specific date, in which case such representations and warranties shall be true and correct in all material respects (and in all respects if qualified by materiality) as of such specific date; *provided, however*, that references therein to the "*Credit Agreement*" shall be deemed to refer to the Original Credit Agreement as amended hereby and after giving effect to the consents and waivers set forth herein; and

(c) no Default or Event of Default has occurred and is continuing.

Section 5. *New Lenders And Non-Consenting Lenders*

(a) If any Existing Term Lender (each a "*Non-Consenting Lender*") declines or fails to consent to this Amendment by failing to return an executed Consent to the Administrative Agent prior to the Consent Deadline or elects to assign a portion of its then outstanding Term Loans or Delayed Draw Commitments as provided in its executed Consent, then pursuant to and in compliance with the terms of Section 3.07 of the Original Credit Agreement, such Non-Consenting Lender may be replaced and its commitments and/or obligations (or a portion thereof) purchased and assumed by either a new lender (a "*New Lender*") or an existing Lender which is willing to increase its then outstanding Term Loans or Delayed Draw Commitments. For the avoidance of doubt, each Non-Consenting Lender will be deemed to have (i) executed and delivered an Assignment and Assumption for all of its then outstanding Term Loans and Delayed Draw Commitments and (ii) delivered any Notes or other documentation evidencing its then outstanding Term Loans or Delayed Draw Commitments to the Borrower or Administrative Agent.

(b) The initial New Lender hereby (i) confirms that it has received a copy of the Amended Credit Agreement and the other Loan Documents and the exhibits thereto, together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Amendment, (ii) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Amended Credit Agreement, and (iii) appoints and authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under the Amended Credit Agreement and the other Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto.

(c) The Administrative Agent hereby (i) consents to this Amendment and consents to the assignment of the then outstanding Term Loans and Delayed Draw Commitments of each Non-Consenting Lender to the initial New Lender in accordance with Section 11.07 of the Amended Credit Agreement and (ii) agrees that no assignment fees specified in Section 11.07 of the Amended Credit Agreement shall be required to be paid by the Borrower in connection with such assignment.

(d) For the avoidance of doubt, all Existing Term Loans shall continue to be outstanding as Term Loans and all Existing Delayed Draw Commitments shall continue to be outstanding as Delayed Draw Commitments, in each case, under the Amended Credit Agreement on and after the Amendment No. 1 Effective Date, subject to the terms of this Amendment and for the avoidance of doubt the Term Loans and Delayed Draw Commitments shall continue as the same Class of Term Loans and Delayed Draw Commitments, as applicable, for all purposes under the Amended Credit Agreement.

Section 6. Reaffirmation

Each Loan Party hereby expressly acknowledges the terms of this Amendment and reaffirms, as of the date hereof, (a) the covenants and agreements contained in each Loan Document to which it is a party, including, in each case, such covenants and agreements as in effect immediately after giving effect to this Amendment and the transactions contemplated hereby and (b) its guarantee of the Obligations under the Guaranty and its grant of Liens on the Collateral to secure the Obligations pursuant to the Collateral Documents. Neither the modification of the Original Credit Agreement effected pursuant to this Amendment nor the execution, delivery, performance or effectiveness of this Amendment (i) impairs the validity, effectiveness or priority of the Liens granted pursuant to any Loan Document, and such Liens continue unimpaired with the same priority to secure repayment of all Obligations, whether heretofore or hereafter incurred; or (ii) requires that any new filings be made or other action taken to perfect or to maintain the perfection of such Liens. Nothing herein shall be construed as a substitution or novation obligation outstanding under the Original Credit Agreement, the Collateral Documents or the other Loan Documents.

Section 7. Fees And Expenses; Indemnity; No Fiduciary Duty

The Borrower agrees to pay, in accordance with the terms of Section 11.04 of the Original Credit Agreement, all reasonable out-of-pocket costs and expenses of the Lead Arranger and the Administrative Agent in connection with the preparation, reproduction, execution and delivery of this Amendment (including, without limitation, the reasonable and documented fees and out-of-pocket expenses of counsel for the Lead Arranger and the Administrative Agent with respect thereto). Sections 11.04 and 11.05 the Original Credit Agreement are incorporated by reference herein as if such Sections appeared herein, and shall apply to the activities of the Lead Arranger in connection with this Amendment, *mutatis mutandis*.

Section 8. Execution In Counterparts

This Amendment may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original

and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are attached to the same document. Delivery of an executed counterpart by telecopy shall be effective as delivery of a manually executed counterpart of this Amendment.

Section 9. Governing Law

THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING, WITHOUT LIMITATION, ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POSTJUDGMENT INTEREST) SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 10. Section Titles

The section titles contained in this Amendment are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto, except when used to reference a section.

Section 11. Notices

All communications and notices hereunder shall be given as provided in the Amended Credit Agreement.

Section 12. Severability

The fact that any term or provision of this Agreement is held invalid, illegal or unenforceable as to any person in any situation in any jurisdiction shall not affect the validity, enforceability or legality of the remaining terms or provisions hereof or the validity, enforceability or legality of such offending term or provision in any other situation or jurisdiction or as applied to any person.

Section 13. Successors

The terms of this Amendment shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

Section 14. Jurisdiction; Waiver Of Jury Trial

The jurisdiction and waiver of right to trial by jury provisions in Section 11.15 and Section 11.16, respectively, of the Amended Credit Agreement are incorporated herein by reference *mutatis mutandis*.

Section 15. New Lender

From and after the date of this Amendment, by execution of this Amendment, the initial New Lender hereby acknowledges, agrees and confirms that, by its execution of this

Amendment, such Person will be deemed to be a party to the Credit Agreement and a “Lender” for all purposes of the Amended Credit Agreement and shall have all of the rights and obligations of a Lender thereunder as if it had executed the Original Credit Agreement.

[SIGNATURE PAGES FOLLOW]

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

MISTER CAR WASH HOLDINGS, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

HOTSHINE INTERMEDIATECO, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CAR WASH PARTNERS, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWP ASSET CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWPS CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

[Signature Page to Mister Car Wash Holdings, Inc. Credit Agreement Amendment No. 1]

CWPS WEST CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWPU CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWP MANAGEMENT CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CAR WASH HEADQUARTERS, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

MCW GC, LLC

By: **CAR WASH PARTNERS, INC.**, its manager

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWP CALIFORNIA CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer and Chief Financial Officer

PS ACQUISITION SUB CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

PRIME SHINE, LLC

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

[Signature Page to Mister Car Wash Holdings, Inc. Credit Agreement Amendment No. 1]

JEFFERIES FINANCE LLC,
as initial New Lender

By: /s/ Paul Chisholm
Name: Paul Chisholm
Title: Managing Director

[Signature Page to Mister Car Wash Holdings, Inc. Credit Agreement Amendment No. 1]

JEFFERIES FINANCE LLC,
as Administrative Agent

By: /s/ Paul Chisholm
Name: Paul Chisholm
Title: Managing Director

[Signature Page to Mister Car Wash Holdings, Inc. Credit Agreement Amendment No. 1]

EXHIBIT A

CONSENT TO AMENDMENT NO. 1

CONSENT (this "Consent") TO AMENDMENT NO. 1 ("Amendment") to the Amended and Restated First Lien Credit Agreement, dated as of May 14, 2019 (as amended to the date hereof and as the same may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement") entered into among the Borrower, Holdings, the institutions from time to time party thereto as Lenders (the "Lenders"), the Administrative Agent and the Collateral Agent. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Amendment.

Date of Credit Agreement: May 14, 2019

Fill in existing position (if any): \$ _____

Check the first or second box below

- Consent:**
The undersigned Lender (including any New Lender) hereby irrevocably and unconditionally approves of and consents to the Amendment with respect to all Term Loans and Delayed Draw Commitments held by such Lender.
- Decline:**
The undersigned Lender declines to participate and elects to have all of the outstanding principal amount of the Term Loans and all of the outstanding Delayed Draw Commitments held by such Lender be assigned on the Amendment No. 1 Effective Date to a New Lender and is hereby deemed to execute the Assignment and Assumption.

Name of Lender: _____

by _____
Name:
Title:

For any institution requiring a second signature line:

by _____
Name:
Title:

**LENDER CONSENTS ON FILE WITH
ADMINISTRATIVE AGENT**

SECOND LIEN CREDIT AGREEMENT

dated as of May 14, 2019

by and among

MISTER CAR WASH HOLDINGS, INC.,
as Borrower

HOTSHINE INTERMEDIATECO, INC.,
as Holdings

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Administrative Agent and Collateral Agent

and

THE LENDERS PARTY HERETO

Crescent Capital Group, L.P.,
as Lead Arranger

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SECOND LIEN CREDIT AGREEMENT

This SECOND LIEN CREDIT AGREEMENT is entered into as of May 14, 2019, by and among MISTER CAR WASH HOLDINGS, INC., a Delaware corporation (the “**Borrower**”), HOTSHINE INTERMEDIATECO, INC., a Delaware corporation (“**Holdings**”), WILMINGTON TRUST, NATIONAL ASSOCIATION (“**Wilmington**”), as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”) and as collateral agent (in such capacity, including any successor thereto, the “**Collateral Agent**”) under the Loan Documents, and each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, a “**Lender**”).

PRELIMINARY STATEMENTS

The Borrower has requested that substantially simultaneously with the satisfaction of the conditions precedent set forth in Article IV below, the Lenders extend credit to the Borrower in the form of \$225,000,000.00 of Initial Term Loans pursuant to the terms of this Agreement.

On the Closing Date, the Borrower will enter into the First Lien Credit Agreement pursuant to which the lenders party thereto will extend credit to the Borrower in the form of \$800,000,000 of initial term loans, \$40,000,000 of delayed draw term loan commitments and \$75,000,000 of revolving commitments on the Closing Date, in each case as first lien secured credit facilities.

The proceeds of the Initial Term Loans, together with the proceeds of the initial borrowings under the First Lien Credit Agreement, will be used on the Closing Date (a) to repay the Existing Debt, (b) to pay the Transaction Expenses, (c) for working capital and other purposes permitted by this Agreement and (d) to make the Specified Dividend.

The applicable Lenders have indicated their willingness to lend on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

Definitions and Accounting Terms

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

“**Additional Lender**” means, at any time, any bank, other financial institution or institutional investor that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Loan in accordance with Section 2.16 or (b) Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.17; *provided* that each Additional Lender (other than any Person that is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender at such time) shall be subject to the approval of the Administrative Agent (such approval not to be unreasonably withheld, conditioned or delayed), in each case to the extent any such consent would be required from the Administrative Agent under Section 11.07(b)(iii)(B) for an assignment of Loans to such Additional Lender.

“**Administrative Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Affiliate**” means, with respect to any 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. “**Control**” means 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 ability to exercise voting power, by contract or otherwise. “**Controlled**” has the meaning correlative thereto. For the avoidance of doubt, none of the Lead Arranger, the Agents or their respective lending affiliates shall be deemed to be an Affiliate of Holdings, the Borrower or any of their respective Subsidiaries.

“**Affiliated Debt Fund**” means (a) any Affiliate of a Sponsor that is *bona fide* bank, debt fund, distressed asset fund, hedge fund, mutual fund, insurance company, financial institution or an investment vehicle that is engaged in the business of investing in, acquiring or trading commercial loans, bonds and similar extensions of credit in the ordinary course, in each case, that is not organized primarily for the purpose of making equity investments and (b) any investment fund or account of a Permitted Investor managed by third parties (including by way of a managed account, a fund or an index fund in which a Permitted Investor has invested) that is not organized or used primarily for the purpose of making equity investments, in each case of clauses (a) and (b), with respect to which neither the Sponsor, nor any other Permitted Investor, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity.

“**Affiliated Lender**” means, at any time, any Lender that is either the Sponsor or an Affiliate of the Sponsor, at such time, excluding in any case, (a) Holdings, (b) the Borrower, (c) any Subsidiary of the Borrower and (d) any natural person.

“**Affiliated Lender Term Loan Cap**” has the meaning specified in Section 11.07(h)(iii).

“**Agency Fee Letter**” means the Fee Letter, dated May 14, 2019, between the Borrower and Wilmington, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms thereof.

“**Agent Parties**” has the meaning specified in Section 11.02(e).

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, shareholders, employees, agents, attorney-in-fact, partners, trustees, advisors and other representatives of such Persons and of such Persons’ Affiliates.

“**Agents**” means, collectively, the Administrative Agent, the Collateral Agent, the Supplemental Administrative Agents (if any) and the Lead Arranger.

“**Aggregate Commitments**” means the Commitments of all the Lenders.

“**Agreement**” means this Second Lien Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“**All-In Yield**” means, as to any Indebtedness or Loans of any Class, the yield thereof, determined by the Required Lenders, whether in the form of interest rate (including any eurocurrency rate or base rate floor), margin, OID or upfront fees ; *provided* that (a) OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of its incurrence of the applicable Indebtedness) and (b) “All-In Yield” shall not include any arrangement fees,

structuring fees, underwriting fees, commitment fees, amendment fees, ticking fees or any other fees similar to the foregoing (regardless of how such fees are computed or to whom paid).

“**Alternative Currencies**” means, in the case of any Incremental Term Facility, Incremental Term Loans, Refinancing Term Commitments or Refinancing Term Loans, any currency agreed to by the Administrative Agent, the Borrower and each Lender providing such Incremental Term Facility, Incremental Term Loans, Refinancing Term Commitments or Refinancing Term Loans; *provided* that, in each case, each such other currency is a lawful currency that is readily available, freely transferable and not restricted, able to be converted into Dollars and available in the London interbank deposit market.

“**Annual Financial Statements**” means the audited consolidated balance sheets of the Borrower as of December 31, 2018 and December 31, 2017, and the related consolidated statements of operations, changes in stockholders’ equity and cash flows for the Borrower for the fiscal years (or partial fiscal years) then ended.

“**Applicable Indebtedness**” has the meaning specified in the definition of “Weighted Average Life to Maturity.”

“**Applicable Rate**” means (a) with respect to Initial Term Loans, a percentage *per annum* equal to 10.0% and (b) with respect to any Term Loans (other than Initial Term Loans), as specified in the applicable Incremental Amendment, Extension Amendment or Refinancing Amendment.

“**Appropriate Lender**” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

“**Approved Fund**” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“**Asset Sale Prepayment Percentage**” means (a) 100%, if the Borrower’s Secured Net Leverage Ratio at the end of the immediately preceding fiscal year equals or exceeds the Closing Date Secured Net Leverage Ratio less 0.50 to 1.00, (b) 50%, if such Secured Net Leverage Ratio is less than the Closing Date Secured Net Leverage Ratio less 0.50 to 1.00, but equals or exceeds the Closing Date Secured Net Leverage Ratio less 1.00 to 1.00, and (c) 0%, if such Secured Net Leverage Ratio is less than the Closing Date Secured Net Leverage Ratio less 1.00 to 1.00.

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D-1 or any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by the Administrative Agent.

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

“**Attributable Indebtedness**” means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“**Auction Agent**” means (a) the Administrative Agent to the extent the Administrative Agent has agreed in writing to act in such capacity or (b) any other financial institution or advisor employed by the Borrower (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Loan Prepayment; *provided* that the Borrower shall not designate the Administrative

Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); *provided, further*, neither the Borrower nor any of its Affiliates may act as the Auction Agent.

“**Available Amount**” means, at any time (the “**Reference Date**”) with respect to the applicable Available Amount Reference Period, a cumulative amount equal to the sum of, without duplication:

(a) the greater of (A) 57.5% of Closing Date EBITDA and (B) 57.5% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination; *plus*

(b) an amount equal to, at the option of the Borrower at the time of determination, either:

(i) the sum of (x) the cumulative amount of Excess Cash Flow for such Available Amount Reference Period; *provided* that when measuring such amount (A) Excess Cash Flow will be deemed not to be less than zero in any fiscal year and (B) Excess Cash Flow for any fiscal year will be deemed to be zero until the financial statements required to be delivered pursuant to Section 6.01(a) for such fiscal year, and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a) for such fiscal year, have been received by the Administrative Agent, *minus* (y) the portion of such Excess Cash Flow that has been (or is required to be) applied to the prepayment of Term Loans or First Lien Term Loans in accordance with Section 2.07(b)(i) of the First Lien Credit Agreement or any other Senior Priority Lien Debt in accordance with the substantially equivalent provisions in the documentation governing such Senior Priority Lien Debt *minus* (z) without duplication of clause (y), the portion of such Excess Cash Flow that has been (or is required to be) applied to the prepayment of Term Loans in accordance with Section 2.07(b)(i) or any Pari Passu Lien Debt or Junior Lien Debt in accordance with the substantially equivalent provisions in the documentation governing such Pari Passu Lien Debt or Junior Lien Debt; or

(ii) 50.0% of cumulative Consolidated Net Income for such Available Amount Reference Period; *provided* that when measuring such amount (A) Consolidated Net Income will be deemed not to be less than zero in any fiscal year and (B) Consolidated Net Income for any fiscal year will be deemed to be zero until the financial statements required to be delivered pursuant to Section 6.01(a) for such fiscal year, and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a) for such fiscal year, have been received by the Administrative Agent; *plus*

(c) new public or private Permitted Equity Issuances made in return for cash or other assets and cash and Cash Equivalents to the Borrower (with non-cash contributions and Permitted Equity Issuances in exchange for assets other than cash measured at the fair market value of such non-cash contributions and Permitted Equity Issuances at the time they were made), or Net Cash Proceeds from Permitted Equity Issuances received by the Borrower during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date and, in each case, to the extent Not Otherwise Applied; *plus*

(d) to the extent not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the aggregate amount of all cash dividends and other cash distributions received by the Borrower or any Restricted Subsidiary from any Minority Investments or Unrestricted Subsidiaries during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date in respect of Investments in such Unrestricted Subsidiary or Minority Investments made by the Borrower or any Restricted Subsidiary made in reliance on the Available Amount; *plus*

(e) to the extent not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the Investments of the Borrower and its Restricted Subsidiaries in any Unrestricted Subsidiary that has been re-designated as a Restricted Subsidiary or that has been merged or consolidated with or into the Borrower or any of its Restricted Subsidiaries (up to the lesser of (i) the fair market value of such investments of the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary at the time of such re-designation or merger or consolidation and (ii) the fair market value of such investments by the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary at the time they were made); plus

(f) to the extent not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment or required to be applied to prepay Term Loans in accordance with Section 2.07(b)(ii) or First Lien Term Loans in accordance with Section 2.07(b)(ii) of the First Lien Credit Agreement or any Senior Priority Lien Debt, Pari Passu Lien Debt or Junior Lien Debt in accordance with the substantially equivalent provisions in the documentation governing such Indebtedness, the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the sale, transfer or other disposition of its ownership interest in any Minority Investment or Unrestricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date, in each case, to the extent that the original Investments in such Unrestricted Subsidiary or Minority Investments were made in reliance on the Available Amount; plus

(g) to the extent (i) not reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment and (ii) not in excess of the fair market value of such Investment at the time it was made, the returns (including repayments of principal and payments of interest), profits, distributions and similar amounts received in cash or Cash Equivalents by the Borrower and its Restricted Subsidiaries on Investments made by the Borrower or any Restricted Subsidiary in reliance on the Available Amount; plus

(h) without duplication, the sum of (i) any amount of mandatory prepayments required to be prepaid pursuant to Section 2.07(b) of the First Lien Credit Agreement that have been declined by the First Lien Lenders and retained by the Borrower in accordance with Section 2.07(b)(vii) of the First Lien Credit Agreement (to the extent not required to be prepaid pursuant to Section 2.07(b) hereof), plus (ii) any amount of mandatory prepayments required to be prepaid pursuant to Section 2.07(b) that have been declined by the Lenders in accordance with Section 2.07(b) (but only to the extent also declined by lenders of any other senior secured Indebtedness of the Borrower, in each case to the extent required to be applied to offer to repurchase or otherwise prepay such Indebtedness); plus

(i) at any time on or after the Disposition Date, any amount of Net Cash Proceeds from Dispositions or Casualty Events not required to be applied to a mandatory prepayment pursuant to Section 2.07(b)(ii) or Section 2.07(b)(ii) of the First Lien Credit Agreement; minus

(j) the aggregate amount of any Investments made pursuant to Section 7.02(e)(ii), any Restricted Payments made pursuant to Section 7.06(o)(ii) and any payment made pursuant to Section 7.10(a)(v)(B) during the period commencing on the Closing Date and ending on the Reference Date (and, for purposes of this clause (j), without taking account of the intended usage of the Available Amount on such Reference Date in the contemplated transaction).

Notwithstanding anything to the contrary, to the extent any Excess Cash Flow is not applied to make a prepayment pursuant to Section 2.07(b)(i) by virtue of the application of Section 2.07(b)(vi) (or not applied to make a prepayment of First Lien Term Loans pursuant to Section 2.07(b)(i) of the First Lien Credit Agreement by virtue of the application of Section 2.07(b)(vi) of the First Lien Credit Agreement or the substantially equivalent provision in any Senior Priority Lien Debt, Pari Passu Lien Debt or Junior Lien Debt), such Excess Cash Flow shall not under any circumstances increase the Available Amount.

“**Available Amount Reference Period**” means, with respect to any Reference Date, the period commencing on (i) with respect to the calculation of clause (b) of the definition of “Available Amount,” the first Business Day of fiscal year 2020 and ending on the last day of the most recent fiscal year for which financial statements required to be delivered pursuant to Section 6.01(a), and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a), have been received by the Administrative Agent and (ii) with respect to the calculation of “Available Amount” (other than clause (b) of the definition thereof) the day after the Closing Date through and including the Reference Date.

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

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

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

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

“**Benefit Plan**” means 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 of Directors**” means, as to any Person, the board of directors, board of managers or other governing body of such Person, or if such Person is owned or managed by a single entity, the board of directors, board of managers or other governing body of such entity, and the term “directors” means members of the Board of Directors.

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

“**Borrower Materials**” has the meaning specified in Section 6.02.

“**Borrowing**” means a borrowing consisting of Loans of the same Class made, converted or continued on the same date.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York City.

“**Capital Expenditures**” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Leases) by the Borrower and the Restricted Subsidiaries during such period that, in

conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of the Borrower and the Restricted Subsidiaries.

“**Capitalized Lease Obligation**” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“**Capitalized Leases**” means all capital and finance leases that have been or are required to be, in accordance with GAAP as in effect on the Closing Date, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP as in effect on the Closing Date.

“**Captive Insurance Subsidiary**” means any Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Subsidiary thereof).

“**Cash Collateral Account**” means an account held at, and subject to the sole dominion and control of, the Collateral Agent.

“**Cash Collateralize**” means, in respect of an Obligation, to provide and pledge (as a second priority perfected security interest subject to the first priority Lien of the First Lien Collateral Agent) cash collateral in Dollars, at a location and pursuant to documentation in form and substance satisfactory to Administrative Agent (and “**Cash Collateralization**” has a corresponding meaning). “**Cash Collateral**” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“**Cash Equivalents**” means any of the following types of Investments (including for the avoidance of doubt, cash), to the extent owned by the Borrower or any Restricted Subsidiary:

- (a) Dollars and each Alternative Currency;
- (b) local currencies held by the Borrower or any Restricted Subsidiary from time to time in the ordinary course of business and not for speculation;
- (c) readily marketable direct obligations issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 12 months or less from the date of acquisition;
- (d) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than \$500,000,000 (or the foreign currency equivalent thereof as of the date of such investment);
- (e) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clause (h) below entered into with any financial institution meeting the qualifications specified in clause (d) above;

(f) commercial paper rated at least P-2 by Moody's or at least A-2 by S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and in each case maturing within 12 months after the date of creation thereof;

(g) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(h) readily marketable direct obligations issued by any state, commonwealth or territory of the United States or any political subdivision or taxing authority thereof, in each case having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition;

(i) 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 neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(j) investment funds investing substantially all of their assets in securities of the types described in clauses (a) through (i) above; and

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

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a jurisdiction outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (j) above in foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (j) above and in this paragraph. Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clause (a) or (b) above; *provided* that such amounts, except amounts used to pay obligations of the Borrower or any Restricted Subsidiary denominated in any currency other than Dollars or an Alternative Currency in the ordinary course of business, are converted into Dollars or an Alternative Currency as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"Cash Management Obligations" means "Cash Management Obligations" as defined in the First Lien Credit Agreement.

"Casualty Event" means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement), (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173), all Laws relating thereto, all interpretations and applications thereof and any compliance by a Lender with any and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof or relating thereto and (ii) all requests, rules, guidelines, requirements or directives issued by any United States or foreign regulatory authority in connection with the implementation of the recommendations of the Bank for International Settlements or the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to be adopted subsequent to the date hereof and a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

“Change of Control” means the earliest to occur of:

(a) either:

(i) at any time prior to the consummation of a Qualifying IPO, the Permitted Holders ceasing to beneficially own (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), in the aggregate, directly or indirectly, a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Holdings (or Successor Holdings, if applicable); or

(ii) at any time upon or after the consummation of a Qualifying IPO, any Person (other than a Permitted Holder) or Persons (other than one or more Permitted Holders) constituting a “group” (as such term is used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person and its Subsidiaries, and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becoming the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of Equity Interests representing more than thirty-five percent of the aggregate ordinary voting power represented by the then issued and outstanding Equity Interests of Holdings (or Successor Holdings, if applicable) and the percentage of aggregate ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests of Holdings (or Successor Holdings, if applicable) beneficially owned (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, in the aggregate by the Permitted Holders,

unless, in the case of either clause (a)(i) or (a)(ii) above, the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election 50% or more of the Board of Directors of Holdings or Successor Holdings, if applicable;

(b) after giving effect to the Transactions on the Closing Date, the Borrower ceasing to be a direct wholly owned Subsidiary of Holdings (or Successor Holdings, if applicable); and

(c) a Change of Control or similar event occurring under (i) the First Lien Credit Agreement (or the documentation in respect of any Permitted Refinancing of the First Lien Term

Loans or any other Senior Priority Lien Debt), (ii) the documentation in respect of any Credit Agreement Refinancing Indebtedness and/or (iii) any Junior Financing Documentation in respect of any Indebtedness or the documentation governing any Junior Lien Debt, in each case with respect to this clause (c), having an aggregate outstanding principal amount equal to or greater than the Threshold Amount.

“**Class**” when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans, Incremental Term Loans, Refinancing Term Loans, or Extended Term Loans, (b) any Commitment, refers to whether such Commitment is a Commitment in respect of Initial Term Loans made to the Borrower pursuant to Section 2.01(a), Refinancing Term Commitment (and, in the case of a Refinancing Term Commitment, the Class of Loans to which such commitment relates), or a Commitment in respect of a Class of Loans to be made pursuant to an Incremental Amendment or an Extension Amendment and (c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Refinancing Term Commitments, Refinancing Term Loans, Incremental Term Loans and Extended Term Loans that have different terms and conditions shall be construed to be in different Classes.

“**Closing Date**” means the first date on which all of the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 11.01 and the Term Loans are made to the Borrower pursuant to the first sentence of Section 2.01(a).

“**Closing Date EBITDA**” means \$150,000,000.

“**Closing Date First Lien Net Leverage Ratio**” means 5.33 to 1.00.

“**Closing Date Intercreditor Agreement**” means the Intercreditor Agreement, dated as of the Closing Date, by and among the First Lien Collateral Agent, as the initial first priority representative, the Collateral Agent, as the initial second priority representative, and each additional representative from time to time party thereto, as acknowledged by the Loan Parties, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“**Closing Date Refinancing**” means the repayment of the Existing Debt, the termination of any related commitments thereunder and the termination, release or authorization to terminate or release all contractual Liens related thereto, in each case on or about the Closing Date.

“**Closing Date Secured Net Leverage Ratio**” means 7.00 to 1.00.

“**Closing Date Total Net Leverage Ratio**” means 7.25 to 1.00.

“**Closing Fee**” has the meaning specified in Section 2.11(e).

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“**Collateral**” means all the “Collateral” (or equivalent term) as defined in any Collateral Document, the Mortgaged Properties and all other property that is subject or purported to be subject to any Lien in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to any Collateral Document.

“**Collateral Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Collateral Documents**” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages, each of the collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Agents and the Lenders pursuant to Sections 4.01(a)(iii), 6.11, 6.12 or 6.15, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“**Commitments**” means the Term Loan Commitments.

“**Committed Loan Notice**” means a written notice of a Borrowing pursuant to Article II, which shall be substantially in the form of Exhibit A-1.

“**Compliance Certificate**” means a certificate substantially in the form of Exhibit C.

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

“**Consolidated Adjusted EBITDA**” means, with respect to any Person for any Test Period, the Consolidated Net Income of such Person for such Test Period:

(a) increased, without duplication, by the following items (solely to the extent deducted (and not excluded) in calculating Consolidated Net Income, other than in respect of the proviso in clause (i) below and clauses (ii)(B), (xi) and (xix) below) of such Person and its Restricted Subsidiaries for such Test Period determined on a consolidated basis in accordance with GAAP:

(i) interest expense, including (A) imputed interest on Capitalized Lease Obligations and Attributable Indebtedness (which, in each case, will be deemed to accrue at the interest rate reasonably determined by a Responsible Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligations or Attributable Indebtedness), (B) commissions, discounts and other fees, charges and expenses owed with respect to letters of credit securing financial obligations, bankers’ acceptance financing and receivables financings, (C) amortization and write-offs of deferred financing fees, debt issuance costs, debt discount, commissions, fees, premium and other expenses, as well as expensing of bridge, commitment or financing fees, (D) payments made in respect of hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, (E) cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than such Person or a wholly-owned Restricted Subsidiary) in connection with Indebtedness incurred by such plan or trust, (F) all interest paid or payable with respect to discontinued operations, (G) the interest portion of any deferred payment obligations, and (H) all interest on any Indebtedness that is (x) Indebtedness of others secured by any Lien on property owned or acquired by such Person or its Restricted Subsidiaries, whether or not the obligations secured thereby have been assumed, but limited to the fair market value of such property or (y) contingent obligations in respect of Indebtedness; *provided* that that such interest expense shall be calculated after giving effect to Hedge Agreements related to interest rates (including associated costs), but excluding unrealized gains and losses with respect to such Hedge Agreements; *plus*

(ii) taxes based on gross receipts, income, profits or capital, franchise, excise, commercial activity, unitary or similar taxes, and foreign withholding taxes, including (A) penalties and interest and (B) tax distributions made to any direct or indirect holders of Equity Interests of such Person in respect of any such taxes attributable to such Person and/or its Restricted Subsidiaries; plus

(iii) depreciation expense and amortization expense; plus

(iv) non-cash items (*provided* that if any such non-cash item represents an accrual or reserve for potential cash items in any future period, (x) the Borrower may determine not to add back such non-cash item in the current Test Period and (y) to the extent the Borrower decides to add back such non-cash expense or charge, the cash payment in respect thereof in such future period will be subtracted from Consolidated Adjusted EBITDA in such future period), including the following: (A) non-cash expenses in connection with, or resulting from, stock option plans, employee benefit plans or agreements or post-employment benefit plans or agreements, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other similar rights, (B) non-cash currency translation losses related to changes in currency exchange rates (including re-measurements of Indebtedness (including intercompany Indebtedness) and any net non-cash loss resulting from hedge agreements for currency exchange risk), (C) non-cash losses, expenses, charges or negative adjustments attributable to the movement in the mark-to-market valuation of hedge agreements or other derivative instruments, including the effect of FASB Accounting Standards Codification 815 and International Accounting Standard No. 9 and their respective related pronouncements and interpretations, (D) non-cash charges for deferred tax asset valuation allowances, (E) any non-cash impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long-lived assets, and Investments in debt and equity securities, (F) any non-cash charges or losses resulting from any purchase accounting adjustment or any step-ups with respect to re-valuing assets and liabilities in connection with the Transactions or any Investments, and (G) all non-cash losses from Investments recorded using the equity method; plus

(v) unusual, extraordinary or non-recurring items, whether or not classified as such under GAAP; plus

(vi) charges, costs, losses, expenses or reserves related to: (A) restructuring (including restructuring charges or reserves, whether or not classified as such under GAAP), severance, relocation, consolidation, integration or other similar items, (B) strategic initiatives, business optimization (including costs and expenses relating to business optimization programs) and new systems design and implementation, as well as consulting fees and any one-time expense relating to enhanced accounting function, (C) business or facilities (including greenfield facilities) start-up, opening, transition, consolidation, shut-down and closing, (D) signing, retention and completion bonuses, (E) severance, relocation or recruiting, (F) public company registration, listing, compliance, reporting and related expenses, (G) charges and expenses incurred in connection with litigation (including threatened litigation), any investigation or proceeding (or any threatened investigation or proceeding) by a regulatory, governmental or law enforcement body (including any attorney general), and (H) expenses incurred in connection with casualty events or asset sales outside the ordinary course of business; plus

(vii) all (A) costs, fees and expenses relating to the Transactions, (B) costs, fees and expenses (including diligence and integration costs) incurred in connection with (x) investments in any Person, acquisitions of the Equity Interests of any Person, acquisitions of all or a material portion of the assets of any Person or constituting a line of business of any Person, and financings related to any of the foregoing or to the capitalization of any Loan Party or any Restricted Subsidiary or (y) other transactions that are out of the ordinary course of business of such Person and its Restricted Subsidiaries (in each case, including transactions considered or proposed but not consummated), including equity issuances, Investments, acquisitions, dispositions, recapitalizations, mergers, option buyouts and the incurrence, modification or repayment of Indebtedness (including all consent fees, premium and other amounts payable in connection therewith) and (C) non-operating professional fees, costs and expenses; plus

(viii) items reducing Consolidated Net Income to the extent (A) covered by a binding indemnification or refunding obligation or insurance to the extent actually paid or reasonably expected to be paid, (B) paid or payable (directly or indirectly) by a third party that is not a Loan Party or a Restricted Subsidiary (except to the extent such payment gives rise to reimbursement obligations) or with the proceeds of a contribution to equity capital of such Person by a third party that is not a Loan Party or a Restricted Subsidiary or (C) such Person is, directly or indirectly, reimbursed for such item by a third party; plus

(ix) the amount of management, monitoring, consulting and advisory fees (including termination fees) and related indemnities and expenses paid, payable or accrued in such Test Period to the extent permitted in such Test Period; plus

(x) the effects of purchase accounting, fair value accounting or recapitalization accounting (including the effects of adjustments pushed down to such Person and its Subsidiaries) and the amortization, write-down or write-off of any such amount; plus

(xi) proceeds of business interruption insurance actually received; plus

(xii) minority interest expense consisting of income attributable to Equity Interests held by third parties in any non-wholly-owned Restricted Subsidiary; plus

(xiii) all charges, costs, expenses, accruals or reserves in connection with the rollover, acceleration or payout of Equity Interests held by officers or employees and all losses, charges and expenses related to payments made to holders of options or other derivative Equity Interests of such Person or any direct or indirect parent thereof in connection with, or as a result of, any distribution being made to equity holders of such Person or any direct or indirect parent thereof, including (A) payments made to compensate such holders as though they were equity holders at the time of, and entitled to share in, such distribution, and (B) all dividend equivalent rights owed pursuant to any compensation or equity arrangement; plus

(xiv) expenses, charges and losses resulting from the payment or accrual of indemnification or refunding provisions, earn-outs and contingent consideration obligations, bonuses and other compensation paid to employees, directors or consultants, payments in respect of dissenting shares, and purchase price adjustments, in each case, made in connection with a permitted Investment or acquisition; plus

(xv) any losses from disposed or discontinued operations; plus

(xvi) any costs or expenses (including any payroll taxes) incurred by the Borrower or a Restricted Subsidiary in such Test Period pursuant to any management equity plan, profits interest or stock option plan or any other management or employee benefit plan or agreement (including (A) as a result of curtailments or modifications to pension and post-retirement employee benefit plans and (B) without limitation, compensation arrangements with holders of unvested options entered into in connection with the Specified Dividend up to \$25,000,000) or any stock subscription, stockholders or partnership agreement and any payments in the nature of compensation or expense reimbursement made to independent board members; plus

(xvii) the amount of loss or discount on sale of receivables, Securitization Assets and related assets to any Securitization Subsidiary in connection with a Qualified Securitization Financing; plus

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

(xix) adjustments reflected in (A) the financial model for the Borrower and its Subsidiaries prepared by Sponsor and delivered to the Lead Arranger prior to May 14, 2019 or (B) any quality of earnings report prepared by a nationally recognized accounting firm and furnished to the Administrative Agent, in connection with the Transactions or a Permitted Acquisition or other Investment consummated after the Closing Date; plus

(xx) the amount of "run rate" cost savings, operating expense reductions and other cost synergies that are projected by the Borrower in good faith to result from actions taken, committed to be taken or expected to be taken no later than 24 months after the end of such Test Period (which amounts will be determined by the Borrower in good faith and calculated on a pro forma basis as though such amounts had been realized on the first day of the Test Period for which Consolidated Adjusted EBITDA is being determined), net of the amount of actual benefits realized during such Test Period from such actions; *provided* that, in the good faith judgment of the Borrower such cost savings are reasonably identifiable, reasonably anticipated to be realized and factually supportable (it being agreed such determination need not be made in compliance with Regulation S-X or other applicable securities law); and

(b) decreased, without duplication, by the following items of such Person and its Restricted Subsidiaries for such Test Period determined on a consolidated basis in accordance with GAAP:

(i) any non-cash items increasing Consolidated Net Income, excluding any gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period (other than such cash charges that have been added back to Consolidated Net Income in calculating Consolidated Adjusted EBITDA in accordance with this definition); plus

(ii) any net income from disposed or discontinued operations; plus

(iii) any unusual, extraordinary or non-recurring gains.

Notwithstanding the foregoing, Consolidated Adjusted EBITDA (a) for the fiscal quarter ended June 30, 2018, will be deemed to be \$41,067,000, (b) for the fiscal quarter ended September 30, 2018, will be deemed to be \$36,538,000, (c) for the fiscal quarter ended December 31, 2018, will be deemed to be \$31,088,000 and (d) for the fiscal quarter ended March 31, 2018, will be deemed to be \$41,800,000, as such amounts may be adjusted pursuant to the foregoing provisions and other pro forma adjustments permitted by this Agreement.

“**Consolidated Current Assets**” means, as of any date of determination, the total assets of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.

“**Consolidated Current Liabilities**” means, as at any date of determination, the total liabilities of the Borrower and the Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding (a) the current portion of any Funded Debt, (b) the current portion of interest, (c) accruals for current or deferred taxes based on income or profits, (d) accruals of any costs or expenses related to restructuring reserves, (e) Revolving Loans, Swing Line Loans and Letter of Credit Obligations (in each case, as defined under the First Lien Credit Agreement) or any other revolving facility, (f) the current portion of any Capitalized Lease Obligation, (g) deferred revenue arising from cash receipts that are earmarked for specific projects, (h) liabilities in respect of unpaid earn-outs and (i) the current portion of any other long-term liabilities, and, furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transaction or any consummated acquisition.

“**Consolidated Interest Expense**” means, for any Test Period, the sum of:

(a) cash interest expense (including that attributable to Capitalized Leases), net of cash interest income, of the Borrower and the Restricted Subsidiaries with respect to all outstanding Indebtedness of the Borrower and the Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net costs under hedging agreements, plus

(b) non-cash interest expense resulting solely from the amortization of original issue discount from the issuance of Indebtedness of the Borrower and the Restricted Subsidiaries (excluding Indebtedness borrowed under this Agreement and the First Lien Credit Agreement in connection with the Transactions) at less than par, plus

(c) pay-in-kind interest expense of the Borrower and the Restricted Subsidiaries payable pursuant to the terms of the agreements governing such debt for borrowed money;

but excluding, for the avoidance of doubt, (i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clause (b) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (ii) 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, (iii) any one-time cash costs associated with breakage in respect of hedging agreements for interest rates, (iv) commissions, discounts, yield, make

whole premium and other fees and charges (including any interest expense) incurred in connection with any permitted receivables financing, (v) any "additional interest" owing pursuant to a registration rights agreement with respect to any securities, (vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions, (vii) penalties and interest relating to taxes, (viii) accretion or accrual of discounted liabilities not constituting Indebtedness, (ix) interest expense attributable to a direct or indirect parent entity resulting from push-down accounting, (x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting and (xi) 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 any Permitted Acquisition or similar Investment permitted hereunder, all as calculated on a consolidated basis in accordance with GAAP. For the avoidance of doubt, interest expense shall be determined after giving effect to any net payments made or received by the Borrower and its Restricted Subsidiaries in respect of Swap Contracts relating to interest rate protection.

"**Consolidated Net Debt**" means, as of any date of determination, (a) Consolidated Total Debt~~minus~~ (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted.

"**Consolidated Net Income**" means, with respect to any Person for any Test Period, the Net Income of such Person and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP; *provided*, that there shall be excluded from such consolidated net income (to the extent otherwise included therein), without duplication:

(a) the Net Income for such Test Period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting; *provided* that the Borrower's or any Restricted Subsidiary's equity in the Net Income of such Person shall be included in the Consolidated Net Income of the Borrower for such Test Period up to the aggregate amount of dividends or distributions or other payments in respect of such equity that are actually paid in cash (or to the extent converted into cash) by such Person to the Borrower or a Restricted Subsidiary, in each case, in such Test Period, to the extent not already included therein (subject in the case of dividends, distributions or other payments in respect of such equity made to a Restricted Subsidiary to the limitations contained in clause (b) below);

(b) solely with respect to the calculation of Available Amount and Excess Cash Flow, the Net Income of any Subsidiary of such Person during such Test Period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of that income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or requirement of Law applicable to such Subsidiary during such Test Period; *provided* that Consolidated Net Income of such Person shall be increased by the amount of dividends or distributions or other payments that are actually paid to such Person or its Restricted Subsidiaries in respect of such Test Period;

(c) any gain (or loss), together with any related provisions for taxes on any such gain (or the tax effect of any such loss), realized by such Person or any of its Restricted Subsidiaries during such Test Period upon any asset sale or other disposition of any Equity Interests of any Person (other than any dispositions in the ordinary course of business) by such Person or any of its Restricted Subsidiaries;

(d) gains and losses due solely to fluctuations in currency values and the related tax effects determined in accordance with GAAP for such Test Period;

(e) earnings (or losses), including any impairment charge, resulting from any reappraisal, revaluation or write-up (or write-down) of assets during such Test Period;

(f) (i) unrealized gains and losses with respect to Hedge Agreements for such Test Period and the application of Accounting Standards Codification 815 (Derivatives and Hedging) and (ii) any after-tax effect of income (or losses) for such Test Period that result from the early extinguishment of (A) Indebtedness, (B) obligations under any Hedge Agreements or (C) other derivative instruments;

(g) any extraordinary, non-recurring or unusual gain (or extraordinary, non-recurring or unusual loss), together with any related provision for taxes on any such gain (or the tax effect of any such loss), recorded or recognized by such Person or any of its Restricted Subsidiaries during such Test Period;

(h) the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such Test Period;

(i) after-tax gains (or losses) on disposal of disposed, abandoned or discontinued operations for such Test Period;

(j) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue, debt and unfavorable or favorable lease line items in such Person's consolidated financial statements pursuant to GAAP for such Test Period resulting from the application of purchase accounting in relation to the Transactions or any acquisition consummated prior to the Closing Date and any Permitted Acquisition or other Investment or the amortization or write-off of any amounts thereof, net of taxes, for such Test Period;

(k) any non-cash compensation charge or expense for such Test Period, including any such charge or expense arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights and any cash charges or expenses associated with the rollover, acceleration or payout of Equity Interests by, or to, management of such Person or any of its Restricted Subsidiaries in connection with the Transactions;

(l) (i) Transaction Expenses incurred during such Test Period and (ii) any fees and expenses incurred during such Test Period, or any amortization thereof for such Test Period, in connection with any acquisition (other than the Transactions), Investment, disposition, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt or equity instrument (in each case, including any such transaction whether consummated on, after or prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring costs incurred during such Test Period as a result of any such transaction;

(m) any expenses, charges or losses for such Test Period that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement, to the extent actually reimbursed, or, so long as the Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such

determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days); and

(n) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses for such Test Period with respect to liability or casualty events or business interruption.

“**Consolidated Secured Net Debt**” means, as of any date of determination, (a) Consolidated Total Debt outstanding under the Facilities, the First Lien Credit Documents and any secured refinancing indebtedness or other debt that is secured by a Lien on any asset or property of the Borrower or any Subsidiary Guarantor outstanding as of such date *minus* (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted.

“**Consolidated Total Debt**” means, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, determined on a consolidated basis and as reflected on the face of a balance sheet prepared in accordance with GAAP (but excluding the effects of the application of purchase accounting in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, unreimbursed obligations in respect of drawn letters of credit (to the extent not cash collateralized), obligations in respect of Capitalized Leases and purchase money obligations and debt obligations evidenced by promissory notes or similar instruments; *provided*, that Consolidated Total Debt will not include Indebtedness in respect of (a) any Qualified Securitization Financing, (b) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (*provided*, that any unreimbursed amount under commercial letters of credit will not be counted as Consolidated Total Debt until three Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement will be counted)), (c) obligations under Hedge Agreements and (d) any lease obligations other than in respect of Capitalized Leases.

“**Consolidated Working Capital**” means, as of any date of determination, the excess of Consolidated Current Assets *over* Consolidated Current Liabilities.

“**Contract Consideration**” has the meaning specified in the definition of “Excess Cash Flow.”

“**Contractual Obligation**” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“**Control**” has the meaning specified in the definition of “Affiliate.”

“**Controlling Party**” means (a) at any time prior to the Disposition Date, the Crescent Representative and (b) at any time on or after the Disposition Date, the Required Lenders.

“**Contribution Indebtedness**” means Indebtedness in an aggregate principal amount at the time of the incurrence thereof not to exceed an amount equal to (i) 200% of the amount of any (A) new public or private Permitted Equity Issuances made in return for cash or other assets and cash and Cash Equivalents to the Borrower (with non-cash contributions and Permitted Equity Issuances in exchange for assets other than cash measured at the fair market value of such non-cash contributions and Permitted

Equity Issuances at the time they were made) or (B) Net Cash Proceeds from Permitted Equity Issuances or the fair market value of other assets received by Holdings and contributed to the Borrower as equity solely in exchange for common Equity Interests of the Borrower during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date that are Not Otherwise Applied and (ii) 100% of the amount of any available dollar-based capacity under Section 7.06 to make Restricted Payments which for the avoidance of doubt shall reduce such dollar-based capacity under the relevant clause of Section 7.06.

“**Credit Agreement Refinancing Indebtedness**” means secured or unsecured Indebtedness of the Borrower in the form of term loans or notes; *provided that*:

(a) such Indebtedness is incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, replace, or refinance, in whole or part, Indebtedness that is either (i) Term Loans, (ii) [reserved] or (iii) other Credit Agreement Refinancing Indebtedness (“**Refinanced Debt**”);

(b) such Indebtedness is in an original aggregate principal amount not greater than the principal amount of the Refinanced Debt being exchanged, extended, renewed, replaced or refinanced (plus (i) the amount of all unpaid, accrued, or capitalized interest, penalties, premiums (including tender premiums) and other amounts payable with respect to the Refinanced Debt and (ii) underwriting discounts, fees, commissions, costs, expenses and other amounts payable with respect to such Credit Agreement Refinancing Indebtedness);

(c) (i) the Weighted Average Life to Maturity of such Indebtedness is equal to or longer than the remaining Weighted Average Life to Maturity of the Refinanced Debt, and (ii) the final maturity date of such Credit Agreement Refinancing Indebtedness may not be earlier than the final maturity date of the Refinanced Debt;

(d) any mandatory prepayments of,

(i) any Credit Agreement Refinancing Indebtedness that comprises junior lien or unsecured notes or loans may not be made except to the extent that prepayments are (A) permitted hereunder and (B) to the extent required hereunder or pursuant to the terms of any Credit Agreement Refinancing Indebtedness that is *Pari Passu* Lien Debt, first made or offered to the Loans and any such Credit Agreement Refinancing Indebtedness that is *Pari Passu* Lien Debt; and

(ii) any Credit Agreement Refinancing Indebtedness that is *Pari Passu* Lien Debt shall be made on *apro rata* basis or less than *pro rata* basis with any corresponding mandatory prepayment of the Loans; *provided* this clause (ii) will not prohibit any repayment of such Credit Agreement Refinancing Indebtedness at maturity or with the proceeds of other Credit Agreement Refinancing Indebtedness;

(e) such Indebtedness is not guaranteed by any Subsidiary Loan Party other than a Subsidiary Guarantor (including any Subsidiary that becomes a Subsidiary Guarantor in connection therewith); and

(f) if such Indebtedness is secured:

(i) such Indebtedness is not secured by a Lien on any assets or property of a Loan Party that does not constitute Collateral (except (1) customary cash collateral in

favor of an agent, letter of credit issuer or similar “fronting” lender, (2) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (3) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Term Loans);

(ii) a Debt Representative acting on behalf of the holders of such Indebtedness has become party to, or is otherwise subject to the provisions of, (A) if such Indebtedness is Senior Priority Lien Debt, the Closing Date Intercreditor Agreement or another Senior Priority Intercreditor Agreement, (B) if such Indebtedness is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (C) if such Indebtedness is Junior Lien Debt, a Junior Lien Intercreditor Agreement.

Credit Agreement Refinancing Indebtedness will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Crescent**” means the Crescent Representative, together with any investment vehicles advised and/or managed by it or one of its Affiliates.

“**Crescent Representative**” means Crescent Mezzanine Partners VI, L.P.

“**Debt Representative**” means, with respect to any series of Indebtedness secured by a Lien permitted under Section 7.01(i) or (kk), Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing or Permitted Junior Secured Refinancing Debt, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

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

“**Default**” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“**Default Rate**” means an interest rate equal to (a) Applicable Rate *plus* (b) 2.00% *per annum*, in each case, to the fullest extent permitted by applicable Laws.

“**Defaulting Lender**” means, subject to Section 2.19(b), any Lender that, at the time of determination, has outstanding funding obligations or undrawn funding commitments hereunder and:

(a) has failed to pay to the Administrative Agent, the Collateral Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due,

(b) has notified the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lenders’ obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with the applicable default, if any, shall be specifically identified in such writing or public statement) cannot be satisfied),

(c) has failed, within three 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) the Administrative Agent has received notification that such Lender is, or has a direct or indirect parent company that is, (i) insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, (ii) other than via an Undisclosed Administration, the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator, 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 Federal or state regulatory authority acting in such a capacity or the like has been appointed for such Lender or its direct or indirect parent company, or such Lender or its direct or indirect parent company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment 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 or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

Any determination by the Administrative Agent or the Required Lenders that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to [Section 2.19](#)) upon delivery of written notice of such determination to the Borrower and each Lender.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory is the subject of any Sanctions.

“Designated Non-Cash Consideration” means the fair market value of any non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to the General Asset Sale Basket that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash within one hundred eighty days following the consummation of the applicable Disposition).

“Disposition” or **“Dispose”** means the sale, transfer, license, lease or other disposition (excluding Liens, but including any sale leaseback transaction and any sale of Equity Interests in, or issuance of Equity Interests by, a Restricted Subsidiary) of any property by any Person.

“Disposition Date” means the first date on which Crescent ceases to own (and have full voting control over), as of any date of determination, at least 50.1% (which percentage equals \$112.725 million of the Initial Term Loans funded on the Closing Date) of the Initial Term Loans then outstanding on such date.

“Disqualified Equity Interests” means any Equity Interest 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), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale as long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event is subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments),

(b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part,

(c) provides for the scheduled 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 each case, prior to the Latest Maturity Date of the Loans at the time of issuance; *provided* that if such Equity Interests are issued pursuant to a plan for the benefit of future, current or former employees, directors, or officers of Holdings, the Borrower or the Restricted Subsidiaries or by any such plan to such employees, directors or officers, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by Holdings, the Borrower or the Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s, director’s or officer’s termination, death or disability.

“Disqualified Lender” means,

(a) the competitors of the Borrower and its Subsidiaries identified in writing by or on behalf of the Borrower (i) to the Lead Arranger and the Administrative Agent on or prior to the Closing Date, or (ii) from time to time after the Closing Date to the Administrative Agent (it being understood that a list was delivered),

(b) (i) any persons that are engaged as principals primarily in private equity or venture capital and (ii) those particular banks, financial institutions, other institutional lenders and other persons, in the case of each of clauses (i) and (ii), to the extent identified in writing by or on behalf of the Borrower to the Lead Arranger on or prior to May 14, 2019 (it being understood that no such list was delivered and, therefore, there are no Disqualified Lenders pursuant to this clause (b)), and

(c) any affiliate of the entities described in the preceding clauses (a) or (b) (in each case, other than any affiliates that are banks, financial institutions, bona fide debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course (except to the extent separately identified under clause (a) above)), in each case, that are either reasonably identifiable as such on the basis of their name or are identified as such in writing by or on behalf of the Borrower (i) to the Lead Arranger and the Administrative Agent on or prior to the Closing Date, or (ii) after the Closing Date to the Administrative Agent from time to time;

provided that any Person that is a Lender and subsequently becomes a Disqualified Lender (but was not a Disqualified Lender on the Closing Date or at the time it became a Lender) shall be deemed to not be a

Disqualified Lender hereunder with respect to any Loans held by it immediately prior to becoming a Disqualified Lender. The Administrative Agent shall make the list of Disqualified Lenders available to any Lender or prospective Lender upon request by such Lender or prospective Lender.

“**Division**” has the meaning specified in Section 1.02(e).

“**Dollar**”, “**\$**” and “**USD**” mean lawful money of the United States.

“**Dollar Amount**” means, at any time:

- (a) with respect to any Loan denominated in Dollars, the principal amount thereof then outstanding (or in which such participation is held);
- (b) with respect to any Loan denominated in any Alternative Currency, the principal amount thereof then outstanding in the relevant Alternative Currency converted to Dollars in accordance with Section 1.09;
- (c) [reserved]; and
- (d) with respect to any other amount (i) if denominated in Dollars, the amount thereof and (ii) if denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent on the basis of the Exchange Rate (determined in respect of the most recent relevant date of determination) for the purchase of Dollars with such currency.

“**Domestic Subsidiary**” means (i) any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia or (ii) any direct wholly-owned Subsidiary of the Borrower or of any Subsidiary described in clause (i) above that is disregarded for U.S. tax purposes.

“**ECF Prepayment Percentage**” means (a) 50%, if the Borrower’s Secured Net Leverage Ratio at the end of the immediately preceding fiscal year equals or exceeds the Closing Date Secured Net Leverage Ratio less 0.50 to 1.00, (b) 25%, if such Secured Net Leverage Ratio is less than the Closing Date Secured Net Leverage Ratio less 0.50 to 1.00, but equals or exceeds the Closing Date Secured Net Leverage Ratio less 1.00 to 1.00, and (c) 0%, if such Secured Net Leverage Ratio is less than the Closing Date Secured Net Leverage Ratio less 1.00 to 1.00.

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

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

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

“**Eligible Assignee**” means any Person that meets the requirements to be an assignee under Section 11.07(b)(iii) (including any consents that may be required thereunder) and (v); *provided* that neither (x) any Person that is or would be a Defaulting Lender nor (y) any Disqualified Lender shall be an Eligible Assignee.

“**EMU**” means the Economic and Monetary Union as contemplated in the EU Treaty.

“**EMU Legislation**” means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

“**Environmental Claim**” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations by any Governmental Authority, or proceedings with respect to any Environmental Liability or pursuant to Environmental Law, including those (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (b) by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“**Environmental Laws**” means any and all Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“**Environmental Permit**” means any permit, approval, identification number, license or other authorization required under or issued pursuant to any Environmental Law.

“**Equal Priority Intercreditor Agreement**” means a “*pari passu*” intercreditor agreement substantially in the form attached hereto as Exhibit K-2 (as the same may be modified in a manner satisfactory to the Collateral Agent, the Controlling Party and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be *Pari Passu Lien Debt*, another lien subordination arrangement reasonably satisfactory to the Collateral Agent, the Controlling Party and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Collateral Agent will execute and deliver an Equal Priority Intercreditor Agreement with one or more Debt Representatives for secured Indebtedness that is permitted hereunder to be incurred as *Pari Passu Lien Debt* (and the Required Lenders hereby authorize and direct the Collateral Agent to enter into any Equal Priority Intercreditor Agreement that is in the form of Exhibit K-2 or otherwise reasonably satisfactory to the Controlling Party); *provided* that the Borrower will not make such request unless such Indebtedness and any related Liens do not violate (including with respect to priority) any provision of the Loan Documents.

“**Equity Interests**” means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in, including any limited or general partnership interest and any limited liability company membership interest) such Person and all of the warrants, options or other rights for the

purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

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

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA. For the avoidance of doubt, when any provision of this Agreement relates to a past event or period of time, the term “ERISA Affiliate” includes any Person who was, as to the time of such past event or period of time, an ERISA Affiliate within the meaning of the preceding sentence.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability or written notification that a Multiemployer Plan is insolvent within the meaning of Title IV of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) the imposition of any liability under Title IV of ERISA, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any of their respective ERISA Affiliates; (f) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan; (g) the application for a minimum funding waiver under Section 302(c) of ERISA with respect to a Pension Plan; (h) the imposition of a lien under Section 303(k) of ERISA with respect to any Pension Plan; or (i) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 303 of ERISA).

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

“EU Treaty” means the Treaty on European Union.

“Euro” and “€” mean the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

“Event of Default” has the meaning specified in [Section 9.01](#).

“Excess Cash Flow” means, for any period, an amount equal to the excess of:

- (a) the sum, without duplication, of:
 - (i) Consolidated Net Income of the Borrower and the Restricted Subsidiaries for such period, *plus*
 - (ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) for such period to the extent deducted in arriving at such

Consolidated Net Income, but excluding any such non-cash charges representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period, plus

(iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions or Dispositions by the Borrower and the Restricted Subsidiaries completed during such period, the application of purchase accounting or the reclassification of items from short term to long term or vice versa), plus

(iv) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income, plus

(v) the amount deducted as tax expense in determining Consolidated Net Income to the extent in excess of cash taxes paid in such period (including, without duplication, tax distributions pursuant to Section 7.06(g)(i)) and tax distribution reserves set aside or payable, plus

(vi) cash receipts in respect of Hedge Agreements during such period to the extent not otherwise included in such Consolidated Net Income; over

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in clause (a)(ii) above) and cash charges excluded by virtue of clauses (a) through (l) (other than clause (g)) of the definition of "Consolidated Net Income", plus

(ii) without duplication of amounts deducted pursuant to clause (b)(xi) below or this clause (b)(ii) in prior periods, the amount of Capital Expenditures or acquisitions of intellectual property accrued or made in cash during such period to the extent not financed with the proceeds of Funded Debt, plus

(iii) the aggregate amount of all principal payments of Indebtedness (including the principal component of payments in respect of Capitalized Leases) of the Borrower and the Restricted Subsidiaries to the extent such prepayments or repayments are not funded with the proceeds of Funded Debt, excluding (A) all payments of Indebtedness described in Section 2.07(b)(i)(B)(1)-(3) of the First Lien Credit Agreement to the extent such payments reduce the repayment of Term Loans that would otherwise be required by Section 2.07(b)(i) of the First Lien Credit Agreement, (B) all payments of Indebtedness described in Section 2.07(b)(i)(B)(1)-(3) to the extent such payments reduce the repayment of Term Loans that would otherwise be required by Section 2.07(b)(i), (C) all payments of Indebtedness pursuant to and in accordance with Section 7.10(a)(v)(B), and (D) any prepayment of revolving loans to the extent there is not an equivalent permanent reduction in commitments thereunder, plus

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions

in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income and the net cash loss on Dispositions to the extent otherwise added to arrive at Consolidated Net Income, plus

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions or Dispositions by the Borrower and the Restricted Subsidiaries completed during such period, the application of purchase accounting or the reclassification of items from short term to long term or vice versa), plus

(vi) cash payments by the Borrower and the Restricted Subsidiaries actually made during such period to the extent not financed with the proceeds of Funded Debt in respect of any purchase price holdbacks, earn-out obligations, long-term liabilities of the Borrower and the Restricted Subsidiaries (other than Indebtedness) to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income for such period (and so long as there has not been any reduction in respect of such payments in arriving at Consolidated Net Income for such fiscal year), plus

(vii) without duplication of amounts deducted pursuant to clauses (viii) and (xi) below in prior periods, the amount of Permitted Investments made during such period pursuant to Section 7.02 (excluding Section 7.02(e)(ii)) to the extent that such Permitted Investments were not financed with the proceeds of Funded Debt, plus

(viii) the amount of Restricted Payments actually paid (and permitted to be paid) during such period pursuant to Section 7.06 (excluding Sections 7.06(a), 7.06(c) and 7.06(o)(ii)) to the extent such Restricted Payments were not financed with the proceeds of Funded Debt (including, without limitation, amounts paid in connection with compensations arrangements with holders of unvested options entered into in connection with the Specified Dividend), plus

(ix) the aggregate amount of expenditures actually made by the Borrower and its Restricted Subsidiaries to the extent not financed with the proceeds of Funded Debt during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such fiscal year or are not deducted in calculating Consolidated Net Income (and so long as there has not been any reduction in respect of such expenditures in arriving at Consolidated Net Income for such period), plus

(x) to the extent such were not deducted in calculating Consolidated Net Income for such period, the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by Holdings, the Borrower and the Restricted Subsidiaries during such period that are made in connection with any prepayment of any principal of Indebtedness to the extent such prepayment of principal reduced Excess Cash Flow pursuant to clause (b)(iii) above or reduced the mandatory prepayment required by Section 2.07(b)(i), plus

(xi) 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 Restricted Subsidiaries pursuant to binding contracts, commitments, or binding purchase orders (to the extent not financed with the proceeds of Funded Debt, the

“**Contract Consideration**”) entered into prior to or during such period relating to Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), Capital Expenditures or acquisitions of intellectual property to be consummated; *provided* that, to the extent the aggregate amount actually utilized to finance such Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), Capital Expenditures or acquisitions of intellectual property during any period is less than the Contract Consideration that reduced Excess Cash Flow for the prior period, the amount of such shortfall shall be added to the calculation of Excess Cash Flow for such period, *plus*

(xii) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period, to the extent they exceed the amount of tax expense deducted in calculating Consolidated Net Income for such period, *plus*

(xiii) cash expenditures in respect of Hedge Agreements during such period to the extent not deducted in calculating Consolidated Net Income;

provided that, at the option of the Borrower, any item that meets the criteria of any sub-clause of this clause (b) after the end of the applicable period and prior to the applicable date of calculation of Excess Cash Flow for such period may, at the Borrower’s option, be included in the applicable period, but not in any calculation pursuant to this clause (b) for the subsequent calculation period if such election is made.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Exchange Rate**” means, on any date with respect to any currency, the rate set forth in The Wall Street Journal (or, if such rate ceases to be so published, as quoted from such other generally available and recognizable source as the Administrative Agent and the Required Lenders may select) as the exchange rate of such currency into Dollars; each change in the Exchange Rate for a currency shall be effective from and including the date such change is announced as being effective.

“**Excluded Asset**” has the meaning specified in the Security Agreement.

“**Excluded Equity Interests**” has the meaning specified in the Security Agreement.

“**Excluded Subsidiary**” means:

- (a) any Subsidiary that is not a wholly owned Subsidiary of the Borrower or a Guarantor,
- (b) any Foreign Subsidiary of the Borrower or of any direct or indirect Domestic Subsidiary or Foreign Subsidiary,
- (c) any FSHCO,
- (d) any Domestic Subsidiary that is a direct or indirect Subsidiary of a Foreign Subsidiary,
- (e) any Subsidiary that is prohibited or restricted by applicable Law from providing a Guaranty or by a binding contractual obligation existing on the Closing Date or at the time of the

acquisition of such Subsidiary (and not incurred in contemplation of such acquisition) from providing a Guaranty (*provided* that such contractual obligation is not entered into by the Borrower or its Restricted Subsidiaries principally for the purpose of qualifying as an “Excluded Subsidiary” under this definition) or if such Guaranty would require governmental (including regulatory) or third party (other than Holdings, the Borrower or a Restricted Subsidiary) consent, approval, license or authorization, unless such consent, approval, license or authorization has been obtained,

(f) any special purpose securitization vehicle (or similar entity) including any Securitization Subsidiary created pursuant to a transaction permitted under this Agreement,

(g) any Subsidiary that is a not-for-profit organization,

(h) any Captive Insurance Subsidiary,

(i) any other Subsidiary with respect to which, in the reasonable judgment of the Controlling Party in consultation with the Borrower (confirmed in writing by notice to the Borrower), the cost or other consequences (including any material adverse tax consequences) of providing the Guaranty shall be excessive in view of the benefits to be obtained by the Lenders therefrom,

(j) any other Subsidiary to the extent the provision of a guaranty by such Subsidiary would result in material adverse tax consequences to Holdings (or any parent of Holdings to the extent such material adverse tax consequences are related to its ownership of the Equity Interests in Holdings or the Borrower and its Restricted Subsidiaries), the Borrower or any of the Restricted Subsidiaries as reasonably determined by the Borrower in good faith in consultation with the Controlling Party;

(k) any Unrestricted Subsidiary, and

(l) any Immaterial Subsidiary;

provided that the Borrower, in its sole discretion (or in the case of any Foreign Subsidiary, with the consent of the Controlling Party not to be unreasonably withheld), may cause any Restricted Subsidiary that qualifies as an Excluded Subsidiary under clauses (a) through (l) above to become a Guarantor in accordance with the definition thereof (subject to completion of “know your customer” and similar requirements of the Administrative Agent) and thereafter such Subsidiary shall not constitute an “Excluded Subsidiary” (unless and until the Borrower elects, in its sole discretion, to designate such Persons as an Excluded Subsidiary; *provided*, that such designation shall be treated as an Investment pursuant to Section 7.02 and shall be permitted solely to the extent such designation is permitted as an Investment under Section 7.02).

“**Excluded Taxes**” has the meaning specified in Section 3.01(a).

“**Existing Debt**” means the Indebtedness of the Borrower and its Subsidiaries under (i) that certain Note Purchase Agreement, dated as of August 21, 2014 (as amended by that certain First Amendment to Note Purchase Agreement, dated as of December 14, 2016 and as further amended, restated, amended and restated, supplemented or otherwise modified prior to the date hereof), by and among Holdings, the Borrower, the subsidiary guarantor from time to time party thereto and the purchasers from time to time party thereto and (ii) the Existing Credit Agreement (as defined in the First Lien Credit Agreement).

“**Extended Commitments**” means the Extended Term Commitments.

“**Extended Loans**” means Extended Term Loans.

“**Extended Term Commitments**” means the Term Loan Commitments held by an Extending Lender.

“**Extended Term Loans**” means the Term Loans made pursuant to Extended Term Commitments.

“**Extending Lender**” means each Lender accepting an Extension Offer.

“**Extension**” has the meaning specified in Section 2.18(a).

“**Extension Amendment**” has the meaning specified in Section 2.18(b).

“**Extension Offer**” has the meaning specified in Section 2.18(a).

“**Facility**” means the Term Loans made by the Lenders to the Borrower pursuant to Section 2.01(a), any Extended Term Loans, any Incremental Term Loans, or any Refinancing Term Loans, as the context may require.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing such Sections of the Code.

“**FCPA**” means the United States Foreign Corrupt Practices Act of 1977, as amended or modified from time to time.

“**Federal Funds Rate**” means, 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 on such day, as published by the Federal Reserve Bank 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%) of the quotations on such day for such transactions received by the Administrative Agent from three (3) Federal funds brokers of recognized standing selected by it; *provided* further that, the Federal Funds Rate, if negative, shall be deemed to be zero.

“**Fee Letter**” means the Fee Letter, dated May 14, 2019, between the Borrower and the Lenders party thereto, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms thereof.

“**Financial Covenant**” has the meaning specified in Section 9.01(e).

“**First Lien Administrative Agent**” means the Administrative Agent as defined in the First Lien Credit Agreement, or any successor administrative agent under the First Lien Credit Documents.

“**First Lien Collateral Agent**” means the Collateral Agent under, and as defined in the First Lien Credit Agreement, or any successor collateral agent under the First Lien Credit Documents.

“**First Lien Credit Agreement**” means that certain First Lien Credit Agreement, dated as of the Closing Date, by and among the Borrower, Holdings, the First Lien Administrative Agent, as administrative agent thereunder, the First Lien Collateral Agent, as collateral agent thereunder, and the other agents and lenders from time to time party thereto, as the same may be amended, restated, modified, supplemented, extended, renewed, refunded, replaced, or refinanced from time to time in one or more agreements (in each case with the same or new lenders, institutional investors or agents), including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the Indebtedness thereunder, in each case as and to the extent permitted by this Agreement.

“**First Lien Credit Agreement Refinancing Indebtedness**” means “Credit Agreement Refinancing Indebtedness” as defined in the First Lien Credit Agreement.

“**First Lien Credit Documents**” means “Loan Documents” as defined in the First Lien Credit Agreement.

“**First Lien Declined Amounts**” means the amount of mandatory prepayments (a) of First Lien Term Loans required to be made pursuant to Section 2.07(b) of the First Lien Credit Agreement and (b) of other Indebtedness constituting Senior Priority Lien Debt required to be made pursuant to any provision in the documentation governing such Indebtedness that is substantially identical to Section 2.07(b) of the First Lien Credit Agreement, in each case which are declined or waived by any lender or other holder of any such Indebtedness.

“**First Lien Facilities**” means “Facilities” as defined in the First Lien Credit Agreement.

“**First Lien Initial Term Loans**” means “Initial Term Loans” as defined in the First Lien Credit Agreement.

“**First Lien Lenders**” means “Lenders” as defined in the First Lien Credit Agreement.

“**First Lien Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt under the First Lien Facilities and any Senior Priority Lien Debt outstanding as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**First Lien Obligations**” means “Obligations” as defined in the First Lien Credit Agreement.

“**First Lien Term Loans**” means “Term Loans” as defined in the First Lien Credit Agreement.

“**Fitch**” means Fitch Ratings, Inc., and any successor thereto.

“**Fixed Incremental Amount**” means, as of the date of measurement, the sum of:

(a) the greater of (i) 100% of Closing Date EBITDA and (ii) 100% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, *plus*

(b) without duplication of any amounts available to be incurred under Section 7.03(b) of this Agreement, the aggregate principal amount of any voluntary prepayments (including those made through (i) debt buybacks (whether or not offered to all lenders) and in the

case of below-par repurchases in an amount equal to the discounted amount actually paid in cash in respect of such below-par repurchase and (ii) “yank-a-bank” payments of Term Loans made pursuant to Section 2.07 or 3.07 (solely to the extent any such Term Loans are retired instead of assigned)) of the Term Loans, reductions in Delayed Draw Term Loan Commitments (as defined in the First Lien Credit Agreement), repayments of Revolving Loans (as defined in the First Lien Credit Agreement) (if accompanied by a corresponding reduction of commitments) and voluntary prepayments of the First Lien Term Loans, other Senior Priority Lien Debt, or Pari Passu Lien Debt, in each case under this clause (b), to the extent not funded with the proceeds of Funded Debt; *minus*

(c) without duplication, the sum of:

(i) the aggregate amount of any Incremental Equivalent Debt incurred and then outstanding in reliance on the Fixed Incremental Amount, *plus*

(ii) the aggregate amount of any “Incremental Loans” (as defined in the First Lien Credit Agreement) incurred and then outstanding or commitments under “Incremental Revolving Facilities” (as defined in the First Lien Credit Agreement) obtained and then outstanding, in each case, in reliance on the definition of “Fixed Incremental Amount” (or equivalent concept) in the First Lien Credit Agreement, *plus*

(iii) the aggregate amount of any “Incremental Equivalent Debt” (as defined in the First Lien Credit Agreement) incurred and then outstanding in reliance on the definition of “Fixed Incremental Amount” (or equivalent concept) in the First Lien Credit Agreement; *plus*

(iv) the aggregate principal amount of Indebtedness incurred and then outstanding under Section 7.03(a) in reliance on the Fixed Incremental Amount; *plus*

(v) the aggregate principal amount of Indebtedness incurred and then outstanding under Section 7.03(v)(ii).

“**Flood Insurance Certificate**” means with respect to each Mortgaged Property, a completed “Life-of-Loan” Federal Emergency Management Agency Standard Flood Hazard Determination.

“**Foreign Casualty Event**” has the meaning specified in Section 2.07(b)(vi)(A).

“**Foreign Disposition**” has the meaning specified in Section 2.07(b)(vi)(A).

“**Foreign Lender**” has the meaning specified in Section 3.01(b).

“**Foreign Plan**” means any material employee benefit plan, program or agreement maintained or contributed to by, or entered into with, Holdings or any Subsidiary of Holdings with respect to employees employed outside the United States (other than benefit plans, programs or agreements that are mandated by applicable Laws).

“**Foreign Subsidiary**” means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

“**FRB**” means the Board of Governors of the Federal Reserve System of the United States.

“**FSHCO**” means any direct or indirect Subsidiary of Holdings (other than the Borrower) that has no material assets other than Equity Interests (or Equity Interests and Indebtedness) in one or more Foreign Subsidiaries or other FSHCOs.

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

“**Funded Debt**” means all Indebtedness of the Borrower and the Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“**GAAP**” means generally accepted accounting principles in the United States, as in effect from time to time *provided, however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through the adoption of IFRS) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through the adoption of IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“**General Asset Sale Basket**” has the meaning specified in [Section 7.05\(j\)](#).

“**Global Intercompany Note**” means a promissory note substantially in the form of [Exhibit H](#) executed by Holdings, the Borrower and the wholly owned Restricted Subsidiaries.

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

“**Grant Event**” means the occurrence of any of the following: (a) the formation or acquisition of any new wholly owned Material Domestic Subsidiary by any Loan Party, (b) the designation in accordance with [Section 6.13](#) of any existing wholly owned Material Domestic Subsidiary of any Loan Party as a Restricted Subsidiary, (c) any Person becoming a wholly owned Material Domestic Subsidiary that is a Restricted Subsidiary of a Loan Party, in each case under clauses (a) – (c) other than an Excluded Subsidiary, or (d) any Restricted Subsidiary of a Loan Party ceasing to be an Excluded Subsidiary.

“**Granting Lender**” has the meaning specified in [Section 11.07\(g\)](#).

“**Guarantee**” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person 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 such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or

other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term "Guarantee" shall not include endorsements for collection or deposit, in either case 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 under 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 related primary obligation, or portion thereof, 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 the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"**Guarantors**" means Holdings and each Restricted Subsidiary that executed a counterpart to the Guaranty (or a joinder thereto) on the Closing Date or thereafter pursuant to Section 6.11, in each case, other than any Excluded Subsidiaries.

"**Guaranty**" means (a) the guaranty made by Holdings and the other Guarantors in favor of the Administrative Agent on behalf of the Secured Parties substantially in the form of Exhibit E and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

"**Hazardous Materials**" means any hazardous or toxic chemicals, materials, substances or waste which is listed, classified or regulated by any Governmental Authority as "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic wastes," "contaminants" or "pollutants," or words of similar import, under any Environmental Law, including petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and urea formaldehyde.

"**Hedge Agreement**" means any agreement with respect to (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "**Master Agreement**"), including any such obligations or liabilities under any Master Agreement.

“HMT” means Her Majesty’s Treasury.

“Holdings” has the meaning specified in the preliminary statements to this Agreement, together with its successors and assigns permitted hereunder.

“IFRS” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.

“Immaterial Subsidiary” means any Subsidiary of the Borrower other than a Material Subsidiary.

“Incremental Amendment” has the meaning specified in Section 2.16(e).

“Incremental Amount” has the meaning specified in Section 2.16(c).

“Incremental Equivalent Debt” means secured or unsecured Indebtedness of the Borrower and its Subsidiary Guarantors in the form of term loans or notes; *provided that*:

(a) the aggregate principal amount of all Incremental Equivalent Debt on any date such Indebtedness is incurred shall not, together with any Incremental Term Facilities then outstanding, exceed the Incremental Amount;

(b) any Incremental Equivalent Debt (i) that is Pari Passu Lien Debt shall not mature prior to the Latest Maturity Date of, and shall not have a Weighted Average Life to Maturity shorter than the remaining Weighted Average Life to Maturity of, the Initial Term Loans, or (ii) that is Junior Lien Debt or unsecured Indebtedness shall not mature, or have scheduled amortization, prior to the date that is 91 days following the Latest Maturity Date of the Initial Term Loans; *provided that this clause (b) shall not apply to the incurrence of any such Indebtedness pursuant to the Inside Maturity Exception;*

(c) (i) if such Incremental Equivalent Debt is guaranteed, such Indebtedness is not incurred or guaranteed by any Person other than the Borrower and the Guarantors (including any Person required to be a Guarantor) (except for guarantees by other Persons that are applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence) and (ii) if such Incremental Equivalent Debt is secured, such Indebtedness is not secured by any Lien on any property or asset of the any Person that does not also secure the Term Loans at the time of such incurrence (except (A) customary cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender, (B) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence, (C) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Term Loans at the time of incurrence and (D) a Debt Representative acting on behalf of the holders of such Incremental Equivalent Debt has become party to, or is otherwise subject to the provisions of, (x) if such Incremental Equivalent Debt is Senior Priority Lien Debt, the Closing Date Intercreditor Agreement or another Senior Priority Intercreditor Agreement, (y) if such Incremental Debt is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (z) if such Incremental Equivalent Debt is Junior Lien Debt, a Junior Lien Intercreditor Agreement, as applicable;

(d) any mandatory prepayments of any Incremental Equivalent Debt:

(i) that is Pari Passu Lien Debt shall be made on *pro rata* basis or less than *pro rata* basis with any corresponding mandatory prepayment of the Loans (but not on a greater than *pro rata* basis, except for (A) any repayment of such Incremental Equivalent Debt at maturity and (B) any greater than *pro rata* repayment of such Incremental Equivalent Debt with the proceeds of a refinancing thereof); and

(ii) that comprises Junior Financing or unsecured notes or loans may not be made unless, to the extent required hereunder or pursuant to the terms of any Incremental Equivalent Debt that is Pari Passu Lien Debt, such prepayments are first made or offered to the Loans and any such Incremental Equivalent Debt that is Pari Passu Lien Debt on a *pro rata* basis; and

(e) if such Incremental Equivalent Debt is in the form of term loans in U.S. Dollars and is Pari Passu Lien Debt, then the provisions of Section 2.16(h) shall apply as if such Incremental Equivalent Debt was Incremental Term Loans; provided, that any Incremental Equivalent Debt that is subject to transfer limitations beyond those arising by operation of law shall in each case be deemed to constitute a “loan” for purposes of this clause (e) even if such Incremental Equivalent Debt is in the form of a note issued pursuant to an exemption from registration under the Securities Act.

Incremental Equivalent Debt will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Incremental Facility**” has the meaning specified in Section 2.16(a).

“**Incremental Loans**” has the meaning specified in Section 2.16(a).

“**Incremental Term Facilities**” has the meaning specified in Section 2.16(a).

“**Incremental Term Loan Commitment**” means the commitment of a Lender to make or otherwise fund an Incremental Term Loan and “Incremental Term Loan Commitments” means such commitments of all Lenders in the aggregate.

“**Incremental Term Loan Exposure**” means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Incremental Term Loans of such Lenders; *provided*, at any time prior to the making of the Incremental Term Loans, the Incremental Term Loan Exposure of any Lender shall be equal to such Lender’s Incremental Term Loan Commitment.

“**Incremental Term Loans**” has the meaning specified in Section 2.16(a).

“**Indebtedness**” means, with respect to any Person, without duplication,

(a) any indebtedness (including principal or premium) of such Person in respect of borrowed money, evidenced by bonds, notes, debentures, loan agreements or similar instruments, letters of credit or banker’s acceptances (or, without double counting, reimbursement agreements in respect thereof), representing Capital Lease Obligations or the balance deferred and unpaid of the purchase price of any property, except (i) any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business, or representing any Swap Obligations and (ii) any earn-out obligations until, after 30 days of becoming due and payable, has not been paid and such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and any purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed

obligations of the seller, if and to the extent any of the foregoing indebtedness (other than letters of credit and Swap Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(b) to the extent not otherwise included, any guarantee obligation by such Person of the obligations of the type referred to in clause (a) of another Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business;

(c) to the extent not otherwise included, the obligations of the type referred to in clause (a) of another Person secured by a Lien on any property owned by such Person, whether or not such obligations are assumed by such Person and whether or not such obligations would appear upon the balance sheet of such Person; *provided* that the amount of such Indebtedness for purposes of this clause (c) will be the lesser of the fair market value of such property at such date of determination and the amount of Indebtedness so secured;

(d) net obligations of such Person under any Hedge Agreement to the extent such obligations would appear as a net liability on a balance sheet of such Person (other than in the footnotes) prepared in accordance with GAAP; and

(e) all obligations of such Person in respect of Disqualified Equity Interests;

provided that, notwithstanding the foregoing, Indebtedness will be deemed not to include (1) contingent obligations incurred in the ordinary course of business unless and until such obligations are non-contingent or (2) indebtedness that constitutes "**Indebtedness**" merely by virtue of a pledge of the capital stock of an Unrestricted Subsidiary. For all purposes hereof, the Indebtedness of any Person shall in the case of Restricted Subsidiaries that are not Loan Parties, exclude loans and advances made by Loan Parties having a term not exceeding 364 days (inclusive of any roll over or extension of terms) and made in the ordinary course of business (such loans and advances, "**Short Term Advances**"). Indebtedness shall not include Indebtedness of any direct or indirect parent company appearing on the balance sheet of such Person solely by reason of push down accounting under GAAP. The amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Swap Termination Value thereof as of such date.

"**Indemnified Liabilities**" has the meaning specified in Section 11.05.

"**Indemnitees**" has the meaning specified in Section 11.05.

"**Independent Financial Advisor**" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and its Affiliates.

"**Information**" has the meaning specified in Section 11.08.

"**Initial Term Loan Commitment**" means, as to each Lender, its obligation to make an Initial Term Loan to the Borrower hereunder on the Closing Date, expressed as an amount representing the maximum principal amount of the Initial Term Loans to be made by such Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Lender pursuant to an Assignment

and Assumption, (ii) a Refinancing Amendment or (iii) an Extension. The initial amount of each Lender's Initial Term Loan Commitment is set forth on Schedule 2.01 under the caption "Initial Term Loan Commitment" or, otherwise, in the Assignment and Assumption or Refinancing Amendment pursuant to which such Lender shall have assumed its Initial Term Loan Commitment, as the case may be. The aggregate amount of the Initial Term Loan Commitments is \$225,000,000.

"**Initial Term Loans**" has the meaning assigned to such term in Section 2.01(a).

"**Inside Maturity Exception**" means Indebtedness consisting of, at the Borrower's option, any combination of Credit Agreement Refinancing Debt, Incremental Facilities, Incremental Equivalent Debt, Permitted Ratio Debt, Indebtedness incurred pursuant to Section 7.03(l)(iii) and Permitted Refinancing of the foregoing in an original principal amount not to exceed the greater of (a) \$90,000,000 and (b) 60% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination.

"**Intellectual Property**" has the meaning specified in the Security Agreement.

"**Intellectual Property Security Agreements**" has the meaning specified in the Security Agreement.

"**Intercreditor Agreements**" means the Closing Date Intercreditor Agreement, any other Senior Priority Intercreditor Agreement, any Equal Priority Intercreditor Agreement and any Junior Lien Intercreditor Agreement, in each case that may be executed by the Collateral Agent from time to time.

"**Interest Coverage Ratio**" means, as of any date, the ratio of (a) Consolidated Adjusted EBITDA to (b) Consolidated Interest Expense, in each case for the Test Period as of such date.

"**Interest Payment Date**" means (a) the last Business Day of each March, June, September and December, and the applicable Maturity Date and (b) to the extent necessary to create a fungible tranche of Term Loans, the date of the incurrence of any Incremental Term Loans .

"**Investment**" means, as to any Person, any direct or indirect acquisition or investment by such Person, including by means of (a) the purchase or other acquisition (including by merger or otherwise) of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, but excluding any Short Term Advances or (c) the purchase or other acquisition (in one transaction or a series of transactions, including by merger or otherwise) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of another Person. The amount of any Investment at any time shall be the amount of cash and the fair market value of other property actually invested (measured at the time made), without adjustment for subsequent changes in the value of such Investment, net of any return, whether a return of capital, interest, dividend or otherwise, with respect to such Investment.

"**Investment Grade Rating**" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Borrower.

"**IRS**" means Internal Revenue Service of the United States.

"**Joint Venture**" means (a) any Person which would constitute an "equity method investee" of the Borrower or any of the Restricted Subsidiaries and (b) any Person in whom the Borrower or any of the

Restricted Subsidiaries beneficially owns any Equity Interest that is not a Restricted Subsidiary (other than an Unrestricted Subsidiary).

“**Joint Venture Investments**” means Investments in any Joint Venture or Unrestricted Subsidiary in an aggregate amount not to exceed the greater of (a) 30% of Closing Date EBITDA and (b) 30% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination.

“**Junior Financing**” means any Material Indebtedness that is contractually subordinated in right of payment to the Obligations expressly by its terms.

“**Junior Financing Documentation**” means any documentation governing any Junior Financing.

“**Junior Lien Debt**” means any Indebtedness that is secured by a Lien on Collateral that has a priority that is contractually junior to the Lien on such Collateral that secure the Obligations.

“**Junior Lien Intercreditor Agreement**” means an intercreditor agreement, substantially in the form attached hereto as Exhibit K-1 (as the same may be modified in a manner satisfactory to the Collateral Agent, the Controlling Party and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be Junior Lien Debt, another lien subordination arrangement reasonably satisfactory to the Collateral Agent, the Controlling Party and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Collateral Agent will execute and deliver a Junior Lien Intercreditor Agreement (and the Required Lenders hereby authorize and direct the Collateral Agent to enter into any Junior Lien Intercreditor Agreement that is in the form of Exhibit K-1 or otherwise reasonably satisfactory to the Controlling Party) with one or more Debt Representatives for secured Indebtedness that is permitted to be incurred hereunder as Junior Lien Debt; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens do not violate (including with respect to priority) any provisions of the Loan Documents.

“**Latest Maturity Date**” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Loan, any Refinancing Term Loan, or any Extended Term Loan, in each case as extended in accordance with this Agreement from time to time.

“**Laws**” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“**LCA Election**” has the meaning specified in Section 1.08(f).

“**LCA Test Date**” has the meaning specified in Section 1.08(f).

“**Lead Arranger**” means Crescent Capital Group, L.P.

“**Lender**” has the meaning specified in the introductory paragraph to this Agreement (and, for the avoidance of doubt, includes each Term Loan Lender), and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” Each Additional Lender shall be a Lender to the extent any such Person has executed and delivered a Refinancing Amendment or an

Incremental Amendment, as the case may be, and to the extent such Refinancing Amendment or Incremental Amendment shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender. Notwithstanding the foregoing, no Disqualified Lender that purports to become a Lender hereunder (notwithstanding the provisions of this Agreement that prohibit Disqualified Lenders from becoming Lenders) shall be entitled to any of the rights or privileges enjoyed by the other Lenders (including with respect to voting, information and lender meetings) and shall be deemed for all purposes to be, at most, a Defaulting Lender (except for purposes of Section 2.19(d)) until such time as such Disqualified Lender no longer owns any Loans or Commitments.

“**Lending Office**” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“**Lien**” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement 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 Capitalized Lease having substantially the same economic effect as any of the foregoing); *provided* that in no event shall an operating lease in and of itself be deemed a Lien.

“**Limited Condition Acquisition**” means any Permitted Acquisition or other Investment permitted hereunder by the Borrower or one or more of its Restricted Subsidiaries whose consummation is not conditioned on the availability of, or on obtaining, third party financing.

“**Liquidity**” means, as of any date of determination, (a) cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries that are Domestic Subsidiaries on a consolidated basis that is not Restricted, *plus* (b) the amount by which revolving commitments extended to the Borrower and its Restricted Subsidiaries exceed the total utilization of such revolving commitments.

“**Loan**” means a Term Loan made by a Lender to the Borrower under Article II (including Section 2.16).

“**Loan Documents**” means, collectively, (a) this Agreement, (b) the Notes, (c) any Refinancing Amendment, Incremental Amendment or Extension Amendment, (d) the Guaranty, (e) the Collateral Documents, (f) the Intercreditor Agreements (if any), (g) the Global Intercompany Note, (h) the Agency Fee Letter and (i) the Fee Letter.

“**Loan Parties**” means, collectively, the Borrower and the Guarantors.

“**Management Stockholders**” means (a) the members of management of Holdings, any direct or indirect parent of Holdings, or any of their respective Subsidiaries who are investors in Holdings or any direct or indirect parent of Holdings, (b) family members of any of the individuals identified in the foregoing clause (a), (c) trusts, partnerships or limited liability companies for the benefit of any of the individuals identified in the foregoing clause (a) or (b), and (d) heirs, executors, estates, successors and legal representatives of the individuals identified in the foregoing clause (a) or (b).

“**Margin Stock**” has the meaning set forth in Regulation U of the Board of Governors of the United States Federal Reserve System, or any successor thereto.

“Market Capitalization” means an amount equal to (a) the sum of (i) the total number of issued and outstanding shares of common stock of the Borrower or any direct or indirect parent of the Borrower on the date of the initial public offering of the shares of common stock of the Borrower or such direct or indirect parent of the Borrower, *plus* (ii) the total number of shares of common stock of the Borrower or any direct or indirect parent of the Borrower that are actually issued, if any, upon exercise of the “overallotment option” granted to the underwriters of such initial public offering, *multiplied by* (b) the initial public offering price of such shares of common stock.

“Master Agreement” has the meaning specified in the definition of “Hedge Agreement.”

“Material Adverse Effect” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party and (c) the rights and remedies of the Lenders, the Collateral Agent or the Administrative Agent under any Loan Document.

“Material Domestic Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each of the Borrower’s Domestic Subsidiaries (a) whose total assets at the last day of the most recent Test Period (when taken together with the total assets of the Subsidiaries of such Domestic Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of the consolidated total assets of the Borrower and the Restricted Subsidiaries as of the last day of such Test Period, in each case determined in accordance with GAAP or (b) whose revenues for such Test Period (when taken together with the revenues of the Subsidiaries of such Domestic Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; *provided* that if, at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Controlling Party may agree in its sole discretion), Domestic Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clause (a) or (b) comprise in the aggregate more than (when taken together with the total assets of the Subsidiaries of such Domestic Subsidiaries at the last day of the most recent Test Period) 10.0% of total assets of the Borrower and the Restricted Subsidiaries that are Domestic Subsidiaries as of the end of the most recently ended Test Period or more than (when taken together with the revenues of the Subsidiaries of such Domestic Subsidiaries for such Test Period) 10.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries that are Domestic Subsidiaries for such Test Period, then the Borrower shall, not later than sixty days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Controlling Party may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Domestic Subsidiaries as “Material Domestic Subsidiaries” to the extent required such that the foregoing condition ceases to be true and (ii) comply with the provisions of Section 6.11 with respect to any such Subsidiaries.

“Material Foreign Subsidiary” means, as of the Closing Date and thereafter at any date of determination, each of the Borrower’s Foreign Subsidiaries (a) whose total assets at the last day of the most recent Test Period (when taken together with the total assets of the Subsidiaries of such Foreign Subsidiary at the last day of the most recent Test Period) were equal to or greater than 5.0% of the consolidated total assets of the Borrower and the Restricted Subsidiaries as of the last day of such Test Period, in each case determined in accordance with GAAP or (b) whose revenues for such Test Period (when taken together with the revenues of the Subsidiaries of such Foreign Subsidiary for such Test Period) were equal to or greater than 5.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries for such Test Period, in each case determined in accordance with GAAP; *provided*

that if, at any time and from time to time after the date which is 30 days after the Closing Date (or such longer period as the Controlling Party may agree in its sole discretion), Foreign Subsidiaries that are not Material Foreign Subsidiaries comprise in the aggregate more than (when taken together with the total assets of the Subsidiaries of such Foreign Subsidiaries at the last day of the most recent Test Period) 10.0% of total assets of the Borrower and the Restricted Subsidiaries that are Foreign Subsidiaries as of the end of the most recently ended Test Period or more than (when taken together with the revenues of the Subsidiaries of such Foreign Subsidiaries for such Test Period) 10.0% of the consolidated revenues of the Borrower and the Restricted Subsidiaries that are Foreign Subsidiaries for such Test Period, then the Borrower shall, not later than sixty days after the date by which financial statements for such Test Period were required to be delivered pursuant to this Agreement (or such longer period as the Controlling Party may agree in its reasonable discretion), designate in writing to the Administrative Agent one or more of such Foreign Subsidiaries as "Material Foreign Subsidiaries" to the extent required such that the foregoing condition ceases to be true.

"Material Indebtedness" means, as of any date, Indebtedness for borrowed money on such date of any Loan Party in an aggregate principal amount exceeding the Threshold Amount; *provided* that in no event shall any of the following be Material Indebtedness (a) Indebtedness under a Loan Document, (b) obligations in respect of a Permitted Receivables Financing, (c) capital lease obligations and (d) Indebtedness held by a Loan Party or any Indebtedness held solely by an Affiliate of a Loan Party.

"Material Real Property" means any real property owned in fee by the Borrower or any Restricted Subsidiary that is a Loan Party (or owned by any Person required to become a Loan Party hereunder) (a) with a book value in excess of \$7,500,000 and (b) not located in an area determined by the Federal Emergency Management Agency (or any successor agency) to be located in a special flood hazard area.

"Material Subsidiary" means any Material Domestic Subsidiary or any Material Foreign Subsidiary.

"Maturity Date" means:

(a) with respect to the Initial Term Loans that have not been extended pursuant to Section 2.18, the date that is the earlier of (i) eight years after the Closing Date and (ii) the date such Term Loans are declared due and payable pursuant to Section 9.02.

(b) [reserved].

(c) with respect to any tranche of Extended Term Loans, the earlier of (i) the final maturity date as specified in the applicable Extension Amendment and (ii) the date such tranche of Extended Term Loans are terminated and/or declared due and payable pursuant to Section 9.02.

(d) with respect to any Refinancing Term Loans, the earlier of (i) the final maturity date as specified in the applicable Refinancing Amendment and (ii) the date such Refinancing Term Loans are declared due and payable pursuant to Section 9.02, and

(e) with respect to any Incremental Term Loans, the earlier of (i) the final maturity date as specified in the applicable Incremental Amendment and (ii) the date such Incremental Term Loans are declared due and payable pursuant to Section 9.02;

provided, in each case, that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately preceding such day.

“**Maximum Rate**” has the meaning specified in Section 11.10.

“**Minority Investment**” means any Person other than a Subsidiary in which the Borrower or any Restricted Subsidiary owns any Equity Interests.

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

“**Mortgage Policy**” and/or “**Mortgage Policies**” means an American Land Title Association Lender’s Extended Coverage title insurance policy covering such interest in the Mortgaged Property in an amount at least equal to the fair market value of such Mortgaged Property (or such lesser amount as shall be specified by the Controlling Party) insuring the second priority Lien of each such Mortgage as a valid Lien on the property described therein, free of any other Liens except as expressly permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Collateral Agent or the Controlling Party may reasonably request and in form and substance reasonably satisfactory to the Controlling Party.

“**Mortgage Properties**” means the property on which Mortgages are required pursuant to Section 6.11.

“**Mortgages**” means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Collateral Agent for the benefit of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent and the Controlling Party, and any other mortgages, deeds of trust, trust deeds and hypothecs executed and delivered pursuant to Sections 6.11 or 6.12(b).

“**Multiemployer Plan**” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“**Net Cash Proceeds**” means, with respect to:

(a) the Disposition of any asset by the Borrower or any Restricted Subsidiary or any Casualty Event, the excess, if any, of:

(i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash and Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of the Borrower or any of the Restricted Subsidiaries), over

(ii) the sum of,

(A) the principal amount, premium or penalty, if any, interest, breakage costs and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and required to be repaid in connection with such Disposition or Casualty Event (other than Indebtedness

under the First Lien Loan Documents, any other Senior Priority Lien Debt, the Loan Documents, Pari Passu Lien Debt or Junior Lien Debt),

(B) the out-of-pocket fees and expenses (including attorneys' fees, accountants' fees, investment banking fees, survey costs, title insurance premiums, and related search and re-cording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event and restoration costs following a Casualty Event,

(C) taxes or distributions made pursuant to Section 7.06(g)(i) or 7.06(g)(iii) paid or reasonably estimated to be payable in connection therewith (including taxes imposed on the distribution or repatriation of any such Net Cash Proceeds),

(D) in the case of any Disposition or Casualty Event by anon-wholly owned Restricted Subsidiary, the *pro rata* portion of the Net Cash Proceeds thereof (calculated without regard to this clause (D)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Restricted Subsidiary as a result thereof, and

(E) any reserve for adjustment in respect of (1) the sale price of such asset or assets established in accordance with GAAP and (2) any liabilities associated with such asset or assets and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, it being understood that "Net Cash Proceeds" shall include the amount of any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (E);

provided that (I) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Cash Proceeds unless such amount exceeds \$5,000,000 and (II) no such net cash proceeds shall constitute Net Cash Proceeds under this clause (a) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year exceeds \$10,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Cash Proceeds under this clause (a)); and

(b) the sale, incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary or any Permitted Equity Issuance by the Borrower, the excess, if any, of:

(i) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over

(ii) taxes paid or reasonably estimated to be payable as a result thereof, fees (including investment banking fees, attorneys' fees, accountants' fees, underwriting fees and discounts), commissions, costs and other out-of-pocket expenses and other customary expenses, incurred by the Borrower or such Restricted Subsidiary in connection with such sale, incurrence or issuance; and

(c) any Permitted Equity Issuance by any direct or indirect parent of the Borrower, the amount of cash and Cash Equivalents from such Permitted Equity Issuance contributed to the capital of the Borrower.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP (determined, for the avoidance of doubt, on an unconsolidated basis) and before any reduction in respect of preferred stock dividends.

“**Netted Tax Amount**” has the meaning specified in Section 2.07(b)(vi).

“**Non-Bank Certificate**” has the meaning specified in Section 3.01(b).

“**Non-Consenting Lender**” has the meaning specified in the penultimate paragraph of Section 3.07.

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

“**Non-Loan Party**” means any Restricted Subsidiary of the Borrower that is not a Loan Party.

“**Not Otherwise Applied**” means, with reference to the amount of any capital contributions or Net Cash Proceeds from Permitted Equity Issuances that is proposed to be applied to a particular use or transaction, that such amount was not previously applied in determining the permissibility of a transaction under the Loan Documents (including, for the avoidance of doubt, any use of such amount to increase the Available Amount) where such permissibility was (or may have been) contingent on the receipt or availability of such amount.

“**Note**” means each of the Term Loan Notes.

“**Obligations**” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party and to provide Cash Collateral under any Loan Document.

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

“**OID**” means original issue discount.

“**Organization Documents**” means,

(a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);

(b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and

(c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Applicable ECF Indebtedness**” has the meaning specified in Section 2.07(b)(i).

“**Other Applicable Indebtedness**” has the meaning specified in Section 2.07(b)(ii)(B).

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

“**Other Taxes**” has the meaning specified in Section 3.01(f).

“**Overnight Rate**” means, for any day, (a) the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (b) with respect to any Incremental Facility denominated in any Alternative Currency, the rate of interest per annum specified in the applicable Incremental Amendment.

“**Pari Passu Lien Debt**” means any Indebtedness that is secured by Liens on Collateral that are *pari passu* in priority with the Liens on Collateral that secure the Obligations. For the avoidance of doubt, “Pari Passu Lien Debt” includes the Initial Term Loans as of the Closing Date.

“**Participant**” has the meaning specified in Section 11.07(d).

“**Participant Register**” has the meaning specified in Section 11.07(e).

“**Participating Member State**” means each state as described in any EMU Legislation.

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

“**Pension Plan**” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made, or has had an obligation to make, contributions at any time in the preceding five plan years.

“**Perfection Certificate**” means a certificate in the form of Exhibit II to the Security Agreement or any other form reasonably approved by the Controlling Party, as the same shall be supplemented from time to time.

“**Permitted Acquisition**” has the meaning specified in Section 7.02(c).

“**Permitted Equity Issuance**” means any (a) public or private sale or issuance of any Qualified Equity Interests of the Borrower or any direct or indirect parent of the Borrower or (b) sale or issuance of debt securities representing obligations of Holdings, the Borrower and/or Restricted Subsidiaries (other than debt securities representing intercompany Indebtedness) that have been converted into or exchanged for Qualified Equity Interests, in each case, other than Specified Equity Contributions; *provided* that Net Cash Proceeds of any such debt securities will be deemed to have been received by the Borrower upon any such conversion or exchange.

“**Permitted Holders**” means any:

- (a) the Sponsor;
- (b) the Management Stockholders;
- (c) any group (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) of which the Persons described in clauses (a) or (b) above are members; *provided* that, without giving effect to the existence of such group or any other group, the Persons described in clauses (a) and (b) above, collectively, beneficially own (as defined in Rules 13(d) and 14(d) of the Exchange Act) Equity Interests representing at least a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interest of Holdings (or any Successor Holdings, if applicable) then held by such group); and
- (d) any direct or indirect parent of Holdings, for so long as a majority of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of such entity is beneficially owned (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, by one or more Permitted Holders described in clauses (a), (b) and/or (c) of the definition thereof.

“**Permitted Investment**” means (a) any Permitted Acquisition and/or (b) any other Investment or acquisition permitted hereunder.

“**Permitted Investors**” means (a) the Sponsor, (b) each of the Affiliates and investment managers of the Sponsor, (c) any fund or account managed by any of the persons described in clause (a) or (b) of this definition, (d) any employee benefit plan of Holdings or any of its subsidiaries and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, and (e) investment vehicles of members of management of Holdings or the Borrower but excluding natural persons, Holdings, the Borrower, and their respective subsidiaries.

“**Permitted Junior Secured Refinancing Debt**” means any Credit Agreement Refinancing Indebtedness that is Junior Lien Debt.

“**Permitted Pari Passu Secured Refinancing Debt**” means any Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt.

“**Permitted Ratio Debt**” means secured or unsecured Indebtedness of the Borrower or any Restricted Subsidiary; *provided* that, at the time of incurrence thereof:

- (a) immediately after giving effect to the issuance, incurrence, or assumption of such Indebtedness:

(i) in the case of any Senior Priority Lien Debt, the First Lien Net Leverage Ratio for the applicable Test Period is equal to or less than (A) the Closing Date First Lien Net Leverage Ratio or (B) the First Lien Net Leverage Ratio immediately prior to such incurrence;

(ii) in the case of any Pari Passu Lien Debt or Junior Lien Debt, either:

(A) the Secured Net Leverage Ratio for the applicable Test Period is equal to or less than (I) the Closing Date Secured Net Leverage Ratio or (II) the Secured Net Leverage Ratio immediately prior to such incurrence, or

(B) the Interest Coverage Ratio for the applicable Test Period is equal to or greater than (I) 2.00 to 1.00 or (II) the Interest Coverage Ratio immediately prior to such incurrence; or

(iii) in the case of any unsecured Indebtedness, Indebtedness that is incurred or issued by any Non-Loan Party or secured Indebtedness junior to the Second Lien Facility, either:

(A) the Total Net Leverage Ratio for the applicable Test Period is equal to or less than (I) the Closing Date Total Net Leverage Ratio or (II) the Total Net Leverage Ratio immediately prior to such incurrence, or

(B) the Interest Coverage Ratio for the applicable Test Period is equal to or greater than (I) 2.00 to 1.00 or (II) the Interest Coverage Ratio immediately prior to such incurrence;

in each case, after giving Pro Forma Effect to the incurrence of such Indebtedness and the use of proceeds thereof and measured as of and for the Test Period immediately preceding the issuance, incurrence or assumption of such Indebtedness for which internal financial statements are available; and

(b) if such Indebtedness is intended to be (i) Senior Priority Lien Debt, then a Debt Representative acting on behalf of the lenders of such Permitted Ratio Debt has become party to or is otherwise subject to the provisions of the Closing Date Intercreditor Agreement or another Senior Priority Intercreditor Agreement or (ii) Pari Passu Lien Debt or Junior Lien Debt, a Debt Representative acting on behalf of the holders of such Permitted Ratio Debt has become party to, or is otherwise subject to the provisions of, (x) if such Permitted Ratio Debt is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (y) if such Permitted Ratio Debt is Junior Lien Debt, a Junior Lien Intercreditor Agreement;

(c) immediately before and after giving effect thereto and to the use of the proceeds thereof no Specified Event of Default shall have occurred or be continuing; and

(d) if such Permitted Ratio Debt is in the form of term loans in U.S. dollars and is Pari Passu Lien Debt, then the provisions of Section 2.16(h) shall apply as if such Permitted Ratio Debt was in the form of Incremental Term Loans; provided, that any Permitted Ratio Debt that is subject to transfer limitations beyond those arising by operation of law shall in each case be deemed to constitute a "loan" for purposes of this clause (d) even if such Permitted Ratio Debt is in the form of a note issued pursuant to an exemption from registration under the Securities Act.

Permitted Ratio Debt will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Permitted Refinancing**” means, with respect to any Person, any modification, refinancing, refunding, replacement, renewal or extension of any Indebtedness of such Person; *provided that*

(a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, replaced, renewed or extended except by an amount equal to unpaid accrued interest and premium (including tender premiums) thereon, *plus* OID and upfront fees *plus* other fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, replacement, renewal or extension and by an amount equal to any existing commitments unutilized thereunder,

(b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(c) or Section 7.03(d), such modification, refinancing, refunding, replacement, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended,

(c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(d), at the time thereof, no Event of Default shall have occurred and be continuing,

(d) if such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is Junior Financing or Junior Lien Debt,

(i) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, replacement, renewal, or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended,

(ii) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is unsecured, such modification, refinancing, refunding, replacement, renewal or extension is either (A) unsecured or (B) secured by Liens permitted to be incurred under Section 7.01 at such time;

(iii) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is secured by Liens, (A) such modification, refinancing, refunding, replacement, renewal or extension is either unsecured or is not secured by any Liens that do not secure such Indebtedness and (B) to the extent that such Liens are subordinated to the Liens securing the Obligations, such modification, refinancing, refunding, replacement, renewal or extension is secured by Liens that are subordinated to the Liens securing the Obligations on terms at least as favorable to the Lenders as those contained in the documentation (including any intercreditor or similar agreements) governing the Indebtedness being modified, refinanced, replaced, refunded, replaced, renewed or extended;

(iv) (A) such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended shall be on terms and conditions that are, taken as a whole, not materially more favorable to the lenders or holders providing such Indebtedness than, those applicable to the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (except (1) for covenants applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (2) any term or condition to the extent such term or condition is also added for the benefit of the Lenders under the Term Loans) or (B) solely to the extent that any terms and conditions applicable to any such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended are not the same as, or substantially similar to, those then applicable to the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, shall otherwise reflect customary market terms and conditions at the time of such incurrence, including with respect to high yield debt securities to the extent applicable, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (*provided* that a certificate of a Responsible Officer delivered to the Administrative Agent at least four (4) Business Days (or such shorter period as may be agreed by the Controlling Party) prior to the incurrence of such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, together with a reasonably detailed description of the material covenants and events of default of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (iv) shall be conclusive evidence that such material covenants and events of default satisfy such requirement unless the Administrative Agent (acting at the direction of the Required Lenders) notifies the Borrower within such four (4) Business Day (or shorter) period that it disagrees with such determination (including a description of the basis upon which it disagrees)); *provided further* that this clause (iv) will not apply to (w) terms addressed in the other clauses of this “Permitted Refinancing” definition, (x) interest rate, rate floors, fees, funding discounts and other pricing terms, (y) redemption, prepayment or other premiums, and (z) optional prepayment or redemption terms, and

(v) such modification, refinancing, refunding, replacement, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended and no additional obligors become liable for such Indebtedness;

(e) in the case of any Permitted Refinancing in respect of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in each case, such Permitted Refinancing is secured by Liens on assets of Loan Parties that are subject to an Equal Priority Intercreditor Agreement or Junior Lien Intercreditor Agreement, as applicable;

(f) in the case of any Permitted Refinancing in respect of any Incremental Equivalent Debt, such Permitted Refinancing shall be subject to the terms of clause (c) of the definition of “Incremental Equivalent Debt” as if such Permitted Refinancing were also Incremental Equivalent Debt; and

(g) if any Permitted Refinancing is in the form of term loans in U.S. dollars and is Pari Passu Lien Debt, then the provisions of Section 2.16(h) shall apply as if such Permitted Refinancing was in the form of Incremental Term Loans; provided, that any Permitted Refinancing that is subject to transfer limitations beyond those arising by operation of law shall in each case be deemed to constitute a “loan” for purposes of this clause (g) even if such Permitted

Refinancing is in the form of a note issued pursuant to an exemption from registration under the Securities Act.

Permitted Refinancing will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Person**” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“**Plan**” means any material “employee benefit plan” (as such term is defined in Section 3(3) of ERISA), other than a Foreign Plan, established by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any of their respective ERISA Affiliates.

“**Platform**” has the meaning specified in Section 6.02.

“**Pledged Debt**” has the meaning specified in the Security Agreement.

“**Pledged Equity**” has the meaning specified in the Security Agreement.

“**Pounds Sterling**” and “**£**” mean the lawful money of the United Kingdom of Great Britain and Northern Ireland.

“**Prepayment Date**” has the meaning specified in Section 2.07(b)(vii).

“**Prepayment Notice**” means a written notice made pursuant to Section 2.07(a)(i) substantially in the form of Exhibit J.

“**Private-Side Information**” means any information with respect to Holdings and its Subsidiaries that is not Public-Side Information.

“**Pro Forma Basis**” and “**Pro Forma Effect**” mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio (including in connection with Specified Transactions) in accordance with Section 1.08.

“**Pro Rata Share**” means (a) with respect to all payments, computations and other matters relating to the Term Loan of a given Class of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Loan Exposure of such Class of such Lender at such time and the denominator of which is the aggregate Term Loan Exposure of such Class of all Lenders at such time; (b) [reserved]; (c) [reserved] and (d) with respect to all payments, computations and other matters relating to the Incremental Term Loans of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Incremental Term Loan Exposure of such Lender at such time and the denominator of which is the aggregate Incremental Term Loan Exposure of all Lenders at such time and (e) with respect to all payments, computations and other matters relating to the Term Loans of all Classes of any Lender at any time (including for purposes of Section 10.07) a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Term Loan Exposure of such Lender at such time and the denominator of which is the aggregate Term Loan Exposure of all Lenders at such time.

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

“Public Company Costs” means costs relating to compliance with the Sarbanes-Oxley Act of 2002, as amended, and other expenses arising out of or incidental to Holdings’ (or any direct or indirect parent thereof which do not own other Subsidiaries besides Holdings, its Subsidiaries and any other direct or indirect parents of Holdings) status as a reporting company, including costs, fees and expenses (including legal, accounting and other professional fees) relating to compliance with provisions of the Securities Act and the Exchange Act, the rules of securities exchange companies with listed equity securities, directors’ compensation, fees and expense reimbursement, shareholder meetings and reports to shareholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees, and listing fees.

“Public Lenders” means Lenders that do not wish to receive Private-Side Information.

“Public-Side Information” means (a) at any time prior to Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that is (i) of a type that would be required by applicable Law to be publicly disclosed in connection with an issuance by Holdings or any of its Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (ii) not material to make an investment decision with respect to securities of Holdings or any of its Subsidiaries (for purposes of United States federal, state or other applicable securities laws), and (b) at any time on or after Holdings or any of its Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to Holdings or any of its Subsidiaries or any of their respective securities.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Equity Interests.

“Qualified Holding Company Debt” means unsecured Indebtedness of Holdings:

- (a) that is not subject to any Guarantee by any Subsidiary of Holdings (including the Borrower),
- (b) that will not mature prior to the date that is six months after the Latest Maturity Date in effect on the date of issuance or incurrence thereof,
- (c) that has no scheduled amortization or scheduled payments of principal and is not subject to mandatory redemption, repurchase, prepayment or sinking fund obligation (it being understood that such Indebtedness may have mandatory prepayment, repurchase or redemption provisions satisfying the requirements of clause (e) below),
- (d) that does not require any payments in cash of interest or other amounts in respect of the principal thereof prior to the earlier to occur of (i) the date that is four years from the date of the issuance or incurrence thereof and (ii) the date that is 180 days after the Latest Maturity Date in effect on the date of such issuance or incurrence, and
- (e) that has mandatory prepayment, repurchase or redemption, covenant, default and remedy provisions customary for senior discount notes of an issuer that is the parent of a borrower under senior secured credit facilities, and in any event, with respect to covenant, default and remedy provisions, no more restrictive (taken as a whole) than those set forth in this Agreement (other than provisions customary for senior discount notes of a holding company);

provided, that any such Indebtedness shall constitute Qualified Holding Company Debt only if immediately after giving effect to the issuance or incurrence thereof and the use of proceeds thereof, no Event of Default shall have occurred and be continuing.

“**Qualified Securitization Financing**” means any Securitization Financing of a Securitization Subsidiary that meets the following conditions:

(a) such Qualified Securitization Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and the Securitization Subsidiary, (b) all sales, transfers and/or contributions of Securitization Assets and related assets to the Securitization Subsidiary are made at fair market value and (c) the financing terms, covenants, termination events and other provisions thereof, including any Standard Securitization Undertakings, shall be market terms. The grant of a security interest in any Securitization Assets of the Borrower or any of the Restricted Subsidiaries (other than a Securitization Subsidiary) to secure Indebtedness under this Agreement prior to engaging in any Securitization Financing shall not be deemed a Qualified Securitization Financing.

“**Qualifying IPO**” means either (a) the issuance by Holdings or any direct or indirect parent of Holdings of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8 (or equivalent forms applicable for foreign public companies or foreign private issuers) or any successor form) pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act or pursuant to a prospectus or similar documents filed with securities regulatory authorities outside of the United States (whether alone or in connection with a secondary public offering) or (b) any transaction or series of related transactions following consummation of which Holdings or any direct or indirect parent of Holdings is either subject to the periodic reporting obligations of the Exchange Act or has a class or series of Equity Interests publicly traded on a recognized securities exchange, in each case, if following such transaction or series of transactions, any class or series of Equity Interests of such Person is listed on a national securities exchange.

“**Ratio Amount**” means an aggregate principal amount that, after giving Pro Forma Effect to the incurrence thereof, in accordance with Section 1.08 (assuming, in the case of (x) any substantially simultaneous incurrence of Incremental Revolving Commitments (as defined in the First Lien Credit Agreement), a full drawing of such Revolving Commitments (as defined in the First Lien Credit Agreement) and (y) any Incremental Facilities with a delayed draw feature, either (as determined by the Borrower) (i) a full drawing thereof as of the date of receiving commitments in respect thereof or (ii) based on the date and actual amount of funding thereof), would not result in:

(a) with respect to Incremental Equivalent Debt to be incurred as Senior Priority Lien Debt, the First Lien Net Leverage Ratio for the applicable Test Period being greater than (A) the Closing Date First Lien Net Leverage Ratio or (B) the First Lien Net Leverage Ratio immediately prior to such incurrence;

(b) with respect to any Incremental Facility or Incremental Equivalent Debt to be incurred as Pari Passu Lien Debt or Junior Lien Debt, either:

(i) the Secured Net Leverage Ratio for the applicable Test Period being greater than (A) the Closing Date Secured Net Leverage Ratio or (B) the Secured Net Leverage Ratio immediately prior to such incurrence; or

(ii) the Interest Coverage Ratio for the applicable Test Period being less than (A) 2.00 to 1.00 or (B) the Interest Coverage Ratio immediately prior to such incurrence; and

(c) with respect to any Incremental Facility or Incremental Equivalent Debt that is unsecured, either:

(i) the Total Net Leverage Ratio for the applicable Test Period being greater than (A) the Closing Date Total Net Leverage Ratio or (B) the Total Net Leverage Ratio immediately prior to such incurrence; or

(ii) the Interest Coverage Ratio for the applicable Test Period being less than (A) 2.00 to 1.00 or (B) the Interest Coverage Ratio immediately prior to such incurrence.

“**Recipient**” means (a) the Administrative Agent and (b) any Lender, as applicable.

“**Reference Date**” has the meaning specified in the definition of “Available Amount.”

“**Refinanced Debt**” has the meaning assigned to such term in the definition of “Credit Agreement Refinancing Indebtedness.”

“**Refinanced Loans**” has the meaning specified in [Section 11.01](#).

“**Refinancing Amendment**” means an amendment to this Agreement executed by each of (a) the Borrower and Holdings, (b) the Administrative Agent (at the written direction of the Controlling Party (and the Required Lenders hereby authorize and direct the Administrative Agent to execute any such amendment which it is directed to execute by the Controlling Party)) and (c) each Additional Lender and Lender that agrees to provide any portion of the Credit Agreement Refinancing Indebtedness being incurred pursuant thereto, in accordance with [Section 2.17](#).

“**Refinancing Commitments**” means any Refinancing Term Commitments.

“**Refinancing Loans**” means any Refinancing Term Loans.

“**Refinancing Term Commitments**” means one or more Classes of Term Loan commitments hereunder that result from a Refinancing Amendment.

“**Refinancing Term Loans**” means one or more Classes of Term Loans that result from a Refinancing Amendment.

“**Register**” has the meaning specified in [Section 11.07\(c\)](#).

“**Registered Equivalent Notes**” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“**Related Indemnified Person**” of an Indemnitee means (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, officers, or employees of such Indemnitee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Facility.

“**Replacement Loans**” has the meaning specified in Section 11.01.

“**Reportable Event**” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty day notice period has been waived by regulation as in effect on the date hereof.

“**Required Facility Lenders**” means, with respect to any Facility on any date of determination, Lenders having or holding more than 50% of the sum of (a) the aggregate principal amount of outstanding Loans under such Facility and (b) the aggregate unused Commitments under such Facility; *provided* that (i) any determination of Required Facility Lenders shall be subject to the limitations set forth in Section 11.07(h) with respect to Affiliated Lenders and (ii) the portion of outstanding Loans and the unused Commitments of such Facility, as applicable, held or deemed held by a Defaulting Lender shall be excluded for purposes of making a determination of Required Facility Lenders; *provided further* that at any time prior to the Disposition Date, the Required Facility Lenders shall include (or otherwise be accompanied by the concurring consent of) the Crescent Representative.

“**Required Lenders**” means, as of any date of determination, Lenders having or holding more than 50% of the aggregate Term Loan Exposure of all Lenders; *provided* that (a) the aggregate Term Loan Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders and (b) any determination of Required Lenders shall be subject to the limitations set forth in Section 11.07(h) with respect to Affiliated Lenders; *provided further* that at any time prior to the Disposition Date, the Required Lenders shall include (or otherwise be accompanied by the concurring consent of) the Crescent Representative.

“**Responsible Officer**” means the chief executive officer, president, senior vice president, senior vice president (finance), vice president, chief financial officer, treasurer, manager of treasury activities or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“**Restricted**” means, when referring to cash or Cash Equivalents of the Borrower or any of the Restricted Subsidiaries, that such cash or Cash Equivalents appear (or would be required to appear) as “restricted” on a consolidated balance sheet of the Borrower or such Restricted Subsidiary (unless such appearance is related to a restriction in favor of, among others, the Administrative Agent).

“**Restricted Payment**” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of Holdings, the Borrower or any of the Restricted Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to the Borrower’s or Holdings’ stockholders, partners or members (or the equivalent Persons thereof).

“**Restricted Subsidiary**” means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“**S&P**” means Standard & Poor’s, a division of S&P Global Inc., and any successor thereto.

“**Sale Leaseback Transaction**” means a sale leaseback transaction with respect to all or any portion of any real property owned by a Loan Party.

“**Same Day Funds**” means disbursements and payments in immediately available funds.

“**Sanctions**” means any sanction administered or enforced by the United States government (including OFAC), the United Nations Security Council, the European Union or HMT.

“**SEC**” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“**Secured Hedge Agreement**” means “Secured Hedge Agreement” as defined in the First Lien Credit Agreement.

“**Secured Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt outstanding as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Secured Parties**” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 10.05 or Section 10.12.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securitization Assets**” means the accounts receivable, royalty or other revenue streams, other rights to payment (including with respect to rights of payment pursuant to the terms of Joint Ventures) subject to a Qualified Securitization Financing and the proceeds thereof.

“**Securitization Fees**” means distributions or payments made directly or by means of discounts with respect to any participation interest issued or sold in connection with, and other fees paid to a Person that is not a Securitization Subsidiary in connection with any Qualified Securitization Financing.

“**Securitization Financing**” means any transaction or series of transactions that may be entered into by the Borrower or any of its Subsidiaries pursuant to which the Borrower or any of its Subsidiaries may sell, convey or otherwise transfer to (a) a Securitization Subsidiary (in the case of a transfer by the Borrower or any of its Subsidiaries) or (b) any other Person (in the case of a transfer by a Securitization Subsidiary), or may grant a security interest in, any Securitization Assets of the Borrower or any of its Subsidiaries, and any assets related thereto, including all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving Securitization Assets.

“**Securitization Repurchase Obligation**” means any obligation of a seller or transferor of Securitization Assets in a Qualified Securitization Financing to repurchase Securitization Assets arising as a result of a breach of a Standard Securitization Undertaking, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“**Securitization Subsidiary**” means a wholly owned Subsidiary of the Borrower (or another Person formed for the purposes of engaging in a Qualified Securitization Financing in which the

Borrower or any Subsidiary of the Borrower makes an Investment and to which the Borrower or any Subsidiary of the Borrower transfers Securitization Assets and related assets) that engages in no activities other than in connection with the financing of Securitization Assets of the Borrower or its Subsidiaries, all proceeds thereof and all rights (contingent and other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Board of Directors of the Borrower or such other Person (as provided below) as a Securitization Subsidiary, and

(a) no portion of the Indebtedness or any other obligation (contingent or otherwise) of which (i) is guaranteed by Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, in any way other than pursuant to Standard Securitization Undertakings or (iii) subjects any property or asset of Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings,

(b) with which none of Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, has any material contract, agreement, arrangement or understanding other than on terms which the Borrower reasonably believes to be no less favorable to Holdings, the Borrower or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Borrower, and

(c) to which none of Holdings, the Borrower or any other Subsidiary of the Borrower, other than another Securitization Subsidiary, has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results.

Any such designation by the Board of Directors of the Borrower or such other Person shall be evidenced to the Administrative Agent by delivery to the Administrative Agent of a certified copy of the resolution of the Board of Directors of the Borrower or such other Person giving effect to such designation and a certificate executed by a Responsible Officer certifying that such designation complied with the foregoing conditions.

"Security Agreement" means, collectively, the Security Agreement executed by the Loan Parties, substantially in the form of Exhibit F, together with each Security Agreement Supplement executed and delivered pursuant to Section 6.11.

"Security Agreement Supplement" has the meaning specified in the Security Agreement.

"Senior Priority Intercreditor Agreement" means the Intercreditor Agreement, substantially in the form attached hereto as Exhibit K-3 (as the same may be modified in a manner satisfactory to the Collateral Agent, the Controlling Party and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be Senior Priority Lien Debt, another lien subordination arrangement reasonably satisfactory to the Collateral Agent, the Controlling Party and the Borrower, in each case as amended, restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Collateral Agent will execute and deliver a Senior Priority Intercreditor Agreement (and the Required Lenders hereby authorize and direct the Collateral Agent to enter into any Senior Priority Intercreditor Agreement that is in the form of Exhibit K-3 or otherwise reasonably satisfactory to the Controlling Party) with one or more Debt Representatives for Indebtedness that is permitted hereunder to be incurred as Senior Priority Lien Debt.

“**Senior Priority Lien Debt**” means any Indebtedness that is secured by Liens on Collateral that are senior in priority to the Liens on Collateral that secure the Obligations. For the avoidance of doubt, “Senior Priority Lien Debt” includes the First Lien Facilities as of the Closing Date.

“**Short Term Advances**” has the meaning specified in the definition of “Indebtedness.”

“**Similar Business**” means any business, the majority of whose revenues are derived from (i) business or activities conducted by the Borrower and its Restricted Subsidiaries on the Closing Date, (ii) any business that is a natural outgrowth or reasonable extension, development or expansion of any such business or any business similar, reasonably related, incidental, complementary or ancillary to any of the foregoing or (iii) any business that in the Borrower’s good faith business judgment constitutes a reasonable diversification of businesses conducted by the Borrower and its Restricted Subsidiaries.

“**Solvent**” and “**Solvency**” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person, on a consolidated basis with its Subsidiaries, exceeds its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, (b) the present fair saleable value of the property of such Person, on a consolidated basis with its Subsidiaries, is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such debts and other liabilities become absolute and matured, (c) such Person, on a consolidated basis with its Subsidiaries, is able to pay its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such liabilities become absolute and matured and (d) such Person, on a consolidated basis with its Subsidiaries, is not engaged in, and is not about to engage in, business for which it has unreasonably small capital. 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.

“**SPC**” has the meaning specified in [Section 11.07\(g\)](#).

“**Specified Dividend**” means the dividend to be made by the Borrower to Holdings and by Holdings to its shareholder within ten Business Days after the Closing Date in an aggregate principal amount of \$218,000,000.

“**Specified Equity Contribution**” means “Specified Equity Contribution” as defined in the First Lien Credit Agreement.

“**Specified Event of Default**” means an Event of Default pursuant to [Section 9.01\(a\)](#) or an Event of Default pursuant to [Section 9.01\(f\)](#) with respect to the Borrower.

“**Specified Representations**” means those representations and warranties made by Holding and the Borrower in [Sections 5.01\(a\)](#) (with respect to organizational existence only), [5.01\(b\)\(ii\)](#), [5.02\(a\)](#), [5.02\(b\)\(i\)](#), [5.02\(b\)\(iii\)](#), [5.04](#), [5.13](#), [5.16](#), [5.17](#) and [5.18](#).

“**Specified Transaction**” means any Investment that results in a Person becoming a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition, any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a facility or any Disposition of a business unit, line of business or division or a facility of the Borrower or a Restricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise, or any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for

working capital purposes), Restricted Payment or Incremental Loan that by the terms of this Agreement requires such test to be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect.”

“**Specified Transaction Adjustments**” has the meaning specified in [Section 1.08\(c\)](#).

“**Sponsor**” means (a) any funds, limited partnerships or co-investment vehicles managed or advised by Leonard Green & Partners, L.P. or any of its Affiliates or direct or indirect Subsidiaries (or jointly managed by any such Person or over which any such Person exercises governance rights) or (b) any investors in the Persons identified in clause (a) who are investors in such Persons as of the Closing Date, and from time to time, invest directly or indirectly in Holdings or any direct or indirect parent of Holdings (but excluding any portfolio companies of any of the foregoing).

“**Sponsor Management Agreement**” means the Management Services Agreement, dated as of August 21, 2014, by and among the Sponsor (or certain of the management companies associated with it or its advisors), and the Borrower, as the same may be amended, modified, replaced, supplemented or otherwise modified from time to time in accordance with its terms, but only to the extent that any such amendment, modification, replacement, supplement or other modification does not, directly or indirectly, increase the obligation of Holdings, the Borrower or any of its Restricted Subsidiaries to make any payments thereunder.

“**Sponsor Termination Fees**” means the one-time payment under the Sponsor Management Agreement of a termination fee to one or more of the Sponsors in the event of either a Change of Control or the completion of a Qualifying IPO.

“**Standard Securitization Undertakings**” means representations, warranties, covenants and indemnities entered into by the Borrower or any Subsidiary of the Borrower that are customary in a Securitization Financing.

“**Subsidiary**” means, with respect to any Person, any corporation, partnership, limited liability company or other entity of which (a) the Equity Interests having ordinary voting power (other than Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors of such corporation, partnership, limited liability company or other entity are at the time owned by such Person or (b) more than 50.0% of the Equity Interests are at the time owned by such Person. Unless otherwise indicated in this Agreement, all references to Subsidiaries will mean Subsidiaries of the Borrower.

“**Subsidiary Guarantor**” means any Guarantor other than Holdings.

“**Successor Borrower**” has the meaning specified in [Section 7.04\(e\)](#).

“**Successor Holdings**” means any successor to Holdings pursuant to [Section 7.04\(a\)\(iii\)](#), [7.04\(h\)\(ii\)](#) or [7.13\(b\)\(ii\)](#), as applicable, together with such Person’s subsequent successors and assigns permitted hereunder.

“**Supplemental Administrative Agent**” and “**Supplemental Administrative Agents**” have the meanings specified in [Section 10.12\(a\)](#).

“**Swap Termination Value**” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge 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 Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include a Lender or any Affiliate of a Lender).

“**Taxes**” has the meaning specified in Section 3.01(a).

“**Term Loan**” means the term loans made by the Lenders on the Closing Date to the Borrower pursuant to Section 2.01(a) and any Incremental Term Loans, Extended Term Loans and Refinancing Term Loans, to the extent not otherwise indicated and as the context may require.

“**Term Loan Commitment**” means, as to each Lender, its obligation to make a Term Loan to the Borrower hereunder (including any Initial Term Loan Commitment), expressed as an amount representing the maximum principal amount of the Term Loans to be made by such Lender under this Agreement, 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 (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) a Refinancing Amendment or (iii) an Extension and (c) increased from time to time pursuant to an Incremental Amendment.

“**Term Loan Exposure**” means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term Loans of such Lender; *provided*, at any time prior to the making of the Term Loans, the Term Loan Exposure of any Lender shall be equal to such Lender’s Term Loan Commitment, or, with regard to any Incremental Amendment at any time prior to the making of the applicable Incremental Term Loans thereunder, the Term Loan Exposure of any Lender with respect to such Incremental Term Facility shall be equal to such Lender’s Incremental Term Loan Commitment thereunder.

“**Term Loan Lender**” means a Lender having a Term Loan Commitment or other Term Loan Exposure.

“**Term Loan Note**” means a promissory note of the Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit B-1 hereto, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Term Loans made by such Lender.

“**Termination Conditions**” means, collectively, (a) the payment in full in cash of the Obligations (other than contingent indemnification obligations as to which no claim has been asserted) and (b) the termination of the Commitments, if any.

“**Test Period**” in effect at any time means the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period are available (which may be internal financial statements except to the extent this Agreement otherwise expressly states that the Test Period is specified in a Compliance Certificate, in which case such financial statements shall have been delivered pursuant to Section 6.01(a) or (b) for the Test Period set forth in such Compliance Certificate). A Test Period may be designated by reference to the last day thereof (*i.e.*, the “March 31, 2019 Test Period” refers to the period of four consecutive fiscal quarters of the Borrower ended on March 31, 2019), and a Test Period shall be deemed to end on the last day thereof.

“**Threshold Amount**” means the greater of (a) 24% of Closing Date EBITDA and (b) 24% of TTM Consolidated Adjusted EBITDA.

“**Total Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Traded Securities**” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.

“**Transaction Expenses**” means any fees or expenses incurred or paid by Holdings or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby, including any amortization thereof in any period, including any amortization thereof in any period.

“**Transactions**” means, collectively, (a) the funding of the Initial Term Loans on the Closing Date, (b) the funding of the First Lien Term Loans on the Closing Date, (c) the repayment of the Existing Debt, (d) the making of the Specified Dividend and (e) the payment of the Transaction Expenses.

“**TTM Consolidated Adjusted EBITDA**” means, as of any date of determination, the Consolidated Adjusted EBITDA of the Borrower, determined on a Pro Forma Basis, for the four consecutive fiscal quarters most recently ended prior to such date for which financial statements are internally available.

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

“**Unfunded Advances/Participations**” means with respect to the Administrative Agent, the aggregate amount, if any (i) made available to the Borrower on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the applicable Borrowing as contemplated by Sections 2.01(b)(iv) and (ii) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by the Borrower or made available to the Administrative Agent by any such Lender.

“**Uniform Commercial Code**” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (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 “**U.S.**” mean the United States of America.

“**Unrestricted Subsidiary**” means (a) each Securitization Subsidiary and (b) any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the date hereof, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 6.13 or ceases to be a Subsidiary of the Borrower.

“**U.S. Lender**” has the meaning specified in Section 3.01(c).

“**USA PATRIOT Act**” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“**Weighted Average Life to Maturity**” means, 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;

provided that for purposes of determining the Weighted Average Life to Maturity of (i) any Refinanced Debt, (ii) any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, or (iii) any Term Loans for purposes of incurring any other Indebtedness (in any such case, the “**Applicable Indebtedness**”), the effects of any amortization payments or other prepayments made on such Applicable Indebtedness (including the effect of any prepayment on remaining scheduled amortization) prior to the date of the applicable modification, refinancing, refunding, renewal, replacement, extension or incurrence shall be disregarded.

“**wholly owned**” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (a) director’s qualifying shares and (b) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly owned Subsidiaries of such Person.

“**Wilmington**” means Wilmington Trust, National Association.

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

“**Withholding Agent**” means the Borrower, any Guarantor or the Administrative Agent.

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

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) References in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears.

(iii) The term “including” is by way of example and not limitation.

(iv) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(c) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(d) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(e) For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws) (a “**Division**”), if (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) 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 Interests at such time.

(f) Terms defined by reference to the First Lien Credit Agreement shall have the meaning ascribed to such terms in the First Lien Credit Agreement as in effect on the date hereof (or, if the First Lien Credit Agreement is no longer in effect, the substantially equivalent provision in such agreement as amended and restated, replaced, or refinanced, in each case in connection with a refinancing or repayment in full of all obligations under such agreement (other than contingent obligations in respect of which no claim has been made)).

(g) Any reference to any section of the First Lien Credit Agreement is to the First Lien Credit Agreement as in effect on the date hereof (or, if the First Lien Credit Agreement is amended, restated, modified, supplemented, extended, renewed, refunded, replaced, or refinanced after the date hereof, to the substantially equivalent provision in such amended, restated, modified, supplemented, extended, renewed, refunded, replaced, or refinanced agreement).

SECTION 1.03 Accounting Terms; Accounting Periods; Unrestricted Subsidiaries; Determination of Fair Market Value. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, except as otherwise specifically prescribed herein. For purposes of calculating any consolidated amounts necessary to determine compliance by any Person and, if applicable, its Restricted Subsidiaries with any ratio or other financial covenant in this Agreement, Unrestricted Subsidiaries shall be excluded. Unless the context indicates otherwise, any reference to a “fiscal year” shall refer to a fiscal year of the Borrower ending December 31, and any reference to a “fiscal quarter” shall refer to a fiscal quarter of the Borrower ending March 31, June 30, September 30 or December 31. All determinations of fair market value under a Loan Document shall be made by the Borrower in good faith and, if such determination is

consistent with a valuation or opinion of an Independent Financial Advisor, such determination shall be conclusive for all purposes under the Loan Documents or related to the Obligations.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one decimal place more than the number of decimal places by which such ratio is expressed herein (the “applicable decimal place”) and rounding the result up or down to the applicable decimal place.

SECTION 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.07 Available Amount Transactions. If more than one action occurs on any given date the permissibility of the taking of which is determined hereunder by reference to the amount of the Available Amount immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently, but in no event may any two or more such actions be treated as occurring simultaneously, i.e., each transaction must be permitted under the Available Amount as so calculated.

SECTION 1.08 Pro Forma Calculations: Limited Condition Acquisitions: Basket and Ratio Compliance

(a) Notwithstanding anything to the contrary herein, the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated in the manner prescribed by this Section 1.08; *provided*, that notwithstanding anything to the contrary in clauses (b), (c) or (d) of this Section 1.08, when calculating the Secured Net Leverage Ratio for purposes of Section 2.07(b)(i) and the Asset Sale Prepayment Percentage, the events described in this Section 1.08 that occurred subsequent to the end of the applicable Test Period shall not be given *pro forma* effect.

(b) For purposes of calculating the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith) that have been made (i) during the applicable Test Period or (ii) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a *pro forma* basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated Adjusted EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period. If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.08, then the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the

Interest Coverage Ratio shall be calculated to give *pro forma* effect thereto in accordance with this Section 1.08.

(c) Whenever *pro forma* effect is to be given to a Specified Transaction, the *pro forma* calculations shall be made in good faith by a Responsible Officer and may include, for the avoidance of doubt, the amount of cost savings, operating expense reductions and, synergies projected by the Borrower in good faith to be realized as a result of specified actions taken, committed to be taken or expected to be taken (calculated on a *pro forma* basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such Test Period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period) relating to such Specified Transaction, net of the amount of actual benefits realized during such period from such actions (such cost savings and synergies, “**Specified Transaction Adjustments**”); *provided* that (i) such Specified Transaction Adjustments are reasonably identifiable, quantifiable and factually supportable in the good faith judgment of the Borrower, (ii) such actions are taken, committed to be taken or expected to be taken no later than twenty-four months after the date of such Specified Transaction, and (iii) no amounts shall be added pursuant to this clause (c) to the extent duplicative of any amounts that are otherwise added back in calculating Consolidated Adjusted EBITDA, whether through a *pro forma* adjustment or otherwise, with respect to any Test Period.

(d) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period with respect to leverage ratios or the first day of such Test Period with respect to the Interest Coverage Ratio.

(e) Notwithstanding anything in this Agreement or any Loan Document to the contrary (i) the Borrower may rely on more than one basket or exception hereunder (including both ratio-based and non-ratio based baskets and exceptions, and including partial reliance on different baskets that, collectively, permit the entire proposed transaction) at the time of any proposed transaction, and the Borrower may, in its sole discretion, at any later time divide, classify or reclassify such transaction (or any portion thereof) in any manner that complies with the available baskets and exceptions hereunder at such later time (*provided* that with respect to reclassification of Indebtedness and Liens, any such reclassification shall be subject to the parameters of Sections 7.01 and 7.03, as applicable), (ii) unless the Borrower elects otherwise, if the Borrower or its Restricted Subsidiaries in connection with any transaction or series of such related transaction (A) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under or as permitted by a ratio-based basket and (B) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under a non-ratio-based basket (which shall occur within five Business Days of the events in clause (A) above), then the applicable ratio will be calculated with respect to any such action under the applicable ratio-based basket without regard to any such action under such non-ratio-based basket made in connection with such transaction or series of related transactions, (iii) if the Borrower or its Restricted Subsidiaries enters into any revolving, delayed draw or other committed debt facility, the Borrower may elect to determine

compliance of such debt facility (including the incurrence of Indebtedness and Liens from time to time in connection therewith) with this Agreement and each other Loan Document on the date commitments with respect thereto are first received, assuming the full amount of such facility is incurred (and any applicable Liens are granted) on such date, in lieu of determining such compliance on any subsequent date (including any date on which Indebtedness is incurred pursuant to such facility), and (iv) if the Borrower or any Restricted Subsidiary incurs Indebtedness under a ratio-based basket, such ratio-based basket (together with any other ratio-based basket utilized in connection therewith, including in respect of other Indebtedness, Liens, Dispositions, Investments, restricted Payments or payments in respect of Junior Financing) will be calculated excluding the cash proceeds of such Indebtedness for netting purposes (i.e., such cash proceeds shall not reduce the Borrower's Consolidated Net Debt or Consolidated Secured Net Debt pursuant to clause (b) of the definition of such terms), *provided* that the actual application of such proceeds may reduce Indebtedness for purposes of determining compliance with any applicable ratio. For example, if the Borrower incurs Indebtedness under the Fixed Incremental Amount on the same date that it incurs Indebtedness under the Ratio Amount, then the Secured Net Leverage Ratio and any other applicable ratio will be calculated with respect to such incurrence under the Ratio Amount without regard to any incurrence of Indebtedness under the Fixed Incremental Amount. Unless the Borrower elects otherwise, each Incremental Facility (or Incremental Equivalent Debt) shall be deemed incurred first under the Ratio Amount to the extent permitted (and calculated prior to giving effect to any substantially simultaneous incurrence of any Indebtedness based on a basket or exception that is not based on a financial ratio, including under the Fixed Incremental Amount), with any balance incurred under the Fixed Incremental Amount. For purposes of determining compliance with Section 2.16, in the event that any Incremental Facility or Incremental Equivalent Debt (or any portion thereof) meets the criteria of Ratio Amount or Fixed Incremental Amount, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Indebtedness (or any portion thereof) in any manner that complies with Section 2.16 on the date of such classification or any such reclassification, as applicable.

(f) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when (i) calculating any applicable ratio in connection with the incurrence of Indebtedness, the creation of Liens, the making of any Disposition, the making of an Investment, the making of a Restricted Payment, the designation of a Subsidiary as restricted or unrestricted, the repayment of Indebtedness or for any other purpose, (ii) determining the accuracy of any representation or warranty, (iii) determining whether any Default or Event of Default has occurred, is continuing or would result from any action, or (iv) determining compliance with any other condition precedent to any action or transaction, in each case of clauses (i) through (iv) in connection with a Limited Condition Acquisition, the date of determination of such ratio, the accuracy of such representation or warranty (but taking into account any earlier date specified therein), whether any Default or Event of Default has occurred, is continuing or would result therefrom, or the satisfaction of any other condition precedent shall, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Condition Acquisition, an "**LCA Election**"), be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "**LCA Test Date**"). If on a Pro Forma Basis after giving effect to such Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) such ratios, representations and warranties, absence of defaults, satisfaction of conditions precedent and other provisions are calculated as if such Limited Condition Acquisition or other transactions had occurred at the beginning of the most recent Test Period ending prior to the LCA Test Date for which financial statements are available, the Borrower could have taken such action on the relevant LCA Test Date in compliance with the applicable ratios or other provisions, such provisions shall be deemed to have been complied with, unless a Specified Event of Default shall be continuing on the date such Limited Condition Acquisition is consummated. For the avoidance of doubt, (i) if any of such ratios, representations and warranties, absence of defaults, satisfaction of conditions precedent or other provisions are exceeded or breached as a

result of fluctuations in such ratio (including due to fluctuations in Consolidated Adjusted EBITDA), a change in facts and circumstances or other provisions at or prior to the consummation of the relevant Limited Condition Acquisition, such ratios, representations and warranties, absence of defaults, satisfaction of conditions precedent and other provisions will not be deemed to have been exceeded, breached, or otherwise failed as a result of such fluctuations or changed circumstances solely for purposes of determining whether the Limited Condition Acquisition and any related transactions is permitted hereunder and (ii) such ratios and compliance with such conditions shall not be tested at the time of consummation of such Limited Condition Acquisition or related Specified Transactions. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket availability with respect to any other Specified Transaction or otherwise on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated. For purposes of any calculation pursuant to this clause (f) of the Interest Coverage Ratio, Consolidated Interest Expense may be calculated using an assumed interest rate for the Indebtedness to be incurred in connection with such Limited Condition Acquisition based on the indicative interest margin contained in any financing commitment documentation with respect to such Indebtedness or, if no such indicative interest margin exists, as reasonably determined by the Borrower in good faith.

(g) [reserved].

(h) For purposes of determining the maturity date of any Indebtedness, customary bridge loans that are subject to customary conditions (including no payment or bankruptcy event of default) that would either automatically be extended as, converted into or required to be exchanged for permanent refinancing shall be deemed to have the maturity date as so extended, converted or exchanged.

SECTION 1.09 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 7.01, 7.02 and 7.03 with respect to any amount of Lien, Indebtedness or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Lien, Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in Dollars, any requisite currency translation (i) with respect to Loans or Commitments, shall be based on the Exchange Rate and (ii) with respect to any other amounts, shall be based on the rate of exchange between the applicable currency and Dollars as reasonably determined by the Borrower, in each case in effect on the Business Day immediately preceding the date of such transaction or determination (subject to clauses (c) and (d) below) and shall not be affected by subsequent fluctuations in exchange rates.

(c) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt (or, in the case of an LCA Election, on the date of the applicable LCA Test Date); *provided* that, if such

Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the 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 Indebtedness so refinanced does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding the foregoing, the principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the Exchange Rate that is in effect on the date of such refinancing.

(d) For purposes of determining the First Lien Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Interest Coverage Ratio, including Consolidated Adjusted EBITDA when calculating such ratios, all amounts denominated in a currency other than Dollars will be converted to Dollars for any purpose (including testing the any financial maintenance covenant) at the effective rate of exchange in respect thereof reflected in the consolidated financial statements of the Borrower for the applicable Test Period for which such measurement is being made, and will reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

ARTICLE II The Commitments and Borrowings

SECTION 2.01 Term Loans.

(a) Term Loan Commitments. Subject only to the conditions set forth in Section 4.01, each Lender with an Initial Term Loan Commitment severally agrees to make to the Borrower on the Closing Date a term loan denominated in Dollars equal to such Lender's Initial Term Loan Commitment (the "**Initial Term Loans.**" Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed.

(b) Borrowing Mechanics for Term Loans

(i) Subject to Sections 4.01(a)(i), 4.02(c), and 2.16(a), each Borrowing of Term Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may only be given in writing, prior to the requested date of any Borrowing. Such notices may be conditioned on the occurrence of the Closing Date or, with respect to Incremental Term Loans, may be conditioned on the occurrence of any transaction anticipated to occur in connection with such Incremental Term Loans.

(ii) Each notice by the Borrower pursuant to this Section 2.01(b) must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Committed Loan Notice shall specify (A) that the Borrower is requesting a Term Loan Borrowing, (B) the requested date of the Borrowing (which shall be a Business Day), (C) the principal amount of Term Loans to be borrowed and (D) the wiring information of the account of the Borrower to which funds are to be disbursed.

(iii) [Reserved].

(iv) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable tranche of Term Loans. In the case of each Borrowing, upon satisfaction of the applicable conditions to such

Borrowing, each Appropriate Lender shall make the amount of its Term Loan available to the Borrower in Same Day Funds on the Business Day specified in the applicable Committed Loan Notice by wire transfer of such funds, in each case in accordance with instructions provided in the Committed Loan Notice.

(v) The failure of any Lender to make the Term Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Term Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Term Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.02 [Reserved].

SECTION 2.03 [Reserved].

SECTION 2.04 [Reserved].

SECTION 2.05 [Reserved].

SECTION 2.06 Availability. Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of the Borrower, the interest rate applicable at the time to the applicable Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate *plus* any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.06 shall be conclusive in the absence of manifest error. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's applicable Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.07 Prepayments.

(a) Optional.

(i) The Borrower may, upon notice to the Administrative Agent in the form of a Prepayment Notice, at any time or from time to time, voluntarily prepay the Loans in whole or in part, without premium or penalty except as specified in the following sentence; *provided* that (x) such Prepayment Notice must be received by the Administrative Agent not later than 1:00 pm (New York City time) one Business Day prior to any date of prepayment and (y) any prepayment

of Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof, or if less, the entire principal amount thereof then outstanding. Any prepayment of Initial Term Loans made on or prior to the date that is the second anniversary of the Closing Date shall be accompanied by the payment of the Prepayment Premium described in Section 2.11(b). Each Prepayment Notice shall specify the date and amount of such prepayment and the Class(es) of Loans to be prepaid, and the payment amount specified in each Prepayment Notice shall be due and payable on the date specified therein. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of a Prepayment Notice and of the amount of such Lender's Pro Rata Share of such prepayment; *provided*, "non-consenting" Lenders may be repaid on a non-pro rata basis in connection with an Extension Offer or a Refinancing Amendment. Any prepayment of Loans shall be subject to Section 2.07(c).

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind, in whole or in part, any notice of prepayment under Section 2.07(a)(i), if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility which refinancing shall not be consummated or shall otherwise be delayed.

(iii) Voluntary prepayments of Term Loans permitted hereunder shall be applied in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity).

(iv) Notwithstanding anything in any Loan Document to the contrary (including Section 2.15), (A) the Borrower may prepay the outstanding Term Loans of any Lender on a non-*pro rata* basis at or below par with the consent of only such Lender and (B) the Borrower may prepay Term Loans of one or more Classes below par on a non-*pro rata* basis in accordance with the auction procedures set forth on Exhibit L; *provided* that, in each case, no Event of Default has occurred and is continuing or would result therefrom and if the proceeds of any Revolving Loans (as defined in the First Lien Credit Agreement) are used to finance such prepayment, immediately after giving effect to such prepayment and on a Pro Forma Basis for such prepayment, the Borrower's Liquidity equals or exceeds an amount equal to 33% of the Revolving Commitments (as defined in the First Lien Credit Agreement) (whether or not drawn) as of the date of determination.

(b) Mandatory. The Initial Term Loans shall be subject to the following mandatory prepayment provisions (x) except with respect to any prepayments required under Section 2.07(b)(iii), solely following the satisfaction of the Termination Conditions (as defined in the First Lien Credit Agreement) and the indefeasible repayment in full of all other Senior Priority Lien Debt (in each case, other than in connection with a Permitted Refinancing or the First Lien Facilities or such other Senior Priority Lien Debt) or (y) to the extent of any First Lien Declined Amounts:

(i) Excess Cash Flow. Within five Business Days after financial statements have been delivered or are required to be delivered pursuant to Section 6.01(a) and the related Compliance Certificate has been delivered or is required to be delivered pursuant to Section 6.02(a), in each case, commencing with the first full fiscal year ending after the Closing Date, the Borrower shall, subject to Sections 2.07(b)(v) and (b)(vi), prepay an aggregate principal amount of Term Loans equal to,

(A) the ECF Prepayment Percentage of Excess Cash Flow, if any, for the fiscal year covered by such financial statements minus

(B) the sum of,

(1) all voluntary prepayments of (x) First Lien Term Loans and any other term loans that are Senior Priority Lien Debt and (y) the Term Loans and any other term loans that are Pari Passu Lien Debt (in each case, including (x) those made through debt buybacks and in the case of below-par repurchases in an amount equal to the discounted amount actually paid in cash in respect of such below-par repurchase and (y) payments pursuant to Section 3.07 or other applicable “yank-a-bank” provisions (solely to the extent any First Lien Term Loans, other Senior Priority Lien Debt, Term Loans or other Pari Passu Lien Debt are retired instead of assigned)),

(2) all voluntary payments and prepayments of Revolving Loans (as defined in the First Lien Credit Agreement) and any other revolving loans that are Pari Passu Lien Debt, in each case to the extent accompanied by a corresponding permanent reduction in commitments,

(3) all voluntary prepayments of Junior Lien Debt to the extent permitted hereunder,

(4) all voluntary prepayments of Indebtedness secured by Liens on Excluded Assets, and

(5) all voluntary prepayments of Indebtedness of Restricted Subsidiaries that are not Subsidiary Guarantors,

in each case, (I) during such fiscal year or following the end of such fiscal year and prior to the date of such calculation *provided* that, with respect to any such amount following the end of such fiscal year, such amount is not included in any calculation pursuant to this clause (b)(i) for the subsequent fiscal year), (II) to the extent such prepayments are not funded with the proceeds of Funded Debt and (III) including, for the avoidance of doubt, assignments of such Indebtedness to the Borrower or a Restricted Subsidiary (and prepayments of such Indebtedness below par) to the extent of the amount paid in connection with such assignment (or prepayment); *provided* that no such payment shall be required if such amount is equal to or less than \$10,000,000; *provided further* that if at the time that any such prepayment would be required, the Borrower is required to repay or repurchase or to offer to repurchase or repay Pari Passu Lien Debt pursuant to the terms of the documentation governing such Indebtedness with all or a portion of such Excess Cash Flow (such Pari Passu Lien Debt required to be repaid or repurchased or to be offered to be so repaid or repurchased, “**Other Applicable ECF Indebtedness**”), then the Borrower may apply such Excess Cash Flow on *pro rata* basis to the prepayment of the Term Loans and to the repayment or re-purchase of Other Applicable ECF Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.07(b)(i) shall be reduced accordingly (for purposes of this *pro rata* basis shall be determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable ECF Indebtedness at such time, with it being agreed that the portion of Excess Cash Flow allocated to the Other Applicable ECF Indebtedness shall not exceed the amount of such Excess Cash Flow required to be allocated to the Other Applicable ECF Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such net proceeds shall be allocated to the Term Loans in accordance with the terms hereof).

(ii) Asset Sales; Casualty Events If the Borrower or any Loan Party,

- (A) Disposes of any property or assets constituting Collateral pursuant to the General Asset Sale Basket, or
- (B) any Casualty Event occurs with respect to property or assets constituting Collateral,

which in either case results in the realization or receipt by the Borrower or such Loan Party of Net Cash Proceeds, the Borrower shall prepay on or prior to the date which is ten Business Days after the date of the realization or receipt of such Net Cash Proceeds in excess of \$10,000,000 for any transaction or series of related transactions, subject to Sections 2.07(b)(v) and 2.07(b)(vi), an aggregate principal amount of Term Loans equal to the Asset Sale Prepayment Percentage of such Net Cash Proceeds realized or received; *provided* that if at the time that any such prepayment would be required, the Borrower is required to repay or repurchase or to offer to repurchase or repay Pari Passu Lien Debt pursuant to the terms of the documentation governing such Indebtedness with the proceeds of such Disposition or Casualty Event (such Pari Passu Lien Debt required to be repaid or repurchased or to be offered to be so repaid or repurchased, “**Other Applicable Indebtedness**”), then the Borrower may apply such Net Cash Proceeds on a *pro rata* basis to the prepayment of the Term Loans and to the repayment or repurchase of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.07(b)(ii) shall be reduced accordingly (for purposes of this proviso *pro rata* basis shall be determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness at such time, with it being agreed that the portion of such net proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such net proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such net proceeds shall be allocated to the Term Loans in accordance with the terms hereof); *provided, further*, that to the extent the holders of Other Applicable Indebtedness decline to have such indebtedness repurchased or prepaid, the declined amount shall promptly (and in any event within ten Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance with the terms hereof; *provided, further*, that no prepayment shall be required pursuant to this Section 2.07(b)(ii) with respect to such portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest in accordance with this Section 2.07(b)(ii).

With respect to any Net Cash Proceeds realized or received with respect to any Disposition or any Casualty Event that, in either case, is subject to the application of the foregoing provisions of this Section 2.07(b)(ii), at the option of the Borrower or any of its Restricted Subsidiaries, the Borrower or any of its Restricted Subsidiaries may (in lieu of making a prepayment pursuant to the foregoing provisions) elect to (I) reinvest an amount equal to all or any portion of such Net Cash Proceeds in assets used or useful for the business of the Borrower and its Restricted Subsidiaries (1) within eighteen months following receipt of such Net Cash Proceeds or (2) if the Borrower or any of its Restricted Subsidiaries enters into a legally binding commitment to reinvest such Net Cash Proceeds within eighteen months following receipt of such Net Cash Proceeds, no later than one hundred and eighty days after the end of such eighteen month period; *provided* that if any portion of such amount is no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, subject to Section 2.07(b)(v) and Section 2.07(b)(vi), an amount equal to the Asset Sale Prepayment Percentage of any such Net Cash Proceeds shall be applied within five Business Days after the Borrower or such Loan Party reasonably determines that such amount is no longer intended to be

or cannot be so reinvested to the prepayment of the Term Loans and Other Applicable Indebtedness as set forth above or (II) apply such Net Cash Proceeds to permanently repay indebtedness of Non-Loan Parties.

(iii) Indebtedness. If any of the Borrower or any Restricted Subsidiary incurs or issues any Funded Debt (A) which is not expressly permitted to be incurred or issued pursuant to Section 7.03 or (B) that constitutes Credit Agreement Refinancing Indebtedness, the Borrower shall prepay an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds received therefrom on or prior to the date which is five Business Days after the receipt of such Net Cash Proceeds (in the case of clause (A)) and substantially concurrently with the incurrence of such Credit Agreement Refinancing Indebtedness (in the case of clause (B)).

(iv) [Reserved]

(v) Application of Payments. (A) Except as may otherwise be set forth in any Refinancing Amendment, Extension Amendment or any Incremental Amendment, each prepayment of Term Loans pursuant to Section 2.07(b)(i), (ii) or (iii) shall be applied ratably to each Class of Term Loans then outstanding (*provided* that any prepayment of Term Loans with the Net Cash Proceeds of Credit Agreement Refinancing Indebtedness shall be applied solely to each applicable Class of Refinanced Debt), (B) [reserved], and (C) each such prepayment shall be paid to the Lenders in accordance with their respective Pro Rata Shares of such prepayment.

(vi) Foreign and Tax Considerations. Notwithstanding any other provisions of this Section 2.07(b),

(A) to the extent that any or all of the Net Cash Proceeds of any Disposition by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.07(b)(ii) (a “**Foreign Disposition**”), the Net Cash Proceeds of any Casualty Event from a Foreign Subsidiary (a “**Foreign Casualty Event**”) or Excess Cash Flow of a Foreign Subsidiary are prohibited or delayed by applicable local law from being repatriated to the United States, the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.07(b) but may be retained by the applicable Foreign Subsidiary so long as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to use its commercially reasonable efforts to promptly take all actions reasonably required by the applicable local law to permit such repatriation) and, if within 12 months of the applicable prepayment event, such repatriation of any of such affected Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be immediately effected and such repatriated Net Cash Proceeds or Excess Cash Flow will be promptly (and in any event not later than ten Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.07(b) to the extent provided herein, and

(B) to the extent that the Borrower has determined in good faith that repatriation to the United States of any or all of the Net Cash Proceeds of any Foreign Disposition or any Foreign Casualty Event or any or all of the Excess Cash Flow of a Foreign Subsidiary would have material adverse tax consequences (relative to the relevant Foreign Disposition, Foreign Casualty Event or Excess Cash Flow and taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Cash Proceeds or Excess Cash Flow, the Net Cash

Proceeds or Excess Cash Flow so affected may be retained by the applicable Foreign Subsidiary; *provided* that, in the case of this clause (B), on or before the date on which any Net Cash Proceeds so retained would otherwise have been required to be applied to reinvestments or prepayments pursuant to this Section 2.07(b) (or such Excess Cash Flow would have been required to be applied to prepayments pursuant to this Section 2.07(b)), (1) the Borrower applies an amount equal to such Net Cash Proceeds or Excess Cash Flow to such reinvestments or prepayments (in the case of Net Cash Proceeds) and to such prepayments (in the case of Excess Cash Flow) as if such Net Cash Proceeds or Excess Cash Flow had been received by the Borrower rather than such Foreign Subsidiary, less the amount (the “**Netted Tax Amount**”) of additional taxes that would have been payable or reserved against it if such Net Cash Proceeds or Excess Cash Flow had been repatriated to the United States by such Foreign Subsidiary; *provided* that, in the case of this clause (1), to the extent that within 12 months of the applicable prepayment event, the repatriation of any Net Cash Proceeds or Excess Cash Flow from such Foreign Subsidiary would no longer have material adverse tax consequences (relative to the relevant Foreign Disposition, Foreign Casualty Event or Excess Cash Flow), such Foreign Subsidiary shall promptly repatriate an amount equal to the Netted Tax Amount to the Administrative Agent, which amount shall be applied to the pro rata prepayment of the Loans and Commitments pursuant to Section 2.07(d) or (2) such Net Cash Proceeds or Excess Cash Flow are applied to the repayment of Indebtedness of a Foreign Subsidiary.

(vii) Mandatory Prepayment Procedures: Declining Lenders. The Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Loans pursuant to Section 2.07(b)(i), (ii) or (iii) three Business Days prior to the date on which such payment is due. Such notice shall state that the Borrower is offering to make or will make such mandatory prepayment on or before the date specified in Section 2.07(b)(i), (ii) or (iii), as the case may be (each, a “**Prepayment Date**”). Once given, such notice shall be irrevocable *provided* that the Borrower may rescind any notice of prepayment if such prepayment would have resulted from a refinancing of all or any portion of the applicable Facility or been made in connection with a Disposition, which refinancing or Disposition shall not be consummated or shall otherwise be delayed) and all amounts subject to such notice shall be due and payable on the Prepayment Date (except as otherwise provided in Section 2.07(b)(vi) and in the last sentence of this Section 2.07(b)(vii)). Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall promptly give notice to each Lender of the prepayment, the Prepayment Date and of such Lender’s Pro Rata Share of the prepayment. Each Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share of any mandatory prepayment (other than any mandatory prepayment with the proceeds of any Credit Agreement Refinancing Indebtedness or a mandatory prepayment pursuant to Section 2.07(b)(iii)) by giving notice of such election in writing to the Administrative Agent by 11:00 a.m.(New York City time), on the date that is one Business Day after the date of such Lender’s receipt of notice from the Administrative Agent regarding such prepayment. If a Lender fails to deliver a notice of election declining receipt of its Pro Rata Share of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender’s Pro Rata Share of the total amount of such mandatory prepayment of Term Loans. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately notify the Borrower of such election. Any amount so declined by any Lender shall be retained by the Borrower and the Restricted Subsidiaries and/or applied by the Borrower or any of the Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement.

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.07 shall be accompanied by all accrued interest thereon.

(d) Application of Prepayment Amounts. In the event that the obligation of the Borrower to prepay the Loans shall arise pursuant to subsection (b) above, the Borrower shall prepay the outstanding principal amount of the Term Loans in the amount of such prepayment obligation within the applicable time periods specified in subsection (b) above, with such prepayment to be applied in the manner set forth in Section 2.07(b)(v). Each payment or prepayment pursuant to the provisions of Section 2.07(b) shall be applied ratably among the Lenders of each Class holding the Loans being prepaid, in proportion to the principal amount held by each.

SECTION 2.08 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; *provided* that (i) any such notice shall be received by the Administrative Agent one Business Day prior to the date of termination or reduction and (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$1,000,000 in excess thereof or, if less, the entire amount thereof. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or otherwise shall be delayed.

(b) Mandatory. The Initial Term Loan Commitment of each Lender shall be automatically and permanently reduced to \$0 upon the making of such Lender's Initial Term Loans pursuant to Section 2.01(a).

(c) [Reserved]

(d) Effect of Termination or Reduction. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Pro Rata Share of Commitments of such Class.

SECTION 2.09 Repayment of Loans.

(a) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the Maturity Date for each Class of Term Loans, the aggregate principal amount of all such Term Loans outstanding on such date.

SECTION 2.10 Interest.

(a) Each Term Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a *ratper annum* equal to the Applicable Rate.

(b) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(c) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated

maturity, by acceleration or otherwise, then upon the request of the Required Lenders (with a copy to the Administrative Agent) such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Accrued and unpaid interest on the principal amount of all outstanding past due Obligations (including interest on past due interest) shall be due and payable upon demand.

(e) Interest on each Loan shall be due and payable on each Interest Payment Date applicable thereto. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding, under any Debtor Relief Law.

SECTION 2.11 Fees.

(a) The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing (including pursuant to the Agency Fee Letter) in the amounts and at the times so specified. The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letter) in the amounts and at the times so specified. All such fees shall be fully earned when due and shall not be refundable for any reason whatsoever.

(b) If (i) the Borrower makes any voluntary prepayment of the Initial Term Loans pursuant to Section 2.07(a) (including, without limitation, in connection with a Change of Control) or (ii) the Borrower makes any mandatory prepayment of the Initial Term Loans pursuant to Section 2.07(b)(iii), then in each case the Borrower shall pay to the Administrative Agent, for the ratable account of each Lender with Initial Term Loans that are so prepaid, a premium ("**Prepayment Premium**") equal to (x) if such prepayment is consummated on a date that is on or after the Closing Date and prior to the first anniversary of the Closing Date, 2.00% of the aggregate principal amount of the Initial Term Loans being prepaid and (y) if such prepayment is consummated on a date that is on or after the first anniversary of the Closing Date and prior to the second anniversary of the Closing Date, 1.00% of the aggregate principal amount of the Initial Term Loans being prepaid. If, on or prior to the second anniversary of the Closing Date, any Lender of Initial Term Loans is replaced pursuant to Section 3.07, such Lender (and not any Person who replaces such Lender pursuant to Section 3.07) shall receive a fee equal to (i) if such replacement is made on or prior to the first anniversary of the Closing Date, 2.00% of the aggregate principal amount of the Initial Term Loans of such lender assigned to a replacement lender pursuant to Section 3.07 and (ii) if such replacement is made after the first anniversary but on or prior to the second anniversary of the Closing Date, 1.00% of the principal amount of the Initial Term Loans of such Lender assigned to a replacement Lender pursuant to Section 3.07. If any prepayment described above is consummated on a date that is on or after the second anniversary of the Closing Date, then no premium shall be payable. Such fees shall be earned, due and payable upon the date of prepayment.

SECTION 2.12 Computation of Interest and Fees. All computations of interest shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

SECTION 2.13 Evidence of Indebtedness.

(a) The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by

the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as non-fiduciary agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence absent manifest error of the amount of the Borrowings made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender a Note payable to such Lender, which shall evidence the relevant Class of such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.13(a), and by each Lender in its account or accounts pursuant to Section 2.13(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.14 Payments Generally.

(a) All payments to be made by the Borrower shall be made on the date when due, in immediately available funds without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, to the applicable account specified by the Administrative Agent for such purpose and in Same Day Funds not later than 1:00 p.m. (New York City time, in the case of any payment in Dollars, or London time, in the case of any payment in an Alternative Currency) on the date specified herein. If, for any reason, the Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, the Borrower shall make such payment in Dollars in the Dollar Amount of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 1:00 p.m. (New York City time, in the case of any payment in Dollars, or London time, in the case of any payment in an Alternative Currency) shall in each case, in the Administrative Agent's sole discretion, be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder for the account of any Lender that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has

timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to such Lender. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then such Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 10.07 are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 9.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.06, 2.15 or 10.07, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent to satisfy such Lender's obligations to the Administrative Agent 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 Controlling Party in its discretion.

SECTION 2.15 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans of a particular Class made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the

other Lenders such participations in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each relevant Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including Section 2.07(a)(iv) and Section 11.07), (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder or (C) any payment received by such Lender not in its capacity as a Lender. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 11.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.15 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.15 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 2.16 Incremental Borrowings.

(a) Notice. At any time and from time to time, on one or more occasions, the Borrower may, by notice to the Administrative Agent, increase the aggregate principal amount of any outstanding tranche of Term Loans or add one or more additional tranches of term loans under the Loan Documents (the "**Incremental Term Facilities**") and the term loans made thereunder, the "**Incremental Term Loans**"; each such tranche an "**Incremental Facility**" and the loans or other extensions of credit made thereunder, the "**Incremental Loans**").

(b) Ranking. Incremental Facilities (i) may rank either *pari passu* or junior in right of payment with the Initial Term Loans, (ii) may either be unsecured or secured by the Collateral (or assets that become Collateral) (including secured by Liens that secure the Facilities on a *pari passu* or junior (but not senior) basis) and (iii) may be guaranteed only by the Loan Parties (or Persons that become Loan Parties).

(c) Size and Currency. Subject to Section 1.08, the aggregate principal amount of Incremental Facilities on any date Indebtedness thereunder is first incurred, together with the aggregate principal amount of Incremental Equivalent Debt outstanding on such date, will not exceed, an amount equal to,

- (i) the Fixed Incremental Amount, *plus*
- (ii) the Ratio Amount,

(the sum of the Fixed Incremental Amount and the Ratio Amount, the **"Incremental Amount"**). Calculation of the Incremental Amount shall be made on Pro Forma Basis and evidenced by a certificate from a Responsible Officer of the Borrower demonstrating such calculation in reasonable detail. Each Incremental Amendment executed in connection with an Incremental Facility shall identify whether all or any portion of such Incremental Facility is being incurred pursuant to clauses (i) or (ii) above or a combination of such clauses. Each Incremental Facility will be in an integral multiple of \$1,000,000 and in an aggregate principal amount that is not less than \$10,000,000 (or such lesser minimum amount approved by the Administrative Agent in its reasonable discretion); *provided* that such amount may be less than such minimum amount or integral multiple amount if such amount represents all the remaining availability under the Incremental Amount at such time. Any Incremental Facility may be denominated in Dollars or in any Alternative Currency (and in the case of any Alternative Currency, the Dollar Amount thereof as of the date of incurrence (or, in the case of an LCA Election, as of the applicable LCA Test Date) shall be controlling for purposes of determining compliance with the Incremental Amount, and the minimum amount and integral multiples shall be a Dollar Amount of \$10,000,000 or \$1,000,000, respectively (or, in each case, such lesser minimum amount approved by the Controlling Party in its reasonable discretion)).

(d) Incremental Lenders. Incremental Facilities may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make, or provide commitments with respect to, an Incremental Loan) or by any Additional Lender. While existing Lenders may (but are not obligated to unless invited to and so elect) participate in any syndication of an Incremental Facility and may (but are not obligated to unless invited to and so elect) become lenders with respect thereto, the existing Lenders will not have any right to participate in any syndication of, and will not have any right of first refusal or other right to provide all or any portion of, any Incremental Facility or Incremental Loan except to the extent the Borrower and the arrangers thereof, if any, in their discretion, chose to invite or include any such existing Lender (which may or may not apply to all existing Lenders and may or may not be pro rata among existing Lenders). Final allocations in respect of Incremental Facilities will be made by the Borrower together with the arrangers thereof, if any, in their discretion, on the terms permitted by this Section 2.16; *provided* that the lenders providing the Incremental Facilities will be reasonably acceptable to the (i) Borrower and (ii) the Administrative Agent (except that, in the case of this clause (ii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender, such consent not to be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, any Affiliated Lender that provides any Incremental Loans shall be subject to the limitations on Affiliated Lenders set forth in Section 11.07(h) (including the Affiliated Lender Term Loan Cap, as applicable).

(e) Incremental Facility Amendments; Use of Proceeds. Each Incremental Facility will become effective pursuant to an amendment (each, an **"Incremental Amendment"**) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower and each Person providing such Incremental Facility and the Administrative Agent (at the direction of the Controlling Party (and the Required Lenders hereby authorize and direct the Administrative Agent to execute any such amendment which it is directed to execute by the Controlling Party)). The Administrative Agent will promptly notify each Lender as to the effectiveness of each Incremental Amendment. Incremental Amendments may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Borrower in consultation with the Controlling Party, to effect the provisions of this Section 2.16 and, to the extent practicable, to make an Incremental Loan fungible (including for tax purposes) with other Loans (subject to the limitations under sub-clauses (g) and (h) of this Section) to the extent practicable. Without limiting the foregoing, an Incremental Amendment may extend or add "call protection" to any existing tranche of Term Loans, including amendments to Section 2.11(b) so that such Incremental Term Loans and the applicable existing Term Loans form the same Class of Term Loans *provided*, that such amendments are

not adverse to the existing Term Loan Lenders (as determined in good faith by the Borrower). Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Amendment, this Agreement and the other Loan Documents, as applicable, will be amended to the extent necessary to reflect the existence and terms of the Incremental Facility and the Incremental Term Loans evidenced thereby. This Section 2.16 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. The Borrower may use the proceeds of the Incremental Loans for any purpose not prohibited by this Agreement.

(f) Conditions. The availability of Incremental Facilities under this Agreement will be subject solely to the following conditions, subject, for the avoidance of doubt, to Section 1.08, measured on the date of the initial borrowing under such Incremental Facility:

- (i) no Event of Default shall have occurred and be continuing or would result therefrom; *provided* that the condition set forth in this clause (i) may be waived or not required (other than with respect to Specified Events of Default) by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment; and
- (ii) the representations and warranties in the Loan Documents will be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) immediately prior to, and after giving effect to, the incurrence of such Incremental Facility; *provided* that the condition set forth in this clause (ii) may be waived or not required (other than with respect to the Specified Representations) by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment.

(g) Terms. Each Incremental Amendment will set forth the amount and terms of the relevant Incremental Facility. The terms of each Incremental Facility will be as agreed between the Borrower and the Persons providing such Incremental Facility; *provided* that:

- (i) the final maturity date of any such Incremental Term Loans will be no earlier than the Latest Maturity Date of the Initial Term Loans; *provided* that this clause shall not apply to the incurrence of any Incremental Term Loans pursuant to the Inside Maturity Exception;
- (ii) the Weighted Average Life to Maturity of any such Incremental Term Loans will be no shorter than the remaining Weighted Average Life to Maturity of the Initial Term Loans; *provided* that this clause shall not apply to the incurrence of any Incremental Term Loans pursuant to the Inside Maturity Exception;
- (iii) any mandatory prepayment of such Incremental Term Loans may participate on *apro rata* basis or a less than *pro rata* basis in any mandatory repayments or prepayments of the Initial Term Loans, but not on a greater than *pro rata* basis to the Initial Term Loans (other than (A) any repayment of such Incremental Term Loans at maturity and (B) any greater than *pro rata* repayment of such Incremental Term Loans with the proceeds of Credit Agreement Refinancing Indebtedness with respect to a mandatory prepayment pursuant to Section 2.07(b)(iii)(B));
- (iv) (A) to the extent secured, such Incremental Term Facilities shall not be secured by any Lien on any property or asset of any Person that does not also secure the Term Loans at the time of such incurrence (except (1) customary cash collateral in favor of an agent, letter of credit issuer or similar "fronting" lender and (2) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Term

Loans) and (B) to the extent guaranteed, such Incremental Term Facilities shall not be incurred or guaranteed by any Person other than the Borrower and the Guarantors (including any Person required to be a Guarantor) (except for guarantees by other Persons that are applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence); and

(v) [reserved].

(h) Pricing. The interest rate, fees and original issue discount for any Incremental Term Loans will be as determined by the Borrower and the Persons providing such Incremental Term Loans; *provided* that in the event that the All-In Yield applicable to any Incremental Term Loans (other than any Excluded Incremental Term Loan (as defined below)) that are incurred during the first six months following the Closing Date and are secured on a *pari passu* basis with the Initial Term Loans exceeds the All-In Yield for the Initial Term Loans by more than 75 basis points, then the interest rate margins for the Initial Term Loans shall be increased to the extent necessary so that the All-In Yield for such Term Loans is equal to the All-In Yield for such Incremental Term Loans *minus* 75 basis points. “**Excluded Incremental Term Loan**” means any (i) Incremental Term Loans incurred in reliance on the Ratio Amount, (ii) Incremental Term Loans with a scheduled maturity date more than one year after the initial scheduled maturity date for the Initial Term Loans, (iii) Incremental Term Loans incurred in connection with a Permitted Investment, (iv) Incremental Term Loans in an original aggregate principal amount not to exceed the greater of (A) 57.5% of Closing Date EBITDA and (B) 57.5% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination or (v) Incremental Term Loans that are not denominated in Dollars.

(i) [Reserved]

(j) The Administrative Agent and the Lenders hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to Section 2.16.

SECTION 2.17 Refinancing Amendments.

(a) Refinancing Loans. At any time after the Closing Date, the Borrower may obtain, from any Lender or any Additional Lender, Credit Agreement Refinancing Indebtedness in respect of all or any portion of the Term Loans, in the form of Refinancing Loans or Refinancing Commitments made pursuant to a Refinancing Amendment.

(b) Refinancing Amendments. The effectiveness of any Refinancing Amendment will be subject only to the satisfaction on the date thereof of such conditions as may be requested by the providers of applicable Refinancing Loans. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement will be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Loans incurred pursuant thereto (including any amendments necessary to treat the Term Loans subject thereto as Refinancing Term Loans).

(c) Required Consents. Any Refinancing Amendment may, without the consent of any Person other than the Administrative Agent, the Borrower and the Persons providing the applicable Refinancing Loans, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Controlling Party and the Borrower, to effect the provisions of this Section 2.17. This Section 2.17 supersedes any provisions in Section 11.01 to the contrary.

(d) Providers of Refinancing Loans. Refinancing Loans may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make all or any portion of any Refinancing Loan) or by any Additional Lender (subject to Section 11.07(h)). The lenders providing the Refinancing Loans will be reasonably acceptable to the (i) Borrower and (ii) the Administrative Agent (except that, in the case of this clause (ii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender, such consent not to be unreasonably withheld, conditioned or delayed).

SECTION 2.18 Extensions of Loans.

(a) Extension Offers. Pursuant to one or more offers (each, an “**Extension Offer**”) made from time to time by the Borrower to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date, the Borrower may extend such Maturity Date and otherwise modify the terms of such Loans and/or Commitments pursuant to the terms set forth in an Extension Offer (each, an “**Extension**”). Each Extension Offer will specify the minimum amount of Loans and/or Commitments with respect to which an Extension Offer may be accepted, which (x) with respect to Loans and/or Commitments denominated in Dollars, will be an integral multiple of \$1,000,000 and an aggregate principal amount that is not less than \$5,000,000, or (y) with respect to Loans and/or Commitments denominated in any Alternative Currency, will be an integral multiple of the Dollar Amount of \$1,000,000 and an aggregate principal amount that is not less than the Dollar Amount of \$5,000,000 or, in each case, if less, (i) the aggregate principal amount of such Class of Loans outstanding or (ii) such lesser minimum amount as is approved by the Administrative Agent, such consent not to be unreasonably withheld, conditioned or delayed. Extension Offers will be made on a *pro rata* basis to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date. If the aggregate outstanding principal amount of such Loans (calculated on the face amount thereof) and/or Commitments in respect of which Lenders have accepted an Extension Offer exceeds the maximum aggregate principal amount of Loans and/or Commitments offered to be extended pursuant to such Extension Offer, then the Loans and/or Commitments of such Lenders will be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer. There is no requirement that any Extension Offer or Extension Amendment (defined as follows) be subject to any “most favored nation” pricing provisions. The terms of an Extension Offer shall be determined by the Borrower, and Extension Offers may contain one or more conditions to their effectiveness, including a condition that a minimum amount of Loans and/or Commitments of any or all applicable tranches be tendered.

(b) Extension Amendments. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents (an “**Extension Amendment**”) as may be necessary or appropriate in order to establish new tranches in respect of Extended Loans and Extended Commitments and such amendments as permitted by clause (c) below as may be necessary or appropriate in the reasonable opinion of the Borrower, in consultation with the Administrative Agent, in connection with the establishment of such new tranches of Loans. This Section 2.18 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. Except as otherwise set forth in an Extension Offer, there will be no conditions to the effectiveness of an Extension Amendment. Extensions will not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(c) Terms of Extension Offers and Extension Amendments. The terms of any Extended Loans and Extended Commitments will be set forth in an Extension Offer and as agreed between the Borrower and the Extending Lenders accepting such Extension Offer; *provided that*:

(i) the final maturity date of such Extended Loans and Extended Commitments will be no earlier than the Latest Maturity Date applicable to the Loans and/or Commitments subject to such Extension Offer;

(ii) the Weighted Average Life to Maturity of any Extended Loans that are Term Loans will be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans subject to such Extension Offer;

(iii) any Extended Loans that are Term Loans may participate on *pro rata* basis or a less than *pro rata* basis (but not greater than a *pro rata* basis) in any mandatory repayments or prepayments of Term Loans other than any repayment of such Extended Loans at maturity or with the proceeds of Credit Agreement Refinancing Indebtedness; and

(iv) the covenants and events of default applicable to the Extended Loans and/or Extended Commitments are (A) substantially identical to, or, taken as a whole, no more favorable to the lenders or holders providing such Extended Loans and/or Extended Commitments than, those applicable to the Loans and/or Commitments subject to such Extension Offer, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (except (1) for covenants applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (2) any term or condition to the extent such term or condition is also added for the benefit of the Lenders under the Term Loans) or (B) solely to the extent that any terms and conditions applicable to any such Extended Loans and/or Extended Commitments are not the same as, or substantially similar to, those then applicable to the Term Loans, shall otherwise reflect customary market terms and conditions at the time of such incurrence, including with respect to high yield debt securities to the extent applicable, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (*provided* that a certificate of a Responsible Officer delivered to the Administrative Agent at least four Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Extended Loans and/or Extended Commitments together with a reasonably detailed description of the material covenants and events of default of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (iv) shall be conclusive evidence that such material covenants and events of default satisfy such requirement unless the Administrative Agent notifies the Borrower within such four Business Day (or shorter) period that it disagrees with such determination (including a description of the basis upon which it disagrees)); *provided* that this clause (iii) will not apply to (w) terms addressed in the preceding clauses (i) through (iii), (x) interest rate, rate floors, fees, funding discounts and other pricing terms, (y) redemption, prepayment or other premiums, and (z) optional prepayment or redemption terms; *provided further* that the Borrower will promptly deliver to the Administrative Agent final copies of the definitive credit documentation relating to such Indebtedness (unless the Borrower is bound by a confidentiality obligation with respect thereto, in which case the Borrower will deliver a reasonably detailed description of the material terms and conditions of such Indebtedness in lieu thereof).

Any Extended Loans will constitute a separate tranche of Term Loans from the Term Loans held by Lenders that did not accept the applicable Extension Offer.

(d) [Reserved].

(e) Required Consents. No consent of any Lender or any other Person will be required to effectuate any Extension, other than the consent of the Administrative Agent (acting at the direction of the

Controlling Party) (such consent not to be unreasonably withheld, delayed or conditioned), the Borrower and the applicable Extending Lender. The transactions contemplated by this Section 2.18 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Loans on such terms as may be set forth in the relevant Extension Offer) will not require the consent of any other Lender or any other Person, and the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.18 will not apply to any of the transactions effected pursuant to this Section 2.18.

SECTION 2.19 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.09 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 or the Collateral Agent hereunder; *second*, [reserved]; *third*, [reserved]; *fourth*, as the Borrower may request (so long as no Event of Default shall have occurred and be continuing), 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 Cash Collateral Account and released *pro rata* in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; *sixth*, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any 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 Event of Default shall have occurred and be continuing, 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; *provided* that if (1) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans pro rata in accordance with the applicable Commitments without giving effect to Section 2.19(a)(iii). 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 2.19(a)(i) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) [Reserved].

(iii) [Reserved].

(iv) [Reserved].

(b) Defaulting Lender Cure. If the Borrower, the Controlling Party and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded to be held pro rata by the Lenders in accordance with the applicable Commitments 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 having been a Defaulting Lender.

SECTION 2.20 Currency Equivalents

(a) The Administrative Agent shall determine the Dollar Amount of each Loan denominated in an Alternative Currency (i) [reserved] (ii) on the last Business Day of March, June, September and December and (iii) on any Business Day requested by the Controlling Party while a Default or Event of Default has occurred and is continuing, and shall promptly notify the Borrower of each Dollar Amount so determined by it. Each such determination shall be based on the Exchange Rate as of such date.

SECTION 2.21 Judgment Currency

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto (and by its acceptance of its appointment in such capacity, the Lead Arranger) agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures in the relevant jurisdiction, the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the “**Applicable Creditor**”) shall, notwithstanding any judgment in a currency (the “**Judgment Currency**”) other than the currency in which such sum is stated to be due hereunder (the “**Agreement Currency**”), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower as a separate obligation and notwithstanding any such judgment, agrees to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

ARTICLE III

Taxes, Increased Costs Protection and Illegality

SECTION 3.01 Taxes

(a) Except as required by Law, any and all payments by the Borrower or any Guarantor to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments,

fees, withholdings or similar charges imposed by any Governmental Authority, and all liabilities (including additions to tax, penalties and interest) with respect thereto (“**Taxes**”). The following shall be “**Excluded Taxes**”: in the case of each Agent and each Lender, (i) Taxes imposed on or measured by net income (however denominated, and including branch profits and similar Taxes), and franchise or similar Taxes, in each case, that are (A) imposed by the jurisdiction under the laws of which it is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (B) Other Connection Taxes, (ii) any U.S. federal Tax that is (or would be) required to be withheld with respect to amounts payable hereunder in respect of an Eligible Assignee (pursuant to an assignment under Section 11.07) on the date it becomes an assignee to the extent such Tax is in excess of the Tax that would have been applicable had such assigning Lender not assigned its interest arising under any Loan Document (unless such assignment is at the express written request of the Borrower), (iii) U.S. federal withholding Taxes imposed on amounts payable to or for the account of a Lender or Agent with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (A) such Lender or Agent acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 3.07) or (B) such Lender changes its Lending Office (other than at the written request of the Borrower to change such Lending Office), except in each case to the extent that pursuant to Section 3.01, amounts with respect to such Taxes were payable to such Lender’s or Agent’s assignor immediately before such Lender or Agent became a party hereto, or to such Lender immediately before it changed its Lending Office, (iv) any U.S. federal withholding Taxes imposed as a result of the failure of any Agent or Lender to comply with the provisions of Sections 3.01(b), 3.01(c) and 3.01(d) (in the case of any Foreign Lender, as defined below) or the provisions of Section 3.01(e) (in the case of any U.S. Lender, as defined below), and (v) any Taxes imposed on any amount payable to or for the account of any Agent or Lender as a result of the failure of such recipient to satisfy the applicable requirements under FATCA to establish that such payment is exempt from withholding under FATCA. If an applicable Withholding Agent is required to deduct any Taxes or Other Taxes (as defined below) from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) except in the case of Excluded Taxes, the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01(a)), each of such Agent or such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the applicable Withholding Agent shall make such deductions, (iii) the applicable Withholding Agent shall pay the full amount deducted to the relevant taxing authority, and (iv) within thirty days after the date of any such payment by the Borrower or any Guarantor (or, if receipts or evidence are not available within thirty days, as soon as practicable thereafter), the Borrower or applicable Guarantor shall furnish to such Agent or Lender (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or applicable Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent). If the Borrower or Guarantor fails to pay any Taxes or Other Taxes when due to the appropriate taxing authority, then the Borrower or applicable Guarantor shall indemnify such Agent and such Lender for any incremental Taxes that may become payable by such Agent or such Lender arising out of such failure.

(b) To the extent it is legally able to do so, each Agent or Lender (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code (each, a “**Foreign Lender**”) agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two accurate, complete and signed copies of whichever of the following is applicable: (i) IRS Form W-8BEN or Form W-8BEN-E certifying that it is entitled to benefits under an income tax treaty to which the United States is a party; (ii) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or

business in the United States; (iii) if the Foreign Lender is not (A) a bank described in Section 881(c)(3)(A) of the Code, (B) a 10-percent shareholder of the Borrower described in Section 871(h)(3)(B) of the Code, or (C) a controlled foreign corporation related to the Borrower within the meaning of Section 864(d) of the Code, a certificate to that effect in substantially the form attached hereto as Exhibit G (a “**Non-Bank Certificate**”) and an IRS Form W-8BEN or Form W-8BEN-E, certifying that the Foreign Lender is not a United States person; (iv) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI, Non-Bank Certificate, Form W-9, Form W-8IMY (or other successor forms) and any other required supporting information from each beneficial owner (it being understood that a Foreign Lender need not provide certificates or supporting documentation from beneficial owners if (A) the Foreign Lender is a “qualified intermediary” or “withholding foreign partnership” for U.S. federal income tax purposes and (B) such Foreign Lender is as a result able to establish, and does establish, that payments to such Foreign Lender are, to the extent applicable, entitled to an exemption from or, if an exemption is not available, a reduction in the rate of, U.S. federal withholding taxes without providing such certificates or supporting documentation); or (v) any other form prescribed by applicable requirements of U.S. federal income tax 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 and the Administrative Agent to determine the withholding or deduction required to be made.

(c) In addition, each such Foreign Lender shall, to the extent it is legally entitled to do so, (i) promptly submit to the Borrower and the Administrative Agent two accurate, complete and signed copies of such other or additional forms or certificates (or such successor forms or certificates as shall be adopted from time to time by the relevant taxing authorities) as may then be applicable or available to secure an exemption from or reduction in the rate of U.S. federal withholding tax (1) on or before the date that such Foreign Lender’s most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (2) after the occurrence of a change in the Foreign Lender’s circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (3) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in the Foreign Lender’s circumstances that would modify or render invalid any claimed exemption or reduction. This Section 3.01(c) shall not apply to any reporting requirements under FATCA.

(d) If a payment made to a Lender under any Loan Document would be subject to tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Foreign Lender has complied with such Foreign Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.01(d), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(e) Each Lender that is a “United States person” (within the meaning of Section 7701(a)(30) of the Code) (each, a “**U.S. Lender**”) agrees to complete and deliver to the Borrower and the Administrative Agent two copies of accurate, complete and signed IRS Form W-9 or successor form

certifying that such U.S. Lender is not subject to U.S. federal backup withholding tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the U.S. Lender's circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(f) The Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise (in the nature of a documentary or similar tax), property, intangible, filing or mortgage recording taxes or charges or similar levies imposed by any Governmental Authority that arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (including additions to tax, penalties and interest related thereto) excluding, in each case, such amounts that are Other Connection Taxes imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested in writing by the Borrower (all such non-excluded taxes described in this [Section 3.01\(f\)](#) being hereinafter referred to as "Other Taxes").

(g) If any Taxes or Other Taxes are directly asserted against any Agent or Lender with respect to any payment received by such Agent or Lender in respect of any Loan Document, such Agent or Lender may pay such Taxes or Other Taxes and the Borrower will promptly indemnify and hold harmless such Agent or Lender for the full amount of such Taxes (other than Excluded Taxes) and Other Taxes (and any Taxes (other than Excluded Taxes) and Other Taxes imposed on amounts payable under this [Section 3.01](#)), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted. Payments under this [Section 3.01\(g\)](#) shall be made within ten days after the date the Borrower receives written demand for payment from such Agent or Lender.

(h) A Participant shall not be entitled to receive any greater payment under this [Section 3.01](#) 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 or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation.

(i) If any Agent or any Lender determines, in its sole discretion, exercised in good faith, that it has received a refund in respect of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be, or with respect to which the Borrower or any Guarantor, as the case may be, has paid additional amounts pursuant to this [Section 3.01](#), it shall promptly pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or any Guarantor under this [Section 3.01](#) with respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by such Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower or applicable Guarantor, as the case may be, upon the request of such Agent or such Lender, agrees to repay the amount paid over to the Borrower or applicable Guarantor, as the case may be (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Agent or such Lender in the event such Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (i), in no event will such Agent or Lender be required to pay any amount to the Borrower or applicable Guarantor pursuant to this paragraph (i) the payment of which would place such Agent, or Lender in a less favorable net after-tax position than the

indemnified party would have been in if the Tax or Other Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax or Other Tax had never been paid. Such Agent or such Lender, as the case may be, shall provide the Borrower upon request with a copy of any notice of assessment or other evidence reasonably available of the requirement to repay such refund received from the relevant Governmental Authority (*provided* that such Lender or such Agent may delete any information therein that such Lender or such Agent deems confidential or not relevant to such refund in its reasonable discretion). This subsection shall not be construed to require any Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it reasonably deems confidential) to the Borrower, any Guarantor or any other Person.

(j) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (g) with respect to such Lender, it will, if requested by the Borrower in writing, use commercially reasonable efforts (subject to legal and regulatory restrictions) to mitigate the effect of any such event, including by designating another Lending Office for any Loan affected by such event and by completing and delivering or filing any tax-related forms that such Lender is legally able to deliver and that would reduce or eliminate any amount of Taxes or Other Taxes required to be deducted or withheld or paid by the Borrower; *provided* that such efforts are made at the Borrower's expense and are on terms that, in the reasonable judgment of such Lender, do not cause such Lender or any of its Lending Offices to suffer any economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(j) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (g).

(k) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any taxes required by any Laws (including, for the avoidance of doubt, FATCA) to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.01.

(l) Each Lender shall severally indemnify each Agent, within ten days after demand therefor, for (i) any Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified such Agent for such Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.07(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by such Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by an Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Agents to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by an Agent to such Lender from any other source against any amount due to such Agent under this Section 3.01(l).

(m) The agreements in this Section 3.01 shall survive the resignation or replacement of the Administrative Agent, termination of this Agreement and the payment of the Loans and all other amounts payable hereunder and any assignment of rights by, or replacement of, any Lender.

SECTION 3.02 [Reserved].

SECTION 3.03 [Reserved].

SECTION 3.04 Increased Cost and Reduced Return; Capital Adequacy.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits within or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Lender to any tax of any kind whatsoever with respect to this Agreement or change the basis of taxation of payments to such Lender in respect thereof (except, in each case, for (A) Taxes with respect to which the Borrower is obligated to pay additional amounts or indemnity payments pursuant to Section 3.01, (B) any taxes and other amounts described in clauses (ii) through (v) of the second sentence of Section 3.01(a) that are imposed with respect to payments to or for the account of any Agent or any Lender under any Loan Document, (C) Connection Income Taxes, and (D) Other Taxes),

and the result of any of the foregoing in this Section 3.04(a) shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), then, from time to time within ten days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered. No Lender shall request that the Borrower pay any additional amount pursuant to this Section 3.04(a) unless it shall concurrently make similar requests to other borrowers similarly situated and affected by such Change in Law and from whom such Lender is entitled to seek similar amounts.

(b) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by it to a level below that which such Lender or such Lender's or holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to liquidity or capital adequacy), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its respective holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 and delivered to the Borrower (with a copy to the Administrative Agent) shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty days prior to the date that such Lender notifies the

Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except 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).

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost, liability or expense (excluding loss of anticipated profits or margin) actually incurred by it as a result of any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan on the date or in the amount notified by the Borrower, including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or 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 3.01, or if any Lender gives a notice pursuant to Section 3.02, 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 judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(b) [Reserved].

(c) [Reserved].

SECTION 3.07 Replacement of Lenders Under Certain Circumstances. If (i) any Lender requests compensation under Section 3.04, (ii) the Borrower is required to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.01(j), (iii) any Lender is a Non-Consenting Lender, (iv) any Lender does not accept an Extension Offer, (v) (A) any Lender shall become and continue to be a Defaulting Lender and (B) such Defaulting Lender shall fail to cure the default pursuant to Section 2.19(b) within five Business Days after the Borrower's request that it cure such default, (vi) any Lender becomes a Disqualified Lender or (vii) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), *provided that*:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.07(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) 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);

(c) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided* that the failure of any such Lender to execute an Assignment and Assumption or deliver such Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Notes shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender;

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(f) in the case of any such assignment resulting from a Lender being a Non-Consenting Lender, the Eligible Assignee shall consent, at the time of such assignment, to each matter in respect of which such Lender being replaced was a Non-Consenting Lender; and

(g) such assignment does not conflict with applicable Laws.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and (iii) the Required Lenders or Required Facility Lenders, as applicable, have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a "**Non-Consenting Lender.**"

A Lender shall not be required to make any such assignment or 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.

SECTION 3.08 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent or the Collateral Agent.

ARTICLE IV
Conditions Precedent to Borrowings

SECTION 4.01 Conditions to Initial Borrowing

The obligation of each Lender to extend credit to the Borrower hereunder on the Closing Date is subject to the satisfaction, or due waiver in accordance with Section 11.01, of each of the following conditions precedent, except as otherwise agreed between the Borrower and the Lenders:

(a) The Administrative Agent's and the Lenders' receipt of the following, each of which shall be originals, facsimiles or copies in .pdf format unless otherwise specified:

(i) a Committed Loan Notice duly executed by the Borrower delivered at least one Business Day prior to the Closing Date but which may be conditioned on the consummation of the Transactions;

(ii) this Agreement duly executed by the Borrower and Holdings;

(iii) the Guaranty and the Security Agreement, in each case, duly executed by the Borrower and each other Loan Party, together with:

(A) copies of certificates, if any, representing the Pledged Equity of the Borrower and its Subsidiaries and constituting Collateral, in each case, accompanied by copies of undated stock powers executed in blank, in each case, including evidence reasonably satisfactory to the Lenders that such collateral was delivered on or prior to the Closing Date to the First Lien Collateral Agent;

(B) a Perfection Certificate duly executed by the Borrower on behalf of the Loan Parties; and to the extent required under the Collateral Documents, evidence that all other actions, recordings and filings required shall have been taken, completed or otherwise provided thereunder;

(C) UCC financing statements in proper form for filing with authorization to file all Uniform Commercial Code financing statements in the jurisdiction of organization of each Loan Party.

(iv) the Closing Date Intercreditor Agreement duly executed by the First Lien Collateral Agent and an acknowledgement thereof duly executed by the Loan Parties;

(v) such certificates of good standing from the applicable secretary of state of the state of organization of the Borrower and each other Loan Party, resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of the Borrower and each other Loan Party, evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which it is a party or is to be a party on the Closing Date and, in the case of the Borrower, including certification by a Responsible Officer of the Borrower that the conditions specified in clauses (c), (e) and (f) below have been satisfied;

(vi) an opinion from the following special counsel to the Loan Parties (or certain of the Loan Parties): (A) Latham & Watkins LLP, with respect to matters of New York law and

certain aspects of California and Delaware law, and (B) Miller, Pitt, Feldman & McAnally P.C., with respect to matters of Arizona law;

(vii) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower substantially in the form attached hereto as Exhibit I; and

(viii) copies of a recent Lien, tax and judgment search in each jurisdiction reasonably requested by the Lenders with respect to the Loan Parties; certified copies of the First Lien Credit Agreement, First Lien Security Agreement and First Lien Guaranty comprising part of the First Lien Loan Documents.

(b) All fees and expenses required to be paid hereunder on the Closing Date (and all fees and expenses required to be paid under the Agency Fee Letter and the Fee Letter on the Closing Date) and, with respect to expenses and legal fees, to the extent invoiced in reasonable detail at least two Business Days before the Closing Date (except as otherwise reasonably agreed to by the Borrower) shall have been paid in full in cash, it being agreed that such fees and expenses may be paid with the proceeds of the initial funding of one or more of the Facilities. In addition, the Administrative Agent shall have received a fully executed copy of the Agency Fee Letter.

(c) Confirmation from the Borrower that prior to or substantially simultaneously with the initial Borrowing on the Closing Date, the Closing Date Refinancing, and the funding of the First Lien Initial Term Loans shall have been or will be consummated.

(d) The Lenders and the Agents shall have received (a) at least three Business Days prior to the Closing Date all documentation and other information about the Loan Parties reasonably requested in writing by them at least ten Business Days prior to the Closing Date in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, that in each case has been requested in writing at least ten Business Days prior to the Closing Date, and (b) at least two Business Days prior to the Closing Date, a Beneficial Ownership Certification.

(e) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of the Closing Date; *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.

(f) As of the Closing Date, no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(g) The Administrative Agent and the Lenders shall have received an unaudited *pro forma* consolidated balance sheet and related unaudited *pro forma* consolidated statement of comprehensive income (loss) of the Borrower and its Subsidiaries as of and for the twelve month period ending on December 31, 2018, in each case, giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such statement of comprehensive income (loss)), which need not be prepared in compliance with Regulation S-X of the Securities Act of 1933, as amended, or include adjustments for purchase accounting (including

adjustments of the type contemplated by Financial Accounting Standards Board Accounting Standards Codification 805, Business Combinations (formerly SFAS 141R)).

Without limiting the generality of the provisions of the last paragraph of Section 10.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement or funded Loans hereunder shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 4.02 Conditions to All Borrowings After the Closing Date Except as set forth in Section 2.16(f) with respect to Incremental Loans, the obligation of each Lender to honor a Committed Loan Notice is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing; *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.

(b) As of the date of such Borrowing, no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(c) The Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof.

Subject to Section 1.08(f), each Committed Loan Notice submitted by the Borrower shall be deemed to be a representation and warranty that the condition specified in Sections 4.02(a) and (b) has been satisfied on and as of the date of the applicable Borrowing.

ARTICLE V **Representations and Warranties**

The Borrower represents and warrants each of the following to the Lenders, the Administrative Agent and the Collateral Agent, in each case, to the extent and, unless otherwise specifically agreed by the Borrower, only on the dates required by Section 2.16, 4.01, or 4.02, as applicable.

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of its respective Restricted Subsidiaries that is a Material Subsidiary,

(a) is a Person duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concept exists in such jurisdiction);

(b) has all corporate or other organizational power and authority to (i) own its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party;

(c) is duly qualified and in good standing (to the extent such concept exists in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(d) is in compliance with all applicable Laws, writs, injunctions and orders; and

(e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;

except in each case referred to in clause (c), (d) or (e), to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.02 Authorization; No Contravention.

(a) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party nor the consummation of the Transactions will,

(i) contravene the terms of any of its Organization Documents;

(ii) result in any breach or contravention of, or the creation of any Lien upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries (other than as permitted by Section 7.01) under, (A) any Contractual Obligation relating to Indebtedness to which such Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any of its Subsidiaries or (B) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject;

(iii) violate any applicable Law; or

(iv) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation relating to Indebtedness of Holdings or any of its Restricted Subsidiaries, except for such approvals or consents which will be obtained on or before the Closing Date;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii), (iii) and (iv), to the extent that such breach, contravention or violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.03 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for,

(a) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties;

(b) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral Documents); and

(c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto and thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing.

SECTION 5.05 Financial Statements: No Material Adverse Effect.

(a) The Annual Financial Statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP (as in effect on the Closing Date (or the date of preparation)) consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein.

(b) Since December 31, 2018, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets and statements of comprehensive income (loss) of the Borrower and its Subsidiaries which have been furnished to the Administrative Agent and/or the Lenders prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that (i) no forecasts are to be viewed as facts, (ii) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Sponsor, (iii) no assurance can be given that any particular forecasts will be realized and (iv) actual results may differ and such differences may be material.

SECTION 5.06 Litigation. Except as set forth in Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of the Restricted Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.07 Labor Matters. Except as set forth on Schedule 5.07 or except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) there are no strikes or other labor disputes against any of the Borrower or its Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (b) hours worked by and payment made based on hours worked to employees of each of the Borrower or its Restricted Subsidiaries have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.08 Ownership of Property; Liens. Each Loan Party and each of its respective Restricted Subsidiaries has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 7.01 and except where the failure to have such title or other interest would not reasonably be expected to have, individually or in the

aggregate, a Material Adverse Effect. As of the Closing Date, Schedule 5.08 sets forth all Material Real Property.

SECTION 5.09 Environmental Matters.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) the Loan Parties and their respective Restricted Subsidiaries are in compliance with all applicable Environmental Laws (including having obtained all Environmental Permits) and (ii) none of the Loan Parties nor any of their respective Restricted Subsidiaries is subject to any pending, or to the knowledge of the Loan Parties, threatened Environmental Claim or any other Environmental Liability or is aware of any basis for any Environmental Liability.

(b) None of the Loan Parties nor any of their respective Restricted Subsidiaries has used, released, treated, stored, transported or disposed of Hazardous Materials, at or from any currently or formerly owned or operated real estate or facility relating to its business, in a manner that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.10 Taxes. Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrower and its Restricted Subsidiaries have timely filed all foreign, U.S. federal and state, and other tax returns and reports required to be filed, and have timely paid all foreign, U.S. federal and state, and other taxes, assessments, fees and other governmental charges (including satisfying their withholding tax obligations) levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

SECTION 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws.

(b) Except, as set forth in Schedule 5.11(b) or, with respect to each of the below clauses of this Section 5.11(b), as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect,

- (i) no ERISA Event has occurred within the one-year period prior to the date on which this representation is made or deemed made;
- (ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan;
- (iii) neither the Borrower, nor any Subsidiary Guarantor nor any of their respective ERISA Affiliates has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 et seq. of ERISA with respect to a Multiemployer Plan;
- (iv) neither the Borrower, nor any Subsidiary Guarantor nor any of their respective ERISA Affiliates has engaged in a transaction that is subject to Sections 4069 or 4212(c) of ERISA; and

(v) neither the Borrower, nor any Subsidiary Guarantor nor any ERISA Affiliate has been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA) or has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA) and no such Multiemployer Plan is expected to be insolvent or in endangered or critical status.

SECTION 5.12 Subsidiaries. As of the Closing Date, all of the outstanding Equity Interests in the Borrower and its Subsidiaries have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests owned by Holdings (in the Borrower), and by the Borrower or any Subsidiary Guarantor in any of their respective Subsidiaries are owned free and clear of all Liens of any Person except (a) those Liens created under the Collateral Documents and (b) any Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.12 (i) sets forth the name and jurisdiction of each Subsidiary, (ii) sets forth the ownership interest of Holdings, the Borrower and each Subsidiary in each Subsidiary, including the percentage of such ownership and (iii) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral Documents.

SECTION 5.13 Margin Regulations: Investment Company Act.

(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U.

(b) Neither the Borrower nor any Guarantor is an “investment company” under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Subsidiary Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document on or prior to the Closing Date, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered and prior to the Closing Date); it being understood that for purposes of this Section 5.14, such written information and written data shall not include projections, *pro forma* financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

SECTION 5.15 Intellectual Property: Licenses, Etc. The Borrower and the Restricted Subsidiaries own or have a valid right to use, all the Intellectual Property necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, the operation of the respective businesses of the Borrower or any of its Restricted Subsidiaries as currently conducted does not infringe upon, misuse, misappropriate or violate any intellectual property rights held by any Person except for such infringements, misuses, misappropriations or violations individually or in the aggregate, that would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any Intellectual Property owned by the

Borrower or any of its Restricted Subsidiaries is pending or, to the knowledge of the Borrower, threatened against the Borrower or any Restricted Subsidiary, that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 USA PATRIOT Act, FCPA and OFAC.

(a) To the extent applicable, each of Holdings, the Borrower and its Subsidiaries is in compliance, in all material respects, with (a) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (b) the USA PATRIOT Act and other similar anti-money laundering rules and regulations.

(b) Each of Holdings, the Borrower and its Subsidiaries, and their respective officers, directors and employees, and to the Borrower's knowledge, their respective agents, affiliates and representatives, have conducted their businesses in compliance in all material respects with the FCPA, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and Holdings, the Borrower and its Subsidiaries have instituted and maintained policies and procedures appropriate for Holdings, the Borrower and its Subsidiaries' business designed to promote and achieve compliance with such laws. The Borrower will not directly or, to its knowledge, indirectly use the proceeds of the Loans in violation of the FCPA, the UK Bribery Act 2010 or other similar anti-corruption legislation in other jurisdictions.

(c) None of Holdings, the Borrower or any of its Subsidiaries, nor, to the knowledge of Holdings, the Borrower or any of its Subsidiaries, any director, officer, agent, employee or Affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is, (a) the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List or any other Sanctions list, or (c) located, organized or resident in a Designated Jurisdiction. The Borrower will not directly or, to its knowledge, indirectly use the proceeds of the Loans or otherwise knowingly make available such proceeds to any Person, for the purpose of financing the activities of any Person that, at the time of such financing, is (a) the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List or any other Sanctions list, or (c) located, organized or resident in a Designated Jurisdiction.

SECTION 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents or contemplated by the Collateral Documents (including the delivery to Collateral Agent of any Pledged Debt and any Pledged Equity required to be delivered pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable perfected Lien (subject to Liens permitted by Section 7.01) on all right, title and interest of Holdings, the Borrower and the applicable Subsidiary Guarantors, respectively, in the Collateral described therein.

SECTION 5.19 Use of Proceeds. The Borrower has used the proceeds of the Loans only in compliance (and not in contravention of) applicable Laws and each Loan Document.

ARTICLE VI
Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Audited Annual Financial Statements. As soon as available, but in any event within one hundred twenty days after the end of each fiscal year of the Borrower (commencing with the first fiscal year ending after the Closing Date), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of comprehensive income (loss), stockholders' equity and cash flows for such fiscal year together with related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year (if ending after the Closing Date), prepared in accordance with GAAP, audited and accompanied by a report and opinion of the Borrower's auditor on the Closing Date or any other independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Controlling Party, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any explanatory statement as to the Borrower's ability to continue as a "going concern" or like qualification or exception (excluding any "emphasis of matter" paragraph) (other than any such statement, qualification or exception resulting from or relating to (i) an actual or anticipated breach of a Financial Covenant, (ii) an upcoming maturity date or (iii) activities, operations, financial results or liabilities of any Person other than the Loan Parties and their Restricted Subsidiaries).

(b) Quarterly Financial Statements. As soon as available, but in any event within sixty days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended March 31, 2019), (i) a condensed consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, (ii) the related condensed consolidated statements of comprehensive income (loss) for such fiscal quarter and for the portion of the fiscal year then ended and (iii) the related condensed consolidated statements of cash flows for the portion of the fiscal year then ended, setting forth, in each case of clauses (ii) and (iii), in comparative form, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, in each case if ended after the Closing Date, certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in material compliance with GAAP, subject to normal year-end adjustments and the absence of footnotes.

(c) Budget; Projections. Prior to the consummation of a Qualifying IPO, within ninety days after the end of each fiscal year (commencing with the first fiscal year ending after the Closing Date), a consolidated budget for the following fiscal year on a quarterly basis as customarily prepared by management of the Borrower for its internal use and setting forth the material underlying assumptions based on which such consolidated budget was prepared (including any projected consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of the following fiscal year and the related condensed consolidated statements of projected operations or income (loss) and projected cash flow, in each case, to the extent prepared by management of the Borrower and included in such consolidated budget, which projected financial statements shall be prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such projected financial statements).

(d) Unrestricted Subsidiaries. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(a) and 6.01(b) above, such supplemental financial information (which need not be audited) as is necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (i) the applicable financial statements of any direct or indirect parent of the Borrower that directly or indirectly holds all of the Equity Interests of the Borrower or (ii) the Borrower's or such entity's Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that with respect to each of clauses (i) and (ii), (A) to the extent such information relates to a parent of the Borrower, such information is accompanied by supplemental financial information (which need not be audited) that explains in reasonable detail the differences between the information relating to the Borrower (or such parent), on the one hand, and the information relating to the Borrower and the Restricted Subsidiaries on a standalone basis, on the other hand and (B) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of the Borrower's auditor on the Closing Date, any other independent registered public accounting firm of nationally recognized standing or another accounting firm reasonably acceptable to the Controlling Party, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any explanatory statement as to the Borrower's ability to continue as a "going concern" or like qualification or exception (other than any such statement, qualification or exception resulting from or relating to (i) an actual or anticipated breach of a Financial Covenant, (ii) an upcoming maturity date or (iii) activities, operations, financial results or liabilities of any Person other than the Loan Parties and their Restricted Subsidiaries) or any qualification or exception as to the scope of such audit.

Any financial statements required to be delivered pursuant to this Section 6.01 shall not be required to contain purchase accounting adjustments to the extent it is not practicable to include any such adjustments in such financial statements.

SECTION 6.02 Certificates: Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Compliance Certificate. No later than five days after the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate.

(b) SEC Filings. Promptly after the same are publicly available, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which Holdings or the Borrower or any Restricted Subsidiary files with the SEC (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02; *provided* that notwithstanding the foregoing, the obligations in this Section 6.02(b) may be satisfied by as such information being publicly available on the SEC's EDGAR website.

(c) Unrestricted Subsidiaries. Together with the delivery of a Compliance Certificate with respect to the financial statements referred to in Section 6.01(a), a list of each Subsidiary of the Borrower that identifies each Subsidiary that is an Unrestricted Subsidiary, if any, as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date and the date of the last such list.

(d) Perfection Certificate Supplement. Together with the delivery of a Compliance Certificate with respect to the financial statements referred to in Section 6.01(a), the information required pursuant to Section II(A) of the Perfection Certificate with respect to any IP Collateral (as defined in the Security Agreement) or confirming that there has been no change in such information since the date of the Perfection Certificate or the date of the most recent information delivered pursuant to this Section 6.02(c).

(e) Notices to Senior Priority Lien Debt. Not later than five days after the delivery thereof, copies of all notices sent to the lenders or agents in respect of Senior Priority Lien Debt.

(f) Other Information. Such additional information regarding the business operations of any Loan Party or any Material Subsidiary that is a Restricted Subsidiary as the Administrative Agent may from time to time on its own behalf or on behalf of the Required Lenders reasonably request, including information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Documents required to be delivered pursuant to Section 6.01 or Section 6.02 (other than Section 6.02(a)) may be delivered electronically 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 addresses listed on Schedule 11.02, or (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant 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) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (B) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent 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. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arranger will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "**Borrower Materials**") by posting the Borrower Materials on IntraLinks, DebtDomain or another similar electronic system (the "**Platform**") and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person's securities. The Borrower hereby agrees that (i) all Borrower Materials that are to be made available to 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 (and by doing so shall be deemed to have represented that such information contains only Public-Side Information); (ii) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arranger and the Lenders to treat such Borrower Materials as containing only Public-Side Information (*provided, however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.08); (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public-Side Information"; and (iv) the Administrative Agent and the Lead Arranger 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." The Borrower agrees that (i) any Loan Documents and

notifications of changes of terms of the Loan Documents (including term sheets), (ii) any financial statements delivered pursuant to Sections 6.01(a) and (b) and (iii) any Compliance Certificates delivered pursuant to Section 6.02(a) will be deemed to be “public-side” Borrower Materials and may be made available to Public Lenders.

For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent for prompt further notification by the Administrative Agent to each Lender of:

(a) the occurrence and continuation of any Default or Event of Default; and

(b) (i) any dispute, litigation, investigation or proceeding between the Borrower or any Restricted Subsidiary and any arbitrator or Governmental Authority or (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, including any Environmental Claims or in respect of Intellectual Property, or (iii) the occurrence of any ERISA Event that, in any such case referred to in clause (i) or (ii), has resulted or would reasonably be expected to result in a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower (i) that such notice is being delivered pursuant to Section 6.03(a) or (b) (as applicable) and (ii) setting forth a summary description of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.04 Payment of Certain Taxes. Timely pay, discharge or otherwise satisfy, as the same shall become due and payable, all obligations and liabilities in respect of taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (a) any such tax, assessment, charge or levy is being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or (b) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 6.05 Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its incorporation or organization; and

(b) take all reasonable action to obtain, preserve, renew and keep in full force and effect those of its rights (including with respect to Intellectual Property), licenses, permits, privileges, and franchises, that are material to the conduct of its business;

except in the case of clause (a) or (b), (i) in connection with a transaction permitted by the Loan Documents (including transactions permitted by Section 7.04 or Section 7.05) or (ii) to the extent that failure to do so would not reasonably be expected to have, individually or in the aggregate, resulted in a Material Adverse Effect.

SECTION 6.06 Maintenance of Properties. Maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition (ordinary wear and tear excepted and casualty or condemnation excepted) except to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, resulted in a Material Adverse Effect.

SECTION 6.07 Maintenance of Insurance.

(a) Maintain with insurance companies that the Borrower believes (in the good faith judgment of its management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance) as are customarily carried under similar circumstances by such other Persons, and furnish to the Lenders, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried.

(b) Each such policy of insurance shall as appropriate and is customary and with respect to jurisdictions outside the United States, to the extent available in such jurisdiction, (i) name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder (with respect to liability insurance) and/or (ii) in the case of property insurance, contain a loss payable clause or endorsement that names the Collateral Agent, on behalf of the Secured Parties, as a loss payee thereunder (it being understood that, absent an Event of Default, any proceeds of any such insurance shall be delivered by the insurer(s) to Holdings or one of its Subsidiaries and applied in accordance with this Agreement); *provided*, that, to the extent that the requirements of this Section 6.07 are not satisfied on the Closing Date, the Borrower may satisfy such requirements within ninety days of the Closing Date (as extended by the Controlling Party in its reasonable discretion).

SECTION 6.08 Compliance with Laws. (a) Comply with the requirements of all Laws (including applicable ERISA-related laws and all Environmental Laws) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except to the extent the failure to comply therewith would not reasonably be expected to have, individually or in the aggregate, resulted in a Material Adverse Effect and (b) comply in all material respects with the requirements of USA PATRIOT Act, FCPA, OFAC, UK Bribery Act of 2010 and other anti-terrorism, anti-corruption and anti-money laundering Laws; *provided* that the requirements set forth in this Section 6.08, as they pertain to compliance by any Foreign Subsidiary with the USA PATRIOT ACT, FCPA, OFAC and UK Bribery Act of 2010 are subject to and limited by any Law applicable to such Foreign Subsidiary in its relevant local jurisdiction; *provided further* that it being agreed that a material breach of the FCPA or the UK Bribery Act of 2010 will be deemed to have a Material Adverse Effect.

SECTION 6.09 Books and Records. Maintain proper books of record and account in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and material matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization or operations and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder).

SECTION 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent, the Collateral Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial, and operating records, and make copies thereof or abstracts therefrom

and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; *provided* that, (a) excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent (and any of its representatives or independent contractors) on behalf of the Lenders may exercise rights of the Administrative Agent, the Collateral Agent and the Lenders under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the continuation of an Event of Default and only one such time shall be at the Borrower's expense and (b) when an Event of Default is continuing, the Administrative Agent, the Collateral Agent or any Lender (or any of their respective 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. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, subject to any applicable limitation in any Collateral Document (including Section 6.12), take the following actions:

- (a) within ninety days of the occurrence of any Grant Event (or such longer period as the Controlling Party may agree in its reasonable discretion),
 - (i) cause the Restricted Subsidiary subject of the Grant Event to execute the Guaranty (or a joinder thereto);
 - (ii) cause the Restricted Subsidiary subject of the Grant Event to duly execute and deliver to the Collateral Agent a Security Agreement Supplement and any applicable Intellectual Property Security Agreements with respect to its registered and applied for intellectual property;
 - (iii) cause the Restricted Subsidiary subject of the Grant Event (and any parent of such Restricted Subsidiary that is a Loan Party) to (x) deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Security Agreement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law), the Global Intercompany Notes and all other instruments evidencing Indebtedness held by such Restricted Subsidiary and required to be pledged pursuant to the Security Agreement, endorsed in blank, to the Collateral Agent and (y) if such Restricted Subsidiary is a Foreign Subsidiary, deliver such additional security documents and enter into additional collateral arrangements in the jurisdiction of such Foreign Subsidiary reasonably satisfactory to the Administrative Agent and the Controlling Party;
 - (iv) upon the reasonable request of the Administrative Agent or the Controlling Party, take and cause the Restricted Subsidiary and each direct or indirect parent of such Restricted Subsidiary subject of the Grant Event to take such customary actions as may be necessary in the reasonable opinion of the Controlling Party to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) perfected Liens (subject to Liens permitted under Section 7.01) in the Equity Interests of such Restricted Subsidiary and the personal property and fixtures of such Restricted Subsidiary to the extent required by the Security Agreement or the other Collateral Documents, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law); and

(v) upon request of the Administrative Agent or the Controlling Party, deliver to the Administrative Agent a signed copy of a customary opinion, addressed to the Administrative Agent and the other Secured Parties, of counsel for the Loan Parties as to such matters set forth in this Section 6.11(a) as the Administrative Agent or the Controlling Party may reasonably request

provided, that actions relating to Liens on real property are governed by Section 6.11(b) and not this Section 6.11(a).

(b) Material Real Property.

(i) Notice.

(A) Within ninety days (or, in each case, such longer period as the Controlling Party may agree in its reasonable discretion) after the formation, acquisition or designation of a Restricted Subsidiary (other than any Excluded Subsidiary) or the occurrence of a Grant Event with respect to a Restricted Subsidiary, the Borrower will, or will cause such Restricted Subsidiary to, furnish to the Collateral Agent a description of any Material Real Property (other than any Excluded Asset) owned by such Restricted Subsidiary in reasonable detail.

(B) Within ninety days (or such longer period as the Controlling Party may agree in its reasonable discretion) after the acquisition of any Material Real Property by a Loan Party after the Closing Date, the Borrower will furnish to the Collateral Agent a description of such Material Real Property in reasonable detail.

(ii) Mortgages, etc. The Borrower will, or will cause the applicable Loan Party to, provide the Collateral Agent with a Mortgage with respect to Material Real Property that is the subject of a notice delivered pursuant to Section 6.11(b)(i), within ninety days (or such longer period as the Controlling Party may agree in its sole discretion) of the event that triggered the requirement to give such notice, together with:

(A) evidence that counterparts of such Mortgage have been duly executed, acknowledged and delivered and are in a form suitable for filing or recording in all filing or recording offices that the Controlling Party may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on such Material Real Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or are otherwise provided for in a manner reasonably satisfactory to the Controlling Party;

(B) fully paid Mortgage Policies or signed commitments in respect thereof together with such affidavits, certificates, and instruments of indemnification (including a so-called "gap" indemnification) as shall be required to induce the title insurance company to issue the Mortgage Policies and endorsements contemplated above and evidence of payment of title insurance premiums and expenses and all recording, mortgage, transfer and stamp taxes and fees payable in connection with recording the Mortgage;

(C) customary opinions of local counsel for such Loan Party in the state in which such Material Real Property is located, with respect to the enforceability of the Mortgage and any related fixture filings and, where the applicable Loan Party granting the Mortgage on said Mortgaged Property is organized, an opinion regarding the due

authorization, execution and delivery of such Mortgage, and in each case, such other matters as may be reasonably requested by the Administrative Agent or the Controlling Party;

(D) an ALTA survey or existing survey together with a no change affidavit of such Mortgaged Property, sufficient for the title insurance company to remove the standard survey exception and issue related endorsements and otherwise reasonably satisfactory to the Controlling Party (if reasonably requested by the Administrative Agent or the Controlling Party); and

(E) a Flood Insurance Certificate, provided, however, that in the event any such property is located in an area determined by the Federal Emergency Management Agency (or any successor agency) to be located in special flood hazard area, that property shall be excluded and any mortgages thereon shall be released.

SECTION 6.12 Further Assurances. Subject to Section 6.11 and any applicable limitations in any Collateral Document, and in each case at the expense of the Borrower, promptly upon the reasonable request by the Administrative Agent, the Collateral Agent or the Controlling Party or as may be required by applicable Laws (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, Collateral Agent or the Controlling Party may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

Notwithstanding anything to the contrary in any Loan Document, other than with respect to the Equity Interests and assets of a Foreign Subsidiary that becomes a Loan Party, neither Holdings, the Borrower, nor any Restricted Subsidiary will be required to, nor will the Administrative Agent or the Collateral Agent be authorized,

(a) to perfect security interests in the Collateral other than by,

(i) filings pursuant to the Uniform Commercial Code in the office of the secretary of state (or similar central filing office) of the relevant state(s) and filings in the applicable real estate records with respect to Material Real Property;

(ii) filings in (A) the United States Patent and Trademark Office with respect to any U.S. registered patents and trademarks and (B) the United States Copyright Office of the Library of Congress with respect to material copyright registrations, in the case of each of (A) and (B), constituting Collateral;

(iii) mortgages (or local law equivalent) in respect of Material Real Property; and

(iv) delivery to the Administrative Agent or Collateral Agent to be held in its possession of all Collateral consisting of (x) certificates representing Pledged Equity, (y) the Global Intercompany Note and (z) all other promissory notes and other instruments constituting Collateral; provided that promissory notes and instruments having an aggregate principal amount equal to \$2,500,000 or less need not be delivered to the Collateral Agent; in each case, in the manner provided in the Collateral Documents;

(b) to enter into any control agreement, lockbox or similar arrangement with respect to any deposit account, securities account, commodities account or other bank account, or otherwise perfect a security interest with control;

(c) to take any action (i) outside of the United States with respect to any assets located outside of the United States, (ii) in a non-U.S. jurisdiction or (iii) required by the laws of any non-U.S. jurisdiction to create, perfect or maintain any security interest or otherwise;

(d) to take any action with respect to perfecting a Lien with respect to letters of credit, letter of credit rights, commercial tort claims, chattel paper or assets subject to a certificate of title or similar statute (in each case, other than the filing of customary "all asset" UCC-1 financing statements) or to deliver landlord lien waivers, estoppels, bailee letters or collateral access letters, in each case, unless required by the terms of the Security Agreement or the relevant Collateral Document; or

the Loan Parties shall not be required to perform any periodic collateral reporting, if any, with any frequency greater than once per fiscal year (*provided* that this clause shall not limit the obligation of the Loan Parties to comply with Section 6.11).

SECTION 6.13 Designation of Subsidiaries. The Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that:

(a) immediately before and after such designation (or re-designation), no Specified Event of Default shall have occurred and be continuing;

(b) the Investment resulting from the designation of such Restricted Subsidiary as an Unrestricted Subsidiary as described above is permitted by Section 7.02; and

(c) no Subsidiary may be designated as an Unrestricted Subsidiary unless it is also designated as an "unrestricted subsidiary" under (i) the First Lien Credit Agreement (and the terms of any Permitted Refinancings of the Indebtedness thereunder) and (ii) the terms of any Incremental Equivalent Debt, Permitted Ratio Debt, Senior Priority Lien Debt, Pari Passu Lien Debt and Junior Lien Debt (any Permitted Refinancings thereof).

The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the Borrower's or its Restricted Subsidiary's (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value at the date of such designation of the Borrower's or its Restricted Subsidiary's (as applicable) Investment in such Subsidiary. Except as set forth in this paragraph, no Investment will be deemed to exist or have been made, and no Indebtedness or Liens shall be deemed to have been incurred or exist, by virtue of a Subsidiary becoming an Excluded Subsidiary or an Excluded Subsidiary becoming a Restricted Subsidiary.

SECTION 6.14 Maintenance of Ratings. Use commercially reasonable efforts to maintain a public corporate credit rating or public corporate family rating, as applicable, from any two of S&P, Moody's and Fitch, in each case, in respect of the Borrower (but not a specific rating).

SECTION 6.15 Post-Closing Matters. The Borrower will, and will cause each of its Restricted Subsidiaries to, take each of the actions set forth on Schedule 6.15 within the time period prescribed therefor on such schedule (as such time period may be extended by the Controlling Party).

SECTION 6.16 Use of Proceeds. The proceeds of the Initial Term Loans, together with the proceeds of the First Lien Term Loans, will be used on the Closing Date to finance, in part, the Transactions.

ARTICLE VII
Negative Covenants

So long as the Termination Conditions are not satisfied, the Borrower shall not (and, with respect to Section 7.11 only, Holdings shall not), nor shall the Borrower permit any Restricted Subsidiary to:

SECTION 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, that secures Indebtedness other than the following:

(a) Liens securing obligations in respect of (i) Indebtedness incurred pursuant to Section 7.03(a), including obligations under any Loan Document or (ii) Incremental Equivalent Debt (with the lien priority permitted in such definition and other than to the extent such Indebtedness is only permitted to be incurred as unsecured Indebtedness);

(b) Liens securing obligations in respect of Indebtedness incurred pursuant to Section 7.03(b), including obligations under the First Lien Credit Documents;

(c) Liens existing on the Closing Date (other than Liens incurred under Sections 7.01(a) and 7.01(b));

(d) Liens securing obligations in respect of Indebtedness permitted under Section 7.03(d), including in respect to Attributable Indebtedness, Capital Lease Obligations, and Indebtedness financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; *provided* that (i) such Liens attach concurrently with or within two hundred and seventy days after completion of the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens and (ii) such Liens do not at any time extend to or cover any assets (except for additions and accessions to such assets, replacements and products thereof and customary security deposits) other than the assets subject to, or acquired, constructed, repaired, replaced or improved with the proceeds of such Indebtedness; *provided* that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender or its affiliates;

(e) Liens in favor of the Borrower or a Loan Party securing Indebtedness permitted under Section 7.03;

(f) Liens under the First Lien Credit Documents securing First Lien Obligations in respect of any Secured Hedge Agreement and other Indebtedness permitted by Section 7.03(f);

(g) Liens on assets of Non-Loan Parties and Liens on Excluded Assets;

(h) Liens on the Collateral securing obligations in respect of Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt and any Permitted Refinancing of any of the foregoing incurred pursuant to Section 7.03(h); *provided* that any Permitted Pari Passu Secured

Refinancing Debt or any Permitted Refinancing thereof with Pari Passu Lien Debt, in either case, that is in the form of term loans shall be subject to Section 2.16(h) as if such Permitted Pari Passu Secured Refinancing Debt or Permitted Refinancing thereof was Incremental Term Loans;

(i) Liens securing Indebtedness permitted by Sections 7.03(j);

(j) (i) Liens existing on property at the time of (and not in contemplation of) its acquisition or existing on the property of any Person or on Equity Interests of any Person, in each case, at the time such Person becomes (and not in contemplation of such Person becoming) a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 6.14), in each case after the Closing Date; *provided* that (A) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property of such acquired Restricted Subsidiary covered by an applicable grant clause) and (B) the Indebtedness secured thereby is permitted under Section 7.03(d) or (l), (ii) Liens on any cash earned money deposits made by the Borrower or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement relating to an Investment and (iii) Liens incurred in connection with escrow arrangements or other agreements relating to an acquisition or Investment permitted hereunder;

(k) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02 to be applied against the purchase price for such Investment or (ii) consisting of an agreement to Dispose of any property in a Disposition, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(l) (i) pledges or deposits in the ordinary course of business in connection with workers' compensation, health, disability or employee benefits, unemployment insurance and other social security laws or similar legislation or regulation or other insurance-related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Holdings, the Borrower or any Restricted Subsidiaries;

(m) (i) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto and (ii) Liens on cash securing obligations to insurance companies with respect to insurable liabilities incurred in the ordinary course of business;

(n) deposits to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(o) Liens on the Securitization Assets arising in connection with a Qualified Securitization Financing;

(p) Liens in respect of the cash collateralization of letters of credit;

(q) Liens (i) of a collection bank arising under Section 4-208 or 4-210 of the Uniform Commercial Code on the items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and not for speculative purposes and (iii) in favor of a banking or other financial institution arising as a matter of law

encumbering deposits or other funds maintained with a financial institution (including the right of setoff) and that are within the general parameters customary in the banking industry;

(r) Liens under the First Lien Credit Documents securing Cash Management Obligations permitted by Section 7.03;

(s) Liens that are customary contractual rights of setoff (i) relating to the establishment of depository relations with banks or other deposit-taking financial institutions in the ordinary course and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of Holdings, the Borrower or any of the Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Holdings, the Borrower or any of the Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;

(t) statutory or common law Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, or other customary Liens (other than in respect of Indebtedness) in favor of landlords, so long as, in each case, such Liens arise in the ordinary course of business that secure amounts not overdue for a period of more than sixty days or, if more than sixty days overdue, are unfiled and no other action has been taken to enforce such Lien or that are being contested in good faith and by appropriate actions, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(u) any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under leases or licenses entered into by the Borrower or any of the Restricted Subsidiaries as lessee or licensee in the ordinary course of business;

(v) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(w) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries, taken as a whole;

(x) deposits of cash with the owner or lessor of premises leased and operated by the Borrower or any of its Subsidiaries in the ordinary course of business of the Borrower and such Subsidiary to secure the performance of the Borrower's or such Subsidiary's obligations under the terms of the lease for such premises;

(y) Liens for taxes, assessments or governmental charges that are not overdue for a period of more than sixty days or that are being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or for property taxes on property the Borrower or its Subsidiaries has decided to abandon if the sole recourse for such tax, assessment or charge is to such property;

(z) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and title defects affecting real property that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries taken as a whole, or the use of the property for its intended purpose, and any other exceptions to title on the Mortgage Policies provided in accordance with this Agreement;

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- (aa) Liens arising from judgments or orders for the payment of money not constituting an Event of Default under Section 9.01(g);
- (bb) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business (or other agreement under which the Borrower or any Restricted Subsidiary has granted rights to end users to access and use the Borrower's or any Restricted Subsidiary's products, technologies, facilities or services) which do not interfere in any material respect with the business of the Borrower and its Restricted Subsidiaries, taken as a whole;
- (cc) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business and (ii) on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the ordinary course of business;
- (dd) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;
- (ee) Liens imposed by law or incurred pursuant to customary reservations or retentions of title (including contractual Liens in favor of sellers and suppliers of goods) incurred in the ordinary course of business for sums not constituting borrowed money that are not overdue for a period of more than sixty days or that are being contested in good faith by appropriated proceedings and for which adequate reserves have been established in accordance with GAAP (if so required);
- (ff) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.02 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;
- (gg) Liens on cash and Cash Equivalents earmarked to be used to satisfy or discharge Indebtedness where such satisfaction or discharge of such Indebtedness is not otherwise prohibited;
- (hh) purported Liens evidenced by the filing of precautionary Uniform Commercial Code financing statements or similar public filings;
- (ii) the modification, replacement, renewal or extension of any Lien permitted by this Section 7.01; *provided* that (i) the Lien does not extend to any additional property other than (A) after-acquired property covered by any applicable grant clause or financed by Indebtedness permitted under Section 7.03(d) and (B) proceeds and products thereof and (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 7.03;
- (jj) Liens securing:
- (i) a Permitted Refinancing of Indebtedness; *provided* that:
- (A) such Indebtedness was permitted by Section 7.03 and was secured by a Lien permitted by Section 7.01;
- (B) such Permitted Refinancing is permitted by Section 7.03;

(C) the Lien does not extend to any additional property other than after-acquired property that is affixed or incorporated into the property covered by such Lien and proceeds and products thereof;

(D) such modification, replacement, renewal or extension is subject to the limitations under clause (d)(iii)(B) of the definition of Permitted Refinancing; and

(E) such Permitted Refinancing shall be secured by no greater priority in relation to the Obligations than the Indebtedness being refinanced; and

(ii) Guarantees and other obligations permitted by Sections 7.03(w) and (y) to the extent that the underlying Indebtedness subject to such Guarantee is permitted to be secured by a Lien; *provided* that the Indebtedness referenced in such Sections was otherwise permitted to be secured by a Lien pursuant to another subsection of this Section 7.01;

(kk) Liens securing Pari Passu Lien Debt and/or Junior Lien Debt; *provided* that:

(i) after giving Pro Forma Effect to the incurrence of such Indebtedness,

(A) if such Indebtedness is Pari Passu Lien Debt, then the Secured Net Leverage Ratio measured as of the date of initial attachment of such Lien shall be no greater than (1) the Closing Date Secured Net Leverage Ratio or (2) the Secured Net Leverage Ratio immediately prior to such incurrence, or

(B) if such Indebtedness is Junior Lien Debt, either (1) the Total Net Leverage Ratio measured as of the date of incurrence of such Indebtedness (or revolving commitments) shall be no greater than (x) the Closing Date Total Net Leverage Ratio or (y) the Total Net Leverage Ratio immediately prior to such incurrence or (2) the Interest Coverage Ratio for the applicable Test Period is equal to or greater than (x) 2.00 to 1.00 or (y) the Interest Coverage Ratio immediately prior to such incurrence; and

(ii) such Liens (other than with respect to purchase money and similar obligations) are, in each case, subject to an Equal Priority Intercreditor Agreement or Junior Lien Intercreditor Agreement, as applicable; and

(ll) Liens securing Indebtedness or other obligations (excluding Indebtedness for borrowed money) in an aggregate principal amount as of the date such Indebtedness is incurred, not to exceed the sum of (i) the greater of (A) 60% of Closing Date EBITDA and (B) 60% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined as of the date such Indebtedness is incurred and (ii) Indebtedness incurred pursuant to the Fixed Incremental Amount pursuant to Section 7.03(y)(ii).

For purposes of determining compliance with this Section 7.01, in the event that any Lien (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Lien (or any portion thereof) in any manner that complies with this covenant on the date such Lien is incurred or such later time, as applicable; *provided* that all Liens created pursuant to (x) the Loan Documents or (y) the First Lien Credit Documents on or prior to the Closing Date (including, in the case of clause (y), any such Liens securing any Delayed Draw Term Loans (as defined in the First Lien Credit Agreement) and Revolving Loans (as defined in the First Lien Credit Agreement)

will be deemed to have been incurred in reliance on the exception in clause (a) or (b) above, respectively, and shall not be permitted to be reclassified pursuant to this paragraph.

Any Lien incurred in compliance with this Section 7.01 after the Closing Date that is intended to be contractually secured on a senior basis relative to the Obligations will be subject to the Closing Date Intercreditor Agreement or another Senior Priority Intercreditor Agreement, any Lien incurred in compliance with this Section 7.01 after the Closing Date that is intended to be contractually secured on *apari passu* basis with the Obligations will be subject to an Equal Priority Intercreditor Agreement, and any Lien incurred in compliance with this Section 7.01 after the Closing Date that is intended to be contractually secured on a junior basis will be subject to a Junior Lien Intercreditor Agreement.

SECTION 7.02 Investments. Make or hold any Investments, except:

(a) Investments,

(i) by the Borrower or any Restricted Subsidiary in the Borrower or any Restricted Subsidiary; and

(ii) by the Borrower or any Restricted Subsidiary in a Person, if as a result of such Investment (A) such Person becomes a Restricted Subsidiary or (B) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary;

(b) Investments existing on the Closing Date or made pursuant to legally binding written contracts in existence on the Closing Date and any modification, replacement, renewal, reinvestment or extension of any of the foregoing; *provided* that the amount of any Investment permitted pursuant to this Section 7.02(b) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by another clause of this Section 7.02;

(c) the purchase or other acquisition by the Borrower or a Subsidiary of the Borrower (in one transaction or a series of transactions, including by merger or otherwise) of property and assets or businesses of any Person or of assets constituting a business unit, line of business or division of any Person or Equity Interests in a Person that, upon the consummation thereof, will be a Restricted Subsidiary of the Borrower (including as a result of a merger or consolidation) or, in the case of a purchase or acquisition of assets (other than Equity Interests), will be owned by the Borrower or a Restricted Subsidiary of the Borrower; *provided* that with respect to each purchase or other acquisition made pursuant to this Section 7.02(c) (each, a “**Permitted Acquisition**”) immediately before and immediately after giving Pro Forma Effect to any such purchase or other acquisition, no Specified Event of Default shall have occurred and be continuing;

(d) Investments (i) held by a Restricted Subsidiary acquired after the Closing Date or of a Person merged or consolidated into the Borrower or merged or consolidated with a Restricted Subsidiary to the extent that, in each case, such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation and (ii) by Unrestricted Subsidiaries entered into (or committed to be made) prior to the date such Unrestricted Subsidiary is designated as a Restricted Subsidiary pursuant to Section 6.13 to the extent that such Investments were not made (or committed to be made) in contemplation of, or in connection with, such designation and were in existence (or committed to be made) on the date of such designation;

(e) Investments that do not exceed in the aggregate at any time outstanding the sum of:

(i) the greater of (A) 90% of Closing Date EBITDA and (B) 90% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, and

(ii) the Available Amount at such time; *provided* that no Specified Event of Default shall have occurred and be continuing or would result therefrom (except to the extent such Investment is funded exclusively in reliance on clauses (c) and/or (d) of the definition of Available Amount);

provided that, if any Investment pursuant to this clause (e) is made in any Person that is not a Restricted Subsidiary on the date of such Investment (prior to giving effect thereto) and such Person subsequently becomes a Restricted Subsidiary, the Investment initially made in such Person pursuant to this clause (e) shall thereupon be deemed to have been made pursuant to Section 7.02(a)(i) and to not have been made pursuant to this clause (e);

(f) Investments, so long as the First Lien Leverage Ratio (after giving Pro Forma Effect to the incurrence of such Investment and the use of proceeds thereof) for the Test Period immediately preceding the making of such Investment shall be less than or equal to the Closing Date First Lien Leverage Ratio less 0.25 to 1.00;

(g) Investments in Unrestricted Subsidiaries that do not exceed in the aggregate at any time outstanding the greater of (A) 30% of Closing Date EBITDA and (B) 30% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination;

(h) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of Holdings (or any direct or indirect parent thereof) or the proceeds from the issuance thereof;

(i) Joint Venture Investments;

(j) loans and advances to Holdings (or any direct or indirect parent thereof) in lieu of, and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof) Restricted Payments to the extent permitted to be made to Holdings (or such direct or indirect parent) in accordance with Section 7.06(f) or (g);

(k) loans or advances to officers, directors and employees of Holdings (or any direct or indirect parent thereof), the Borrower or any Restricted Subsidiary;

(i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes;

(ii) in connection with such Person's purchase of Equity Interests of Holdings (or any direct or indirect parent thereof); *provided* that, to the extent such loans or advances are made in cash, the amount of such loans and advances used to acquire such Equity Interests shall be contributed to Holdings in cash; and

(iii) for any other purpose; *provided* that the aggregate principal amount outstanding under this clause (iii) shall not exceed the greater of (A) 12% of Closing Date EBITDA and (B) 12% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination;

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- (l) Investments in Hedge Agreements;
 - (m) promissory notes and other non-cash consideration that is permitted to be received in connection with Dispositions;
 - (n) Investments held by the Borrower or any of the Restricted Subsidiaries in assets that are cash or Cash Equivalents or were Cash Equivalents when made;
 - (o) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the ordinary course of business;
 - (p) Investments consisting of Liens, Indebtedness (including Guarantees), fundamental changes, Dispositions and Restricted Payments permitted under Sections 7.01, 7.03, 7.04 (other than clause (f) thereof), 7.05 (other than clause (e) thereof) and 7.06 (other than clauses (d) and (g)(iv) thereof), respectively;
 - (q) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;
 - (r) Investments (including debt obligations and Equity Interests) (i) received in connection with the bankruptcy, workout, recapitalization or reorganization of, or in settlement of delinquent obligations of, or other disputes with, the issuer of such Investment or an Affiliate thereof, (ii) arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment in default, (iii) in satisfaction of judgments against other Persons and (iv) as a result of the settlement, compromise or resolutions of litigation, arbitration or other disputes with Persons who are not Affiliates;
 - (s) advances of payroll payments to employees in the ordinary course of business;
 - (t) Investments consisting of purchases and acquisitions of inventory, supplies, material, services or equipment or the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons;
 - (u) Investments made in the ordinary course of business in connection with obtaining, maintaining or renewing client contracts and loans or advances made to distributors in the ordinary course of business;
 - (v) Guarantees by the Borrower or any of the Restricted Subsidiaries of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;
 - (w) (i) Investments in a Securitization Subsidiary or any Investment by a Securitization Subsidiary in any other Person in connection with a Qualified Securitization Financing; *provided, however*, that any such Investment in a Securitization Subsidiary is of Securitization Assets or equity, and (ii) distributions or payments of Securitization Fees and purchases of Securitization Assets pursuant to a Securitization Repurchase Obligation in connection with a Qualified Securitization Financing;

(x) Investments made by a Subsidiary that is not a Loan Party with the cash or other assets received by it pursuant to a substantially concurrent Investment made in such Subsidiary that was permitted by this Section 7.02; *provided* that this clause (x) shall not be used for Investments in Unrestricted Subsidiaries; and

(y) Investments in Similar Businesses that do not exceed in the aggregate at any time outstanding the greater of (i) 60% of Closing Date EBITDA and (ii) 60% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination; *provided* that, if any Investment pursuant to this clause (y) is made in any Person that is not a Restricted Subsidiary on the date of such Investment (prior to giving effect thereto) and such Person subsequently becomes a Restricted Subsidiary, the Investment initially made in such Person pursuant to this clause (y) shall thereupon be deemed to have been made pursuant to Section 7.02(a)(i) and to not have been made pursuant to this clause (y).

For purposes of determining compliance with this Section 7.02, in the event that any Investment (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time such Investment is made, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Investment (or any portion thereof) in any manner that complies with this covenant on the date such Investment is made or such later time, as applicable.

The amount of any non-cash Investments will be the fair market value thereof at the time made. To the extent any Investment in any Person is made in compliance with this Section 7.02 in reliance on a category above that is subject to a Dollar-denominated restriction on the making of Investments and, subsequently, such Person returns to the Borrower, any other Loan Party or, to the extent applicable, any Restricted Subsidiary all or any portion of such Investment (in the form of a dividend, distribution, liquidation or otherwise but excluding intercompany Indebtedness), such return shall be deemed to be credited to the Dollar-denominated category against which the Investment is then charged (but in any event not in an amount that would result in the aggregate dollar amount able to be invested in reliance on such category to exceed such Dollar-denominated restriction). To the extent the category subject to a Dollar-denominated restriction is also subject to a percentage of TTM Consolidated Adjusted EBITDA restriction which, at the date of determination, produces a numerical restriction that is greater than such Dollar amount, then such Dollar equivalent shall be deemed to be substituted in lieu of the corresponding Dollar amount in the foregoing sentence for purposes of determining such credit.

For purposes of determining compliance with any Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction on the making of Investments, the Dollar equivalent amount of the Investment denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Investment was made.

SECTION 7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness or issue any Disqualified Equity Interest, other than:

(a) Indebtedness under the Loan Documents (including Incremental Loans and Extended Loans);

(b) Indebtedness of the Loan Parties in respect of (i) the revolving credit facility under the First Lien Credit Documents (including the initial revolving borrowings) in an aggregate principal amount not to exceed \$75,000,000, (ii) the First Lien Initial Term Loans incurred on the Closing Date in an aggregate principal amount not to exceed \$800,000,000, (iii) the Delayed Draw Term Loans (as defined in the First Lien Credit Agreement) that may be incurred under the First Lien Credit Documents after the Closing Date in an aggregate principal amount not to exceed \$40,000,000, (iv) [reserved], (v) any incremental facility permitted under the First Lien Credit Agreement in accordance with Section 2.16

thereof as such section (including any defined terms used therein) is in effect on the date hereof (including any Incremental Equivalent Debt (as defined in the First Lien Credit Agreement as in effect on the date hereof) in each case under this clause (v), incurred in reliance on the Ratio Amount (as defined in the First Lien Credit Agreement as in effect on the date hereof) and (vi) any Permitted Refinancing in respect of any of the foregoing; *provided that*, in each case, if such Indebtedness is Senior Priority Lien Debt, Junior Priority Lien Debt or Pari Passu Lien Debt, such Indebtedness is subject to the applicable Intercreditor Agreement;

(c) (i) Indebtedness existing on the Closing Date (other than Indebtedness under the First Lien Credit Documents) and any Permitted Refinancing thereof and (ii) intercompany Indebtedness of Holdings, the Borrower or any Restricted Subsidiary outstanding on the Closing Date;

(d) (i) (A) Attributable Indebtedness relating to any transaction, (B) Indebtedness (including Capitalized Leases) of the Borrower and the Restricted Subsidiaries financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets, whether through the direct purchase of assets or the Equity Interests of any Person owning such assets, so long as such Indebtedness is incurred concurrently with, or within two-hundred and seventy days after, the applicable acquisition, construction, repair, replacement or improvement and (C) Indebtedness arising from the conversion of obligations of the Borrower or any Restricted Subsidiary under or pursuant to any "synthetic lease" transactions to Indebtedness of the Borrower or such Restricted Subsidiary; *provided that* the aggregate principal amount of such Indebtedness at any one time outstanding incurred pursuant to this clause (d) shall not exceed the greater of (I) 60% of Closing Date EBITDA and (II) 60% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined at the time of incurrence, and (ii) any Permitted Refinancing of any Indebtedness incurred under Section 7.03(d)(i); *provided, further*, Attributable Indebtedness incurred in connection with a Sale Leaseback Transaction shall not be subject to the previous proviso if the proceeds thereof are used to prepay loans or other Indebtedness secured by a Lien on the assets subject to such Sale Leaseback Transaction; *provided further* that for the purposes of determining compliance with this Section 7.03(d), any lease that is treated under GAAP as an operating lease at the time such lease is executed but is subsequently treated under GAAP as a Capitalized Lease as the result of a change in GAAP (or interpretations thereof) after the Closing Date shall not be treated as Indebtedness;

(e) Indebtedness of the Borrower or any of the Restricted Subsidiaries owing to the Borrower or any other Restricted Subsidiary;

(f) Indebtedness in respect of (i) First Lien Obligations under Secured Hedge Agreements and (ii) Hedge Agreements designed to hedge against Holdings', the Borrower's or any Restricted Subsidiary's exposure to interest rates, foreign exchange rates or commodities pricing risks, in each case of clauses (i) and (ii), incurred in the ordinary course of business and not for speculative purposes and Guarantees thereof;

(g) (i) Indebtedness incurred by a Non-Loan Party which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this clause (g) and then outstanding, does not exceed the greater of (A) 30% of Closing Date EBITDA and (B) 30% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination and (ii) Indebtedness of Loan Parties that is recourse only to Excluded Assets;

(h) Credit Agreement Refinancing Indebtedness and any Permitted Refinancing thereof;

(i) without duplication of Indebtedness incurred pursuant to Section 7.03(a), (b) or (v)(ii) in reliance on the Incremental Amount, Incremental Equivalent Debt and any Permitted Refinancing thereof;

- (j) Permitted Ratio Debt and any Permitted Refinancing thereof;
- (k) Contribution Indebtedness and any Permitted Refinancing thereof;
- (l) Indebtedness,

(i) of any Person that becomes a Restricted Subsidiary after the Closing Date pursuant to an Investment permitted hereunder, which Indebtedness is existing at the time such Person becomes a Restricted Subsidiary and is not incurred in contemplation of such Person becoming a Restricted Subsidiary that is non-recourse to (and is not assumed by any of) the Borrower, Holdings or any Restricted Subsidiary (other than any Subsidiary of such Person that is a Subsidiary on the date such Person becomes a Restricted Subsidiary after the Closing Date) and is either (A) unsecured or (B) secured only by the assets of such Restricted Subsidiary by Liens permitted under Section 7.01;

(ii) of the Borrower or any Restricted Subsidiary assumed in connection with any Permitted Acquisition; *provided* the amount of debt assumed by Restricted Subsidiaries that are not Subsidiary Guarantors pursuant to this clause (l)(ii), when aggregated with the amount of Indebtedness incurred or assumed by Restricted Subsidiaries that are not Subsidiary Guarantors pursuant to clause (l)(iii) below does not exceed the greater of (A) 30% of Closing Date EBITDA and (B) 30% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis in each case determined at the time of incurrence;

(iii) of the Borrower or any Restricted Subsidiary incurred or assumed in connection with any permitted Investment (other than pursuant to Section 7.02(p)); *provided* the aggregate principal amount of such Indebtedness incurred or assumed by Restricted Subsidiaries that are not Subsidiary Guarantors, at any time outstanding pursuant to this clause (l)(iii) does not exceed, when aggregated with all Indebtedness assumed by Restricted Subsidiaries that are not Subsidiary Guarantors pursuant to clause (l)(ii) above, the greater of (A) 30% of Closing Date EBITDA and (B) 30% of TTM Consolidated Adjusted EBITDA of the Borrower on a Pro Forma Basis, in each case determined at the time of incurrence; and

- (iv) any Permitted Refinancing of the foregoing;

provided that, with respect to each of the foregoing clauses (ii) through (iv), immediately after giving effect to the incurrence or assumption of such Indebtedness and such other transactions contemplated in such clauses, either (I) the Interest Coverage Ratio shall be equal to or greater than 2.00 to 1.00 or the Interest Coverage Ratio immediately prior to such incurrence or assumption of such Indebtedness or (II) the Total Net Leverage Ratio shall be no greater than the Closing Date Total Net Leverage Ratio or the Total Net Leverage Ratio immediately prior to such incurrence or assumption of such Indebtedness; in the case of each of clauses (I) and (II), after giving Pro Forma Effect to the incurrence of such Indebtedness and the use of proceeds thereof and measured as of and for the Test Period immediately preceding the incurrence or assumption of such Indebtedness for which financial statements are available;

(m) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in a Permitted Acquisition, any other Investment expressly permitted hereunder (other than pursuant to Section 7.02(p)) or any Disposition, in each case to the extent constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

- (n) Indebtedness representing deferred compensation to employees of the Borrower and its Subsidiaries incurred in the ordinary course of business;
- (o) Indebtedness consisting of obligations of the Borrower and the Restricted Subsidiaries under deferred compensation or other similar arrangements with employees incurred by such Person in connection with the Transactions and Permitted Acquisitions or any other Investment expressly permitted hereunder (other than pursuant to Section 7.02(p));
- (p) Indebtedness to current or former officers, directors, managers, consultants, and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Holdings (or any direct or indirect parent thereof) permitted by Section 7.06;
- (q) Indebtedness incurred by the Borrower or any of the Restricted Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business consistent with past practice in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;
- (r) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, incurred in the ordinary course of business;
- (s) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any of the Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case, in the ordinary course of business or consistent with past practices;
- (t) Indebtedness incurred by a Securitization Subsidiary in a Qualified Securitization Financing that is not recourse (except for Standard Securitization Undertakings) to the Borrower or any of the Restricted Subsidiaries;
- (u) (i) Indebtedness in respect of letters of credit issued for the account of the Borrower or any Restricted Subsidiary so long as (A) such Indebtedness is unsecured and (B) the aggregate face amount of such letters of credit does not exceed the greater of (I) 12% of Closing Date EBITDA and (II) 12% of TTM Consolidated Adjusted EBITDA, in each case determined at the time of issuance of such letter of credit and (ii) Indebtedness in respect of letters of credit that are fully cash collateralized;
- (v) (i) Obligations in respect of Cash Management Obligations and (ii) other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements, in each case of clauses (i) and (ii), incurred in the ordinary course of business and any Guarantees thereof;
- (w) Guarantees by the Borrower and the Restricted Subsidiaries in respect of Indebtedness of the Borrower or any of the Restricted Subsidiaries otherwise permitted hereunder; *provided* that (A) no Guarantee by any Restricted Subsidiary of any Junior Financing shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations substantially on the terms set forth in the Guaranty, (B) if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Guaranty on terms at least as favorable to the Lenders as those contained in the subordination terms with respect to such Indebtedness and (C) any Guarantee by the Borrower or any Subsidiary Guarantor of Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor is permitted under Section 7.02 (other than Section 7.02(p));

(x) Indebtedness incurred on behalf of, or representing Guarantees of Indebtedness of, any Joint Ventures in an aggregate principal amount at any time outstanding not to exceed the greater of (i) 30% of Closing Date EBITDA and (ii) 30% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined at the time of incurrence, and any Permitted Refinancing of the foregoing;

(y) Indebtedness of the Borrower and the Restricted Subsidiaries in an aggregate principal amount at any time outstanding not to exceed the sum of (i) the greater of (A) 90% of Closing Date EBITDA and (B) 90% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, in each case determined at the time of incurrence and (ii) the Fixed Incremental Amount, and any Permitted Refinancing of the foregoing; and

(z) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (y) above.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant on the date such Indebtedness is incurred or such later time, as applicable; *provided* that all Indebtedness created pursuant to (i) the Loan Documents or (ii) the First Lien Credit Documents on the Closing Date (including, in the case of this clause (ii), after the Closing Date any Delayed Draw Term Loans (as defined in the First Lien Credit Agreement) and Revolving Loans (as defined in the First Lien Credit Agreement)) will be deemed to have been incurred in reliance on the exception in clauses (a) or (b), respectively, above and will not be permitted to be reclassified pursuant to this paragraph.

For purposes of determining compliance with any Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower Dollar equivalent), in the case of revolving credit debt; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated (or percentage of TTM Consolidated Adjusted EBITDA, if greater) restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced (*plus* unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses in connection therewith).

The accrual of interest and the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

Section 2.16(h) shall apply to any Indebtedness in the form of term loans in U.S. Dollars that is Pari Passu Lien Debt, as if such Indebtedness was Incremental Term Loans; *provided*, that any such Indebtedness that is subject to transfer limitations beyond those arising by operation of law shall in each

case be deemed to constitute a “loan” for purposes of this paragraph even if such Indebtedness is in the form of a note issued pursuant to an exemption from registration under the Securities Act

SECTION 7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate or amalgamate with or into another Person, or effect a Division, except that:

(a) Holdings or any Restricted Subsidiary may merge or consolidate with the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); *provided* that:

(i) the Borrower shall be the continuing or surviving Person;

(ii) such merger or consolidation does not result in the Borrower ceasing to be organized under the Laws of the United States, any state thereof or the District of Columbia; and

(iii) in the case of a merger or consolidation of Holdings with and into the Borrower, (A) no Event of Default shall exist at such time or after giving effect to such merger or consolidation, (B) after giving effect to such merger or consolidation, the direct parent of the Borrower shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Controlling Party and (C) such direct parent of the Borrower shall concurrently become a Guarantor and pledge 100% of the Equity Interest of the Borrower to the Administrative Agent as Collateral to secure the Obligations in form reasonably satisfactory to the Administrative Agent and the Controlling Party;

(b) any Restricted Subsidiary may merge or consolidate with or into any other Restricted Subsidiary or liquidate or dissolve;

(c) any merger the purpose of which is to reincorporate or reorganize a Restricted Subsidiary in another jurisdiction shall be permitted;

(d) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and the Restricted Subsidiaries and is not materially disadvantageous to the Lenders, *provided* (i) no Event of Default shall result therefrom and (ii) the surviving Person (or the Person who receives the assets of such dissolving or liquidated Restricted Subsidiary) shall be a Restricted Subsidiary;

(e) so long as no Default exists or would result therefrom, the Borrower may merge or consolidate with any other Person *provided* that:

(i) the Borrower shall be the continuing or surviving corporation; or

(ii) if the Person formed by or surviving any such merger or consolidation is not the Borrower (any such Person, the “**Successor Borrower**”);

(A) 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;

(B) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is

a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Controlling Party;

(C) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guaranty confirmed that its Guarantee of the Obligations shall apply to the Successor Borrower's obligations under this Agreement;

(D) each Loan Party, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement;

(E) if requested by the Collateral Agent or the Controlling Party, each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Collateral Agent) confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement; and

(F) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement, and, with respect to such opinion of counsel only, including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent or the Controlling Party;

(G) the Borrower shall have delivered to the Administrative Agent any documentation and other information about the Successor Borrower as shall have been reasonably requested in writing by the Administrative Agent or any Lender through the Administrative Agent that the Administrative Agent or such Lender, as applicable, shall have reasonably determined is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act (and the results thereof shall be reasonably satisfactory to the Administrative Agent or such Lender, as applicable);

it being agreed that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement;

(f) any Restricted Subsidiary may merge or consolidate with any other Person in order to effect an Investment permitted pursuant to Section 7.02 (other than Section 7.02(p));

(g) any Loan Party or any Restricted Subsidiary may conduct a Division that produces two or more surviving or resulting Persons *provided* that

(i) if a Division is conducted by the Borrower, then each surviving or resulting Person shall constitute a "Borrower" for all purposes of the Loan Documents (unless the Controlling Party otherwise consents in its reasonable discretion) and shall remain jointly and severally liable for all Obligations (other than Excluded Swap Obligations, where applicable) of the Borrower immediately prior to such Division and otherwise comply with Section 7.04(e);

(ii) if a Division is conducted by Holdings, then all of the Equity Interests of the Borrower must be owned by only one Person that survives or results from such Division, and such Person owning such Equity Interests in the Borrower shall otherwise comply with Section 7.11(b)(ii), become a Guarantor and pledge 100% of the Equity Interests of the Borrower to the Collateral Agent; and

(iii) if a Division is conducted by a Loan Party other than the Borrower or Holdings, then each surviving or resulting Person of such Division shall also be a Loan Party unless and to the extent any such surviving or resulting Loan Party is the subject of a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(e)) or otherwise would constitute an Excluded Subsidiary; *provided, further* that such surviving or resulting Person not becoming a Loan Party and the assets and property of such surviving or resulting Person not becoming Collateral shall, in each case, be treated as an Investment and shall be permitted under this Section 7.04(h)(iii) solely to the extent permitted under Section 7.02;

(h) as long as no Default exists or would result therefrom, a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(e)).

Notwithstanding anything herein to the contrary, in the event of any merger, dissolution, liquidation, consolidation, amalgamation or Division of any Loan Party or a Restricted Subsidiary effected in accordance with this Section 7.04, the Borrower shall or shall cause, with respect to each surviving Restricted Subsidiary (or new direct parent entity) (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, the Collateral Agent or the Controlling Party may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents in accordance with Section 6.11 and as promptly as practicable.

SECTION 7.05 Dispositions. Make any Disposition, except:

(a) Dispositions of obsolete, damaged, worn out, used or surplus property (including for purposes of recycling), whether now owned or hereafter acquired and Dispositions of property of the Borrower and the Restricted Subsidiaries that is no longer used or useful in the conduct of the business or economically practicable or commercially desirable to maintain;

(b) Dispositions of property in the ordinary course of business;

(c) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property; *provided* that to the extent the property being transferred constitutes Collateral such replacement property shall constitute Collateral;

(d) Dispositions of property to the Borrower or a Restricted Subsidiary;

(e) Dispositions permitted by Section 7.02 (other than Section 7.02(p)), Section 7.04 (other Section 7.04(h)) and Section 7.06 (other than Section 7.06(d)) and Liens permitted by Section 7.01 (other than Section 7.01(k)(ii));

(f) Dispositions of property pursuant to Sale Leaseback Transactions; *provided* that (i) no Event of Default exists or would result therefrom (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Event of Default exists) and (ii) such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(g) Dispositions of Cash Equivalents; *provided*, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(h) leases, subleases, licenses or sublicenses (including the provision of software under an open source license), which do not materially interfere with the business of the Borrower and the Restricted Subsidiaries, taken as a whole; *provided*, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(i) Dispositions of property subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event;

(j) Dispositions; *provided* that:

(i) at the time of such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default exists), no Default shall exist or would result from such Disposition;

(ii) with respect to any Disposition pursuant to this clause (j) for a purchase price in excess of \$15,000,000, the Borrower or any of the Restricted Subsidiaries shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents; *provided, however*, that for the purposes of this clause (ii) each of the following shall be deemed to be cash;

(A) any liabilities (as shown on the Borrower's or such Restricted Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing;

(B) any securities received by such Borrower or Restricted Subsidiary from such transferee that are converted by such Borrower or Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within one hundred and eighty days following the closing of the applicable Disposition; and

(C) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, not in excess of the greater of (I) 24% of Closing Date EBITDA and (II) 24% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, with the fair market value of each item of Designated Non-Cash

Consideration being measured at the time received and without giving effect to subsequent changes in value; and

(iii) such Disposition shall be for no less than the fair market value of such property at the time of such Disposition

(this clause (j), the “**General Asset Sale Basket**”);

(k) Dispositions of Investments in Joint Ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the Joint Venture parties set forth in joint venture arrangements and similar binding arrangements;

(l) Dispositions or discounts of accounts receivable and related assets in connection with the collection, compromise or factoring thereof;

(m) Dispositions (including issuances or sales) of Equity Interests in, or Indebtedness owing to, or of other securities of, an Unrestricted Subsidiary;

(n) Dispositions to the extent of any exchange of like property (excluding any boot thereon permitted by such provision) for use in any business conducted by the Borrower or any of the Restricted Subsidiaries to the extent allowable under Section 1031 of the Code (or comparable or successor provision);

(o) Dispositions in connection with the unwinding of any Hedge Agreement;

(p) Dispositions by the Borrower or any Restricted Subsidiary of assets in connection with the closing or sale of a facility in the ordinary course of business of the Borrower and its Restricted Subsidiaries, which consist of fee or leasehold interests in the premises of such facility, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such facility; *provided* that as to each and all such sales and closings, (i) no Event of Default shall result therefrom and (ii) such sale shall be on commercially reasonable prices and terms in a bona fide arm’s-length transaction;

(q) Dispositions (including bulk sales) of the inventory of a Loan Party not in the ordinary course of business in connection with facility closings, at arm’s length;

(r) Disposition of Securitization Assets to a Securitization Subsidiary, *provided*, that such Disposition shall be for no less than the fair market value of such property at the time of such Disposition;

(s) the lapse, abandonment or discontinuance of the use or maintenance of any Intellectual Property if previously determined by the Borrower or any Restricted Subsidiary in its reasonable business judgment that such lapse, abandonment or discontinuance is desirable in the conduct of its business;

(t) Disposition of any property or asset with a fair market value not to exceed with respect to any transaction the greater of (i) 12% of Closing Date EBITDA and (ii) 12% of TTM Consolidated Adjusted EBITDA as of the applicable date of measurement;

(u) Disposition of assets acquired in a Permitted Acquisition or other Investment permitted hereunder that the Borrower determines will not be used or useful in the business of the Borrower and its Subsidiaries; and

- (v) Dispositions of Excluded Assets by Non-Loan Parties and Dispositions of Excluded Assets by Loan Parties for fair market value.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and, if requested by the Administrative Agent, upon the certification by the Borrower that such Disposition is permitted by this Agreement, and without limiting the provisions of Section 10.11 the Administrative Agent shall be authorized to, and shall, take any actions reasonably requested by the Borrower in order to effect the foregoing (and the Lenders hereby authorize and direct the Administrative Agent to conclusively rely on any such certification by the Borrower in performing its obligations under this sentence).

SECTION 7.06 Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

- (a) each Restricted Subsidiary may make Restricted Payments to the Borrower and to any other Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to the Borrower or any such other Restricted Subsidiaries and to each other owner of Equity Interests of such Restricted Subsidiary ratably according to their relative ownership interests of the relevant class of Equity Interests);
- (b) the Borrower and each of the Restricted Subsidiaries may declare and make dividend payments or other distributions payable solely in the form of Equity Interests (other than Disqualified Equity Interests not otherwise permitted to be incurred under Section 7.03) of such Person;
- (c) Restricted Payments made on the Closing Date to consummate the Transactions, including the Specified Dividend;
- (d) to the extent constituting Restricted Payments, the Borrower and the Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.02 (other than Section 7.02(p)), 7.04 (other than a merger or consolidation involving the Borrower) or 7.08 (other than Section 7.08(a), (j) or (k));
- (e) repurchases of Equity Interests in Holdings, the Borrower or any of the Restricted Subsidiaries deemed to occur upon exercise of stock options or warrants or similar rights if such Equity Interests represent a portion of the exercise price of such options or warrants or similar rights;
- (f) the Borrower may pay (or make Restricted Payments to allow Holdings or any direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of Holdings (or of any direct or indirect parent thereof) held by any future, present or former employee, director, consultant or distributor (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries upon the death, disability, retirement or termination of employment of any such Person or otherwise pursuant to any employee or director equity plan, employee or director stock option or profits interest plan or any other employee or director benefit plan or any agreement (including any separation, stock subscription, shareholder or partnership agreement) with any employee, director, consultant or distributor of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries; *provided*, the aggregate Restricted Payments made pursuant to this Section 7.06(f) after the Closing Date together with the aggregate amount of loans and advances to Holdings made pursuant to Section 7.02(j) in lieu of Restricted Payments permitted by this clause (f) shall not exceed:

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- (i) \$12,000,000 in any calendar year, with unused amounts in any calendar year being carried over to succeeding calendar years; plus
 - (ii) an amount not to exceed the cash proceeds of key man life insurance policies received by the Borrower or the Restricted Subsidiaries after the Closing Date; plus
 - (iii) to the extent contributed in cash to the common Equity Interests of the Borrower and Not Otherwise Applied, the proceeds from the sale of Equity Interests of Holdings or any direct or indirect parent thereof, in each case to employees, directors, consultants or distributor of the Borrower, a direct or indirect parent thereof, or its Subsidiaries that occurs after the Closing Date; plus
 - (iv) the amount of any cash bonuses or other compensation otherwise payable to any future, present or former director, employee, consultant or distributor of the Borrower, a direct or indirect parent thereof, or its Subsidiaries that are foregone in return for the receipt of Equity Interests of Holdings or a direct or indirect equity holder thereof, Borrower or any Restricted Subsidiary; plus
 - (v) payments made in respect of withholding or other similar taxes payable upon repurchase, retirement or other acquisition or retirement of Equity Interests of Holdings or its Subsidiaries or otherwise pursuant to any employee or director equity plan, employee or director stock option or profits interest plan or any other employee or director benefit plan or any agreement;
- (g) the Borrower may make Restricted Payments to Holdings or to any direct or indirect parent of Holdings:
- (i) the proceeds of which will be used to pay (or make Restricted Payments to allow any direct or indirect corporate parent (or entity treated as a corporation for tax purposes) thereof to pay) the tax liability (including estimated tax payments) to each foreign, federal, state or local jurisdiction in respect of which a tax return is filed by Holdings (or such direct or indirect corporate parent) that includes the Borrower and/or any of its Subsidiaries (including in the case where the Borrower and any Subsidiary is a disregarded entity for income tax purposes), to the extent such tax liability does not exceed the lesser of (A) the taxes (including estimated tax payments) that would have been payable by the Borrower and/or its Subsidiaries as a stand-alone tax group (assuming that the Borrower was classified as a corporation for income tax purposes) and (B) the actual tax liability (including estimated tax payments) of Holdings' tax group (or, if Holdings is not the parent of the actual group, the taxes that would have been paid by Holdings (assuming that Holdings was classified as a corporation for income tax purposes), the Borrower and/or the Borrower's Subsidiaries as a stand-alone tax group), reduced in the case of clauses (A) and (B) by any such taxes paid or to be paid directly by the Borrower or its Subsidiaries; provided that in the case of any such distributions attributable to tax liability in respect of income of an Unrestricted Subsidiary, the Borrower shall use all commercially reasonable efforts to cause such Unrestricted Subsidiary (or another Unrestricted Subsidiary) to make cash distributions to the Borrower or its Restricted Subsidiaries in an aggregate amount that the Borrower determines in its reasonable discretion is necessary to pay such tax liability on behalf of such Unrestricted Subsidiary;
 - (ii) the proceeds of which will be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) operating costs and expenses (including, following the consummation of a Qualifying IPO, Public Company Costs) of Holdings or its direct or

indirect parents thereof which do not own other Subsidiaries besides Holdings, its Subsidiaries and any other direct or indirect parents of Holdings incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business, attributable to the ownership or operations of the Borrower and its Subsidiaries;

(iii) the proceeds of which will be used to pay franchise taxes and other fees, taxes and expenses required to maintain its (or any of such direct or indirect parent's) corporate or legal existence;

(iv) to finance any Investment permitted to be made pursuant to Section 7.02; *provided* that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) Holdings and the Borrower shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to the Borrower or a Restricted Subsidiary (which shall be a Restricted Subsidiary to the extent required by Section 7.02) or (2) the merger (to the extent permitted in Section 7.04) of the Person formed or acquired by the Borrower or a Restricted Subsidiary in order to consummate such Investment;

(v) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) costs, fees and expenses (other than to Affiliates) related to any successful or unsuccessful equity or debt offering permitted by this Agreement; and

(vi) the proceeds of which (A) will be used to pay customary salary, bonus and other benefits payable to officers and employees of Holdings or any direct or indirect parent company of Holdings to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries or (B) will be used to make payments permitted under Sections 7.08(c), (h), (k) and (q) (but only to the extent such payments have not been and are not expected to be made by the Borrower or a Restricted Subsidiary);

(h) the Borrower or any of the Restricted Subsidiaries may pay cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition;

(i) the declaration and payment of dividends on the Borrower's common stock following the first public offering of the Borrower's common stock or the common stock of any of its direct or indirect parents after the Closing Date, of up to the greater of (A) 6% *per annum* of the net proceeds received by or contributed to the Borrower in or from any such public offering, other than public offerings with respect to the Borrower's common stock registered on Form S-4 or Form S-8 and (B) an amount equal to 6% of the Market Capitalization at the time of such public offering (it being understood that any dividends permitted to be declared pursuant to this clause (i) may be paid to the extent such payment is permitted under Section 7.08(r));

(j) repurchases of Equity Interests (i) deemed to occur on the exercise of options by the delivery of Equity Interests in satisfaction of the exercise price of such options or (ii) in consideration of withholding or similar Taxes payable by any future, present or former employee, director, manager or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing), including deemed repurchases in connection with the exercise of stock options or the vesting of any equity awards;

(k) Restricted Payments to Holdings or to any direct or indirect parent of Holdings of Equity Interests in, Indebtedness owing to and/or other securities of, any Unrestricted Subsidiaries permitted pursuant to Section 7.02 (other than any Unrestricted Subsidiaries the principal assets of which consist primarily of cash or Cash Equivalents received from an Investment by the Borrower and/or any Restricted Subsidiary);

(l) payments or distributions to satisfy dissenters rights pursuant to a merger, consolidation or transfer of assets that complies with Section 7.04 or 7.11(b);

(m) payments or distributions of a Restricted Payment within 60 days after the date of declaration thereof if at the date of declaration such Restricted Payment would have been permitted hereunder;

(n) Restricted Payments; *provided* that the Secured Net Leverage Ratio (after giving Pro Forma Effect to such Restricted Payment) would be less than or equal to the Closing Date Secured Net Leverage Ratio less 0.75 to 1.00; and

(o) the Borrower may make Restricted Payments (the proceeds of which may be utilized by Holdings to make additional Restricted Payments) in an aggregate amount not to exceed the sum of,

(i) the greater of (A) 57.5% of Closing Date EBITDA and (B) 57.5% of TTM Consolidated Adjusted EBITDA as of the applicable date of determination, and

(ii) the Available Amount at such time;

provided, in each case, that no Event of Default shall have occurred and be continuing or would result therefrom (except to the extent such Restricted Payment is funded exclusively in reliance on clauses (c) and/or (d) of the definition of Available Amount).

The amount set forth in Section 7.06(o)(i) may, in lieu of Restricted Payments, be utilized by the Borrower or any Restricted Subsidiary to (i) make or hold any Investments without regard to Section 7.02 or (ii) prepay, repay redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Junior Financing without regard to Section 7.10(a).

For purposes of determining compliance with this Section 7.06, in the event that any Restricted Payment (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of such Restricted Payment is made, divide, classify or reclassify, or at any later time divide, classify, or reclassify, such Restricted Payment (or any portion thereof) in any manner that complies with this covenant on the date such Restricted Payment is made or such later time, as applicable.

SECTION 7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date or any business or any other activities that are reasonably similar, corollary, ancillary, incidental, synergistic, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrower and its Restricted Subsidiaries on the Closing Date.

SECTION 7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, other than:

(a) transactions between or among the Borrower or any of the Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction;

(b) transactions on terms substantially as favorable to the Borrower or such Restricted Subsidiary as would be obtainable by the Borrower or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate (as determined by the Borrower in good faith);

(c) the Transactions and the payment of fees and expenses (including the Transaction Expenses) related to the Transactions on or about the Closing Date to the extent such fees and expenses are disclosed to the Administrative Agent or the Lenders prior to the Closing Date;

(d) the issuance or transfer of Equity Interests of Holdings or any direct or indirect parent of Holdings to any Affiliate of the Borrower or any former, current or future officer, director, manager, employee or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower or any of its Subsidiaries or any direct or indirect parent of the Borrower;

(e) (i) the payment of indemnities and expenses (including reimbursement of out-of-pocket expenses) to the Sponsors pursuant to the Sponsor Management Agreement and (ii) so long as no Specified Event of Default shall have occurred and be continuing or would result therefrom, the payment of (A) management, consulting, monitoring, advisory and other fees, indemnities and expenses to the Sponsors pursuant to the Sponsor Management Agreement (*plus* any unpaid management, consulting, monitoring, advisory and other fees accrued in any prior year) and (B) any Sponsor Termination Fees pursuant to the Sponsor Management Agreement; *provided* that payments that would otherwise be permitted to be made under this Section 7.08(e) but for a Specified Event of Default may accrue during the continuance of such Event of Default and be paid when such Event of Default is no longer continuing;

(f) employment and severance arrangements and confidentiality agreements among Holdings, the Borrower and the Restricted Subsidiaries and their respective officers and employees in the ordinary course of business and transactions pursuant to stock option, profits interest and other equity plans and employee benefit plans and arrangements;

(g) the licensing of trademarks, copyrights or other Intellectual Property in the ordinary course of business to permit the commercial exploitation of Intellectual Property between or among Affiliates and Subsidiaries of the Borrower;

(h) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, officers, employees and consultants of Holdings, the Borrower and the Restricted Subsidiaries or any direct or indirect parent of Holdings in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and the Restricted Subsidiaries;

(i) any agreement, instrument or arrangement as in effect as of the Closing Date or any amendment thereto (so long as any such amendment is not adverse to the Lenders in any material respect as compared to the applicable agreement as in effect on the Closing Date);

(j) Restricted Payments permitted under Section 7.06 and Investments permitted under Section 7.02;

(k) so long as no Specified Event of Default shall have occurred and be continuing or would result therefrom, customary payments by the Borrower and any of the Restricted Subsidiaries to the

Sponsor made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities (including in connection with acquisitions or divestitures), which payments are approved by a majority of the members of the Board of Directors of Holdings in good faith or a majority of the disinterested members of the Board of Directors of Holdings in good faith; *provided* that payments that would otherwise be permitted to be made under this Section 7.08(k) but for a Specified Event of Default may accrue during the continuance of such Event of Default and be paid when such Event of Default is no longer continuing;

(l) transactions in which the Borrower or any of the Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (b) of this Section 7.08 (without giving effect to the parenthetical phrase at the end thereof);

(m) any transaction with consideration valued at less than the greater of (a) 12% of Closing Date EBITDA and (b) 12% of TTM Consolidated Adjusted EBITDA as of the applicable date of measurement;

(n) investments by the Sponsor in securities of Holdings or Indebtedness of Holdings, Borrower or any of the Restricted Subsidiaries so long as the investment is being offered generally to other investors on the same or more favorable terms;

(o) payments to or from, and transactions with, Joint Ventures;

(p) any Disposition of Securitization Assets or related assets in connection with any Qualified Securitization Financing;

(q) the payment of reasonable out-of-pocket costs and expenses relating to registration rights and indemnities provided to shareholders of Holdings or any direct or indirect parent thereof pursuant to the stockholders agreement or the registration and participation rights agreement entered into on the Closing Date in connection therewith;

(r) the payment of any dividend or distribution within sixty days after the date of declaration thereof, if at the date of declaration (i) such payment would have complied with the provisions of this Agreement and (ii) no Event of Default occurred and was continuing;

(s) transactions between the Borrower or any of the Subsidiaries and any person, a director of which is also a director of the Borrower or any direct or indirect parent company of the Borrower; *provided, however*, that (i) such director abstains from voting as a director of the Borrower or such direct or indirect parent company, as the case may be, on any matter involving such other person and (ii) such Person is not an Affiliate of Holdings for any reason other than such director's acting in such capacity;

(t) payments, loans (or cancellation of loans) or advances to employees or consultants that are (i) approved by a majority of the disinterested members of the Board of Directors of Holdings or either Borrower in good faith, (ii) made in compliance with applicable law and (iii) otherwise permitted under this Agreement; and

(u) transactions (i) with Holdings in its capacity as a party to any Loan Document or to any agreement, document or instrument governing or relating to (A) any Indebtedness permitted to be incurred pursuant to Section 7.03 (including Permitted Refinancings thereof) or (B) or any agreement, document or instrument governing or relating to any Permitted Acquisition (whether or not

consummated) and (ii) with any Affiliate in its capacity as a Lender party to any Loan Document or party to any agreement, document or instrument governing or relating to any Indebtedness permitted to be incurred pursuant to Section 7.03 (including Permitted Refinancings thereof) to the extent such Affiliate is being treated no more favorably than all other Lenders or lenders thereunder;

SECTION 7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that prohibits, restricts, imposes any condition on or limits the ability of,

(a) any Restricted Subsidiary that is not a Loan Party to make Restricted Payments to (directly or indirectly) or to make or repay loans or advances to any Loan Party, or

(b) (x) any Loan Party (other than Holdings) to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Lenders with respect to the Facility and the Obligations under the Loan Documents and (y) any Loan Party from providing a Guarantee of Obligations of a Loan Party under the Loan Documents;

provided that the foregoing clauses (a) and (b) shall not apply to Contractual Obligations that:

(i) (A) exist on the Closing Date and (B) to the extent Contractual Obligations permitted by clause (A) are set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Contractual Obligation;

(ii) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary;

(iii) are Contractual Obligations of or represent Indebtedness of a Restricted Subsidiary that is not a Loan Party, *provided* that such Indebtedness is permitted by Section 7.03;

(iv) are customary restrictions that arise in connection with (A) any Lien permitted by Section 7.01(a), (b), (d), (f), (g), (h), (i), (j), (k), (p), (q), (r), (s)(i), (s)(ii), (dd), (ee), (gg), (jj) or (kk), and relate to the property subject to such Lien or (B) any Disposition permitted by Section 7.05 applicable pending such Disposition solely to the assets (including Equity Interests) subject to such Disposition;

(v) are customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures permitted under Section 7.02 and applicable solely to such Joint Venture entered into in the ordinary course of business;

(vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03 but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness and the proceeds and products thereof;

(vii) are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto;

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 7.03(d), (f), (g), (r)(i) or (v) to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary;

(x) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(xi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(xii) arise in connection with cash or other deposits permitted under Section 7.01;

(xiii) comprise restrictions that are, taken as a whole, in the good faith judgment of the Borrower, no more restrictive with respect to the Borrower or any Restricted Subsidiary than customary market terms for Indebtedness of such type (and, in any event, are no more restrictive than the restrictions contained in the First Lien Credit Agreement or this Agreement), or that the Borrower shall have determined in good faith will not affect its obligation or ability to make any payments required hereunder;

(xiv) apply by reason of any applicable Law, rule, regulation or order or are required by any Governmental Authority having jurisdiction over the Borrower or any Restricted Subsidiary;

(xv) customary restrictions contained in Indebtedness permitted to be incurred pursuant to Section 7.03 (h), (i), (j), (k), (l), (m), (x) or (y); or

(xvi) are restrictions contained in the First Lien Credit Documents and any Permitted Refinancing of any of the foregoing.

SECTION 7.10 Prepayments, Etc. of Junior Financing: Amendments to Junior Financing Documents and Organizational Documents

(a) Prepayments of Junior Financing. Prepay, repay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof any Junior Financing, except:

(i) the refinancing thereof with the Net Cash Proceeds of, or in exchange for, any Permitted Refinancing;

(ii) the conversion of any Junior Financing to Equity Interests (other than Disqualified Equity Interests) of Holdings or any of its direct or indirect parents that are not Loan Parties;

(iii) the prepayment of Indebtedness of the Borrower or any Restricted Subsidiary owed to Holdings, the Borrower or a Restricted Subsidiary;

(iv) the prepayment, repayment, redemption, purchase, defeasance or satisfaction of any Junior Financing with the proceeds of (1) any other Junior Financing or Junior Lien Debt otherwise permitted to be incurred at such time by Section 7.03 or (2) any Qualified Equity

Interests or contribution to the common Equity Interests capital of the Borrower after the Closing Date (other than the Equity Contribution or any Specified Equity Contribution) that is Not Otherwise Applied; *provided* that such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made within 60 days after receipt of such proceeds of Qualified Equity Interests and no Default has occurred and is continuing or would result therefrom;

(v) prepayments, repayments, redemptions, purchases, defeasances or satisfactions in an aggregate amount not to exceed the sum of:

(A) the greater of (1) 57.5% of Closing Date EBITDA and (2) 57.5% of TTM Consolidated Adjusted EBITDA of the Borrower as of the applicable date of determination, and

(B) the Available Amount at such time; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom (except to the extent such prepayment, repayment, redemption, purchase, defeasance or satisfaction is funded exclusively in reliance on clauses (c) and/or (d) of the definition of Available Amount);

(vi) the prepayment, repayment, redemption, purchase, defeasance or satisfaction of any Junior Financing within 60 days of giving notice thereof if at the date of such notice, such payment would have been permitted hereunder;

(vii) prepayments, repayments, redemptions, purchases, defeasances or satisfactions, if the Secured Net Leverage Ratio (after giving Pro Forma Effect to the incurrence of such payments and the use of proceeds thereof) for the Test Period immediately preceding the incurrence of such payments shall be less than or equal to the Closing Date Secured Net Leverage Ratio less 0.50 to 1.00; and

(viii) prepayments, repayments, redemptions, purchases, defeasances or satisfactions made on the Closing Date to consummate the Transactions;

provided, however, that each of the following shall be permitted: payments of regularly scheduled principal and interest (including default interest and any AHYDO catch-up payment) on Junior Financing, payments of closing and consent fees related to Junior Financing, indemnity and expense reimbursement payments in connection with Junior Financing, and mandatory prepayments, mandatory redemptions and mandatory purchases, in each case pursuant to the terms of the applicable Junior Financing Documentation.

The amount set forth in Section 7.10(a)(v)(A) may, in lieu of prepayments, repayments, redemptions, purchases, defeasance or satisfaction of any Junior Financing, be utilized by the Borrower or any Restricted Subsidiary to make or hold any Investments without regard to Section 7.02.

For purposes of determining compliance with this Section 7.10(a), in the event that any prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made, divide, classify, or reclassify, or at any later time divide, classify or reclassify, such prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) in any manner that complies with this covenant on the date it was made or such later time, as applicable.

(b) Amendments to Junior Financing Amend, modify or change in any manner without the consent of the Controlling Party, any Junior Financing Documentation in a manner that is (or would be) materially adverse to the interests of the Lenders (taken as a whole), other than as a result of a Permitted Refinancing thereof; *provided* that, in each case, a certificate of the Borrower delivered to the Administrative Agent at least five Business Days prior to such amendment or other modification, together with a reasonably detailed description of such amendment or modification, stating that the Borrower has reasonably determined in good faith that such terms and conditions satisfy such foregoing requirement shall be conclusive evidence that such terms and conditions satisfy such foregoing requirement unless the Administrative Agent or the Controlling Party notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees).

(c) Amendments to Organizational Documents Amend, modify or change its certificate or articles of incorporation (including by the filing or modification of any certificate or articles of designation), certificate of formation, limited liability company agreement or by-laws (or the equivalent organizational documents), as applicable, in each case, in any manner materially adverse to the interests of the Lenders (taken as a whole); *provided* that, in each case, a certificate of the Borrower delivered to the Administrative Agent at least five Business Days prior to such amendment or other modification, together with a reasonably detailed description of such amendment or modification, stating that the Borrower has reasonably determined in good faith that such terms and conditions satisfy such foregoing requirement shall be conclusive evidence that such terms and conditions satisfy such foregoing requirement unless the Administrative Agent or the Controlling Party notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees).

SECTION 7.11 Passive Holding Company.

(a) In the case of Holdings, engage in any active trade or business, it being agreed that the following activities (and activities incidental thereto) will not be prohibited:

- (i) its ownership of the Equity Interests of the Borrower;
- (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance);
- (iii) the performance of its obligations and payments with respect to any Indebtedness permitted to be incurred pursuant to Section 7.03, any Qualified Holding Company Debt or any Permitted Refinancing of any of the foregoing;
- (iv) any public offering of its common stock or any other issuance of its Equity Interests (including Qualified Equity Interests);
- (v) making (i) payments or Restricted Payments to the extent otherwise permitted under this Section 7.11 and (ii) Restricted Payments with any amounts received pursuant to transactions permitted under, and for the purposes contemplated by, Section 7.06;
- (vi) the incurrence of Qualified Holding Company Debt;
- (vii) making contributions to the capital of its Subsidiaries;

(viii) guaranteeing the obligations of the Borrower and its Subsidiaries in each case solely to the extent such obligations of the Borrower and its Subsidiaries are not prohibited hereunder;

(ix) participating in tax, accounting and other administrative matters as a member of a consolidated, combined or unitary group that includes Holdings and the Borrower;

(x) holding any cash or property received in connection with Restricted Payments made by the Borrower in accordance with Section 7.06 pending application thereof by Holdings;

(xi) providing indemnification to officers and directors;

(xii) making Investments in assets that are Cash Equivalents; and

(xiii) activities incidental to the businesses or activities described in clauses (i) to (xii) of this Section 7.11(a).

(b) Holdings may not merge, dissolve, liquidate or consolidate with or into any other Person; *provided* that, notwithstanding the foregoing, as long as no Default exists or would result therefrom, Holdings may merge or consolidate with any other Person if the following conditions are satisfied:

(i) Holdings shall be the continuing or surviving Person, or

(ii) if the Person formed by or surviving any such merger, amalgamation or consolidation is not Holdings or is a Person into which Holdings has been liquidated,

(A) the Successor Holdings shall be an entity organized or existing under the laws of the United States, any state thereof or the District of Columbia,

(B) the Successor Holdings shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent and the Controlling Party,

(C) the Successor Holdings shall pledge 100% of the Equity Interest of the Borrower to the Collateral Agent as Collateral to secure the Obligations in form reasonably satisfactory to the Controlling Party, and

(D) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document comply with this Agreement and, with respect to such opinion of counsel only, including customary organization, due execution, no conflicts and enforceability opinions to the extent reasonably requested by the Administrative Agent or the Controlling Party;

it being agreed that if the foregoing are satisfied, the Successor Holdings will succeed to, and be substituted for, Holdings under this Agreement.

Notwithstanding anything herein to the contrary, in the event of any merger, dissolution, liquidation, consolidation, amalgamation or Division of Holdings effected in accordance with this Section 7.11, the

Borrower shall or shall cause, with respect to the surviving Person (or new direct parent entity) (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents as promptly as practicable.

SECTION 7.12 No Layering of Debt. No Loan Party shall incur, create, issue, assume, guarantee or otherwise agree to become liable for any Indebtedness that (a) is subordinate or junior in right of payment to any other Indebtedness of such Loan Party unless such subordinated or junior Indebtedness is also subordinated or junior to the Obligations to the same extent as to such other Indebtedness or (b) is secured by Liens that are subordinate or junior in priority to any Liens securing the First Lien Obligations on the Closing Date unless such Liens are pari passu in priority with, or junior in priority to, the Obligations; provided, however, for the avoidance of doubt, that this Section shall not prevent the creation (x) on the Closing Date of the waterfall pursuant to Section 9.03 the First Lien Credit Agreement to allocate payments and proceeds of Collateral among holders of First Lien Obligations and other provisions of the First Lien Credit Agreement that allocate obligations and payments thereunder among lenders, issuing banks and other secured creditors (including pro rata sharing provisions, provisions with respect to participations in loans and letters of credit, and provisions with respect to Defaulting Lenders), and (y) after the Closing Date, of provisions comparable to those described in the foregoing clause (x) contained in any Permitted Refinancing of the First Lien Credit Agreement or in any other Senior Priority Lien Debt.

ARTICLE VIII

[Reserved]

ARTICLE IX

Events of Default and Remedies

SECTION 9.01 Events of Default. Each of the events referred to in clauses (a) through (k) of this Section 9.01 shall constitute an “Event of Default”:

(a) Non-Payment. The Borrower or any Subsidiary Guarantor fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within five Business Days after the same becomes due, any interest on any Loan or any fee payable pursuant to the terms of a Loan Document; or

(b) Specific Covenants. The Borrower, any Subsidiary Guarantor or, in the case of Section 7.11, Holdings, fails to perform or observe any term, covenant or agreement contained in,

(i) any of Section 6.03(a), 6.05(a) (solely with respect to the Borrower) or Article VII, or

(ii) [Reserved]; or

(c) Other Defaults. The Borrower or any Subsidiary Guarantor fails to perform or observe any other covenant or agreement (not specified in Section 9.01(a) or (b) above) contained in any Loan

Document on its part to be performed or observed and such failure continues for thirty days after receipt by the Borrower of written notice thereof from the Administrative Agent; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed by any Loan Party in any Loan Document, or in any document required to be delivered pursuant to the terms of a Loan Document, shall be untrue in any material respect (or, with respect to any representation, warranty, certification or statement already qualified by materiality or "Material Adverse Effect," shall be untrue in any respect) when made and, to the extent capable of being cured, such incorrect representation or warranty shall remain incorrect for a period of thirty days after written notice thereof from the Administrative Agent to the Borrower; or

(e) Cross-Default. The Borrower or any Subsidiary Guarantor:

(i) fails to make any payment of any principal or interest beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of its Material Indebtedness, or

(ii) fails to observe or perform any other agreement or condition relating to any Material Indebtedness, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of any Material Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Material Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;

provided that (A) this clause (e) shall not apply to (1) any Indebtedness under a Loan Document, (2) terminations or similar events with respect to Indebtedness under Hedge Agreements, or (3) any Indebtedness held exclusively by Affiliates, (B) clause (e)(ii) shall not apply (i) to any secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness or (ii) to the failure to observe or perform any covenant that requires compliance with any measurement of financial or operational performance (including any leverage, interest coverage or fixed charge ratio or minimum EBITDA, a "**Financial Covenant**") unless and until the holders of such Indebtedness have terminated all commitments (if any) and accelerated all obligations with respect thereto, and (C) clause (e)(ii) shall only apply if such failure is unremedied and is not waived by the holders of such Indebtedness prior to the termination of the Commitments and acceleration of the Loans pursuant to Section 9.02; *provided* further, that any event of default under the First Lien Credit Documents or documentation governing any other Senior Priority Lien Debt shall not constitute an Event of Default under this clause (e)(ii) until such event of default has caused such Indebtedness to become due prior to its such stated maturity (automatically or otherwise); or

(f) Insolvency Proceedings, Etc. The Borrower, Holdings or any Subsidiary Guarantor institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty calendar days, or an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against the Borrower, Holdings or any Subsidiary Guarantor a final, enforceable, and non-appealable judgment for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance or another indemnity obligation) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty consecutive days; or

(h) Invalidity of Loan Documents. The material provisions of the Loan Documents, taken as a whole, at any time after their execution and delivery thereof and for any reason cease to be in full force and effect, except (A) as expressly permitted under a Loan Document (including as a result of a transaction permitted under Section 7.04, 7.05 or 7.13(b)), (B) as a result of the satisfaction of the Obligations or (C) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(i) Collateral Documents and Guarantee Any:

(i) Collateral Document with respect to a material portion of the Collateral after delivery thereof shall for any reason cease to create a valid and perfected Lien, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) resulting from the failure of the Administrative Agent or the Collateral Agent to maintain possession or control of Collateral, (C) resulting from the making of a filing, or the failure to make a filing, under the Uniform Commercial Code, (D) as to Collateral consisting of real property to the extent that such losses are covered by a lender's title insurance policy (unless the Borrower in good faith reasonably believes that payment thereunder will not be made by the applicable insurer) or (E) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(ii) Guarantee with respect to a Guarantor that is Holdings or a Material Subsidiary shall for any reason cease to be in full force and effect, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) upon the satisfaction in full of the Obligations, (C) upon the release of such Guarantor as provided for under the Loan Document or in accordance with its terms or (D) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(j) Change of Control. There occurs any Change of Control; or

(k) ERISA. An ERISA Event shall have occurred and be continuous that, when taken alone or together with all other ERISA Events, has resulted or would reasonably be expected to result in a Material Adverse Effect.

SECTION 9.02 Remedies upon Event of Default

(a) If any Event of Default occurs and is continuing, the Administrative Agent may, and shall at the request of the Required Lenders, take any or all of the following actions, subject (in the case of clause (iv)) to the terms of the Intercreditor Agreements:

(i) declare the Commitments to be terminated, whereupon such Commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest and premium accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand,

protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and each Guarantor;

(iii) [reserved]; and

(iv) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents and/or under applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, the Commitments of each Lender shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

SECTION 9.03 Application of Funds. After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 9.02(a)), any amounts received on account of the Obligations shall, subject to the Intercreditor Agreements, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 11.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent in their capacities as such;

Second, to payment in full of Unfunded Advances/Participations;

Third, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including Attorney Costs payable under Section 11.04 and amounts payable under Article III) ratably among them in proportion to the amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fifth held by them;

Sixth, to the payment of all other Obligations that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE X
Administrative Agent and Other Agents

SECTION 10.01 Appointment and Authority of the Administrative Agent and Collateral Agent.

(a) Each Lender hereby irrevocably appoints Wilmington to act on its behalf as the Administrative Agent and the Collateral Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent and the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent and the Collateral Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X (other than Sections 10.09 and 10.11) are solely for the benefit of the Administrative Agent, the Collateral Agent and the Lenders, and the Borrower shall not have any rights as a third party beneficiary of any such provision.

(b) Each of the Lenders hereby irrevocably appoints and authorizes Wilmington to act as the collateral agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) 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 co-agents, sub-agents and attorneys-in-fact appointed by the Collateral Agent pursuant to Sections 10.05 and 10.12 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Collateral Agent), shall be entitled to the benefits of all provisions of this Article X (including Section 10.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Collateral Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Intercreditor Agreements), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 10.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers (and no additional duties or obligations) in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any Person serving as an Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 10.03 Exculpatory Provisions. None of the Administrative Agent, the Collateral Agent, any of the other Agents, any of their respective Affiliates, nor any of the officers, partners, directors, employees or agents of the foregoing 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, an

Agent (including the Administrative Agent and the Collateral Agent) or any of their respective officers, partners, directors, employees or agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term "agent" herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing 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 no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity;

(d) shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error the sole recourse of any Lender to whom payment was due but not made, shall be to recover from other Lenders any payment in excess of the amount to which they are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them); and

(e) shall not be liable to any Secured Party for any action taken or omitted to be taken under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

Neither the Administrative Agent nor the Collateral Agent shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent or the Collateral Agent, as applicable, shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.02 and 11.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. Neither the Administrative Agent nor the Collateral Agent shall be deemed to have knowledge of any Default or Event of Default, or be required to act upon any Default or Event of Default (including sending any notice relating thereto), unless and until notice describing such Default or Event of Default is given to the Administrative Agent or the Collateral Agent, as applicable, by the Borrower or a Lender.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report, statement or agreement or other

document delivered hereunder or thereunder or in connection herewith or therewith or referred to or provided for in, or received by the Administrative Agent or the Collateral Agent under or in connection with this Agreement or any other Loan Document, (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 (including compliance with the terms and conditions of Section 11.07(h)(iii) or (h)(iv)), (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 Collateral 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 or the Collateral Agent, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof. Neither the Administrative Agent nor the Collateral Agent shall have any responsibility or liability for monitoring or enforcing the list of Disqualified Lenders or for any assignment or participation to a Disqualified Lender.

Neither the Administrative Agent nor the Collateral Agent shall be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders or compliance by Affiliated Lenders with the terms hereof relating to Affiliated Lenders. Without limiting the generality of the foregoing, neither the Administrative Agent nor the Collateral Agent shall (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 compliance by Affiliated Lenders with the terms hereof relating to Affiliated Lenders 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.

SECTION 10.04 Reliance by the Agents. The Agents 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 the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, each Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. Each Agent may consult with legal counsel (who may be counsel for the Borrower), 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 shall be fully justified in failing or refusing to take any action that is not required or explicitly approved by the Lenders under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that the Agents shall not be required to take any action that, in their opinion or in the opinion of their counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law.

SECTION 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by such Agent. Each Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agents. Notwithstanding anything herein to the contrary, with respect to each sub agent appointed by an Agent, (i) such sub agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub agent, and (iii) such sub agent shall only have obligations to the Agent that appointed it as sub agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub agent. Each Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

SECTION 10.06 Non-Reliance on Agents and Other Lenders; Disclosure of Information by Agents

(a) Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent, any other Lender or any Agent-Related Person 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 investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption and funding its Term Loan on the Closing Date, shall be deemed to have acknowledged

receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date.

(c) Each Lender acknowledges that certain Affiliates of the Loan Parties, including the Sponsors or entities controlled by the Sponsors, are Eligible Assignees hereunder and may purchase Loans and/or Commitments hereunder from the Lenders from time to time, subject to the restrictions set forth herein.

SECTION 10.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand, each Agent and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, as applicable) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, as applicable) from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction; *provided* that, no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.07. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify any Agent against any Indemnified Liabilities in excess of such Lender's pro rata share thereof; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify any Agent against any Indemnified Liabilities described in the first proviso in the immediately preceding sentence (subject to the second proviso in the immediately preceding sentence). In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 10.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrower; *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto; *provided, further*, that the failure of any Lender to indemnify or reimburse such Agent shall not relieve any other Lender of its obligation in respect thereof. As used in this Section 10.07, "pro rata" and "ratable share" shall mean, with respect to the Lenders and any indemnity payment or unreimbursed amount owing or payable to any Agent-Related Party by the Lenders hereunder, that such indemnity payment or unreimbursed amount shall be paid to such Agent-Related Person by the Lenders in accordance with their respective Pro Rata Shares of all Classes of Term Loans (determined as of the time that the applicable indemnity payment or unreimbursed amount is sought (or if such indemnity payment or unreimbursed amount is sought after the date on which the Term Loans have been paid in full and the Commitments have terminated, in accordance with their respective Pro Rata Shares of all Classes of Term Loans immediately prior to the date on which the Term Loans are paid in full and the Commitments have terminated)). Each Lender hereby authorizes the Administrative Agent and Collateral Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent or the Collateral Agent to such Lender from any source against any amount due to the Administrative Agent or

the Collateral Agent under this Section 10.07. The undertaking in this Section 10.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, Collateral Agent, and other Agents.

SECTION 10.08 No Other Duties; Other Agents, Lead Arranger, Managers, Etc. The Crescent Representative is hereby appointed as Lead Arranger hereunder, and each Lender hereby authorizes the Crescent Representative to act as Lead Arranger in accordance with the terms hereof and the other Loan Documents.

Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Lead Arranger or the other Agents listed on the cover page hereof (or any of their respective Affiliates) shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except (x) in its capacity, as applicable, as the Administrative Agent, the Collateral Agent or a Lender hereunder and (y) as provided in Section 11.01(d) and the last sentence of Section 11.01, and such Persons shall have the benefit of this Article X. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, Holdings, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Any Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 10.09 Resignation of Administrative Agent or Collateral Agent. The Administrative Agent or the Collateral Agent may at any time resign as the Administrative Agent or the Collateral Agent, as applicable, upon thirty (30) days' notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed) at all times other than during the existence of a Specified Event of Default, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty days after the retiring Administrative Agent or Collateral Agent, as applicable, gives notice of its resignation, then the retiring Administrative Agent or Collateral Agent, as applicable, may (but is not obligated) on behalf of the Lenders, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above. If no successor agent has accepted appointment as the Administrative Agent or the Collateral Agent by the date which is thirty (30) days following the retiring Administrative Agent's or Collateral Agent's notice of resignation, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (b) except for any indemnity payments or other amounts owed to the retiring or retired Agents, all payments, communications and determinations provided to be made by, to or through the Administrative Agent or the Collateral Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Agent (except as provided in the immediately preceding sentence above). Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as applicable, hereunder and upon the

execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent or Collateral Agent, as applicable (other than any rights to indemnity payments or other amounts owed to the retiring or retired Administrative Agent), and the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Sections 10.07, 11.04 and 11.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Administrative Agent or Collateral Agent, as applicable.

SECTION 10.10 Administrative Agent May File Proofs of Claim; Credit Bidding Subject to the Intercreditor Agreements, in case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel, and all other amounts due the Lenders and the Administrative Agent under Sections 2.11, 11.04 and 11.05) allowed in such judicial proceeding; and

(c) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

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 (as defined in the Security Agreement) 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 (i) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (ii) 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 (A) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) 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 (a) through (g) of Section 11.01 of this Agreement, (C) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by 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 (D) 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.

SECTION 10.11 Collateral and Guaranty Matters.

(a) Each Agent, each of the Lenders and each other Secured Party agrees that, notwithstanding anything to the contrary in any Loan Document:

(i) Liens on any property granted to or held by an Agent or in favor of any Secured Party under any Loan Document will be automatically and immediately released, and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each agrees that it will enter into, the necessary or advisable documents requested by the Borrower and associated therewith, upon the occurrence of any of the following events (each, a “**Lien Release Event**”),

-
- (A) the payment in full in cash of all the Obligations;
 - (B) a transfer of the property subject to such Lien as part of, or in connection with, a transaction that is permitted (or not prohibited) by the terms of the Loan Documents to any Person that is not a Loan Party;
 - (C) with respect to property owned by any Guarantor, the release of such Guarantor from its obligations under its Guaranty pursuant to clause (iii) below;
 - (D) the approval, authorization or ratification of the release of such Lien by the Required Lenders, or such percentage as may be required pursuant to Section 11.01;
 - (E) such property becoming an Excluded Asset, Excluded Equity Interest or an asset owned by an Excluded Subsidiary;
 - (F) as to the assets owned by such Excluded Subsidiary, upon any Person becoming an Excluded Subsidiary; and/or
 - (G) any such property becoming subject to a Securitization Financing to the extent required by the terms of such Securitization Financing;
- (ii) upon the request of the Borrower (such request, the “**Release/Subordination Event**”) it will release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(d);
- (iii) a Subsidiary Guarantor will be automatically and immediately released from its obligations under the Guaranty as a result of (A) such Subsidiary Guarantor ceasing to be a Subsidiary, (B) such Subsidiary Guarantor ceasing to be a Material Subsidiary, or (C) such Subsidiary Guarantor becoming an Excluded Subsidiary (clauses (A)-(C), each a “**Guaranty Release Event**”), and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each agrees it will enter into, the necessary and advisable documents requested by the Borrower to (1) release such Subsidiary Guarantor from its obligations under the Guaranty and (2) release any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary; and
- (iv) the Administrative Agent and the Collateral Agent will exclusively exercise the rights and remedies under the Loan Documents, and neither the Lenders nor any other Secured Party will exercise such rights and remedies (other than the Required Lenders through the Administrative Agent); *provided* that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 11.09 or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it or filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law.

Each Agent, each Lender and each other Secured Party agrees that it will promptly take such action and execute any such documents as may be reasonably requested by the Borrower (such actions and such execution, the “**Release Actions**”), at the Borrower’s sole cost and expense, in connection with a Lien Release Event, Subordination/Release Event or Guaranty Release Event and that such actions are not

discretionary. Without limitation, the Release Actions may include, as applicable, (a) executing (if required) and delivering to the Loan Parties (or any designee of the Loan Parties) any such lien releases, mortgage releases, discharges of security interests, pledges and guarantees and other similar discharge or release documents, as are reasonably requested by a Loan Party in connection with the release, as of record, of the Liens (and all notices of security interests and Liens previously filed) the subject of a Lien Release Event or Release/Subordination Event or the release of any applicable Guarantee in connection with a Guarantee Release Event and (b) delivering to the Loan Parties (or any designee of the Loan Parties) all instruments evidencing pledged debt and all equity certificates and any other collateral previously delivered in physical form by the Loan Parties to a Secured Party.

In connection with any Lien Release Event, Release/Subordination Event, Guarantee Release Event or Release Action, each of the Collateral Agent and the Administrative Agent shall be entitled to rely and shall rely exclusively on an officer's certificate of the Borrower (the "**Release Certificate**") confirming that (a) such Lien Release Event, Subordination/Release Event or a Guaranty Release Event, as applicable, has occurred or will upon consummation of an identified transaction (an "**Identified Transaction**") occur, (b) the conditions to any such Lien Release Event, Subordination/Release Event or Guaranty Release Event have occurred or will occur upon consummation of an Identified Transaction, and (c) that any such Identified Transaction is permitted by (or not prohibited by) the Loan Documents. The Collateral Agent and the Administrative Agent will be fully exculpated from any liability and shall be fully protected and shall not have any liability whatsoever to any Secured Party as a result of such reliance or the consummation of any Release Action. A Release Certificate may be delivered in advance of the consummation of any applicable Identified Transaction.

Each Lender and each Secured Party irrevocably authorizes and irrevocably directs the Collateral Agent and the Administrative Agent to take the Release Actions and consents to reliance on the Release Certificate. The Secured Parties agree not to give any Agent any instruction or direction inconsistent with the provisions of this Section. Neither the Administrative Agent nor the Collateral Agent shall be responsible for, or have a duty to ascertain or inquire into, any statement in a Release Certificate, the compliance of any Identified Transaction with the terms of a Loan Document, any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Agent's Lien thereon, or contained in any certificate prepared or delivered by any Loan Party in connection with the Collateral or compliance with the terms set forth above or in a Loan Document, nor shall the Administrative Agent or Collateral Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(b) Anything contained in any of the Loan Documents to the contrary notwithstanding, each Agent, each Lender and each Secured Party hereby agree that:

(i) no Lender or other Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty or any other Loan Document, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, for the benefit of the Lenders in accordance with the terms hereof and thereof, and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent for the benefit of the Lenders in accordance with the terms thereof;

(ii) in the event of a foreclosure or similar enforcement action by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code), only the Collateral Agent (except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code) may be the

purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Collateral Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities), shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Loan Document Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition;

(iii) no provision of any Loan Documents shall require the creation, perfection or maintenance of pledges of or security interests in, or the obtaining of title insurance or abstracts with respect to, any Excluded Assets and any other particular assets, if and for so long as, in the reasonable judgment of the Controlling Party, the cost of creating, perfecting or maintaining such pledges or security interests in such other particular assets or obtaining title insurance or abstracts in respect of such other particular assets is excessive in view of the fair market value of such assets or the practical benefit to the Lenders afforded thereby;

(iv) the Controlling Party may grant extensions of time for the creation or perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the creation or perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents;

(v) other than with respect to the Equity Interests and assets of a Foreign Subsidiary that becomes a Loan Party, no actions required by the Laws of any non-U.S. jurisdiction shall be required in order to create any security interests in any assets or to perfect such security interests (including any intellectual property registered in any non-U.S. jurisdiction) (it being understood that there shall be no security agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction); and

(vi) no control agreements or control shall be required with respect to assets (other than in respect of Pledged Equity or Pledged Debt) requiring perfection through control agreements or perfection by "control" (as defined in the Uniform Commercial Code).

SECTION 10.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Required Lenders in their sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrativesub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually, as a "**Supplemental Administrative Agent**" and, collectively, as "**Supplemental Administrative Agents**").

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article X and of Sections 11.04 and 11.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 10.13 Intercreditor Agreements. The Administrative Agent and the Collateral Agent are authorized to enter into the Intercreditor Agreements (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in order to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrower or relevant Subsidiary, to the extent such priority is permitted by the Loan Documents)), and the Lenders acknowledge that the Intercreditor Agreements will be binding upon them. Each Lender (i) understands, acknowledges and agrees that Liens may be created on the Collateral pursuant to the definitive documents governing such Indebtedness, which liens shall be subject to the terms and conditions of any Intercreditor Agreement, (ii) hereby agrees that it will be bound by and will take no actions contrary to the provisions of any Intercreditor Agreement and (iii) hereby authorizes and instructs the Administrative Agent and Collateral Agent to enter into any Intercreditor Agreement (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements in connection with the incurrence by any Loan Party of any Permitted Pari Passu Secured Refinancing Debt or any Permitted Junior Secured Refinancing Debt, in order to permit such Indebtedness to be secured by a valid, perfected lien (with such priority as may be designated by the Borrower or relevant Subsidiary, to the extent such priority is permitted by the Loan Documents)), and to subject the Liens on the Collateral securing the Obligations to the provisions thereof.

SECTION 10.14 [Reserved].

SECTION 10.15 Withholding Taxes. To the extent required by any applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender because the

appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding tax from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

SECTION 10.16 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each other Lead Arranger and their respective Affiliates, 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:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE84-14 (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), PTE91-38 (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 so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the 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 PTE84-14 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

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, at the sole discretion of the Required Lenders, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, 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 each other Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or any other Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in 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 to hereto or thereto).

ARTICLE XI
Miscellaneous

SECTION 11.01 Amendments, Waivers, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided* that, no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest with respect to any Loan or with respect to any fees payable under Section 2.11(b) without the written consent of each Lender directly and adversely affected thereby, it being understood that (i) the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest and (ii) a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default (other than a Default under Section 9.01(a)) or mandatory reduction of the Commitments shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or any fees or other amounts payable hereunder or under any other Loan Document (except as expressly set forth in clause (iii) of the second proviso immediately succeeding clause (g) of this Section 11.01) without the written consent of each Lender directly and adversely affected thereby, it being understood that any change to the definitions of Secured Net Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest;

(d) change any provision of this Section 11.01 (except as expressly set forth in clause (i) of the second proviso immediately succeeding clause (g) of this Section 11.01) or the definition of "Required Lenders," "Required Facility Lenders" or "Pro Rata Share" or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents, without the written consent of each Lender;

(e) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(f) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors, without the written consent of each Lender; or

(g) modify Section 2.15 or 9.03 without the written consent of each lender directly and adversely affected thereby;

provided that:

(i) [reserved],

(ii) [reserved],

(iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document,

(iv) no amendment, waiver or consent shall, unless in writing and signed by the Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Collateral Agent under this Agreement or any other Loan Document,

(v) Section 11.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification,

(vi) any amendment or modification to the Agency Fee Letter, or waiver of any rights or privileges thereunder, shall only require the consent of the Borrower and the Agents party thereto,

(vii) the consent of Required Facility Lenders shall be required with respect to any amendment that by its terms adversely affects the rights of Lenders under such Facility in respect of payments hereunder in a manner different than such amendment affects other Facilities,

(viii) [reserved], and

(ix) no Lender consent is required to effect any amendment or supplement to the Closing Date Intercreditor Agreement or any other intercreditor agreement that is,

(A) for the purpose of adding the holders of Pari Passu Lien Debt, Junior Lien Debt, Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt (or a Debt Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of such intercreditor agreement (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing), or

(B) expressly contemplated by the Closing Date Intercreditor Agreement or any other intercreditor agreement;

provided further that, notwithstanding the foregoing,

(i) [reserved],

(ii) 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 add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans and the accrued interest and fees in respect thereof and (II) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders, and

(iii) this Agreement may be amended with the written consent of the Borrower and the Lenders providing the Replacement Loans (as defined below) to permit the refinancing, replacement or exchange of all outstanding Term Loans of any Class (“**Refinanced Loans**”) with replacement term loans (“**Replacement Loans**”) hereunder; *provided that*,

(A) the aggregate principal amount of such Replacement Loans shall not exceed the aggregate principal amount of such Refinanced Loans *(plus* (i) the amount of all unpaid, accrued, or capitalized interest, penalties, premiums (including tender premiums), and other amounts payable with respect to any such Refinanced Loans and (ii) underwriting discounts, fees, commissions, costs, expenses and other amounts payable with respect to such Replacement Loans),

(B) the Weighted Average Life to Maturity of such Replacement Loans shall not be shorter than the remaining Weighted Average Life to Maturity of such Refinanced Loans at the time of such refinancing, and

(C) (1) any such Replacement Loans shall be on terms and conditions that are, taken as a whole, not materially more favorable to the lenders or holders providing such Indebtedness than, those applicable to the Initial Term Loans, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (except (x) for covenants applicable only to periods after the Latest Maturity Date of the Term Loans at the time of incurrence and (y) any term or condition to the extent such term or condition is also added for the benefit of the Lenders under the Term Loans) or (2) solely to the extent that any terms and conditions applicable to any Replacement Loans are not the same as, or substantially similar to, those then applicable to the Term Loans, shall otherwise reflect customary market terms and conditions at the time of such incurrence, including with respect to high yield debt securities to the extent applicable, as determined in good faith by a Responsible Officer of the Borrower in its reasonable judgment (*provided that* a certificate of a Responsible Officer delivered to the Administrative Agent at least four Business Days (or such shorter period as may be agreed by the Administrative Agent) prior to the incurrence of such Replacement Loans, together with a reasonably detailed description of the material covenants and events of default of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the requirement of this clause (C) shall be conclusive evidence that such material covenants and events of default satisfy such requirement unless the Administrative Agent notifies the Borrower within such four Business Day (or shorter) period that it disagrees with such determination (including a description of the basis upon which it disagrees)); *provided further* that this clause (C) will not apply to (w) terms addressed in the other clauses of this clause (iii),

(x) interest rate, rate floors, fees, funding discounts and other pricing terms and optional prepayment provisions, (y) redemption, prepayment or other premiums, and (z) optional prepayment or redemption terms. For the avoidance of doubt, any Affiliated Lender that provides any Replacement Loans shall be subject to the limitations on Affiliated Lenders set forth in Section 11.07(h) (including the Affiliated Lender Term Loan Cap).

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any 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, the Required Lenders, the Required Facility Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (1) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Defaulting Lender and (2) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

In addition, notwithstanding anything to the contrary contained in this Section 11.01, the Guaranty, the Collateral Documents and related documents executed by Holdings, the Borrower and/or the Restricted Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects (as reasonably determined by the Administrative Agent and the Borrower) or (iii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents.

SECTION 11.02 Notices and Other Communications; Facsimile Copies.

(a) General. Except as provided in subsection (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 fax 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:

- (i) if to Holdings, the Borrower, the Collateral Agent or the Administrative Agent, to the address, fax number, electronic mail address or telephone number specified for such Person on Schedule 11.02; and
- (ii) if to any other Lender, to the address, fax number, electronic mail addresses or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax 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); and notices deposited in the United States mail with postage prepaid and properly addressed shall be deemed to have been given within three Business Days of such deposit; *provided* that no notice to any Agent shall be effective until received by such Agent. Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communication. Notices and other communications to any Agent and the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Agent or Lender pursuant to Article II if such Person, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Each Loan Party understands that the distribution of materials through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent or any Lender as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(e) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) 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 OR IN THE PLATFORM. 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 ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons or any Lead Arranger (collectively, the "**Agent Parties**") have any liability to Holdings, the Borrower, any Lender, or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however*, that in no event shall any Agent Party have any liability to Holdings, the Borrower, any Lender, or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages). Each Loan Party, each Lender and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Borrower Materials on the Platform in accordance with the Administrative Agent's customary document retention procedures and policies.

(f) Change of Address. Each of Holdings, the Borrower and the Administrative Agent may change its address, fax or telephone number for notices and other communications hereunder by notice to

the other parties hereto. Each other Lender may change its address, fax or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and the Collateral Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, fax number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(g) Reliance by the Administrative Agent and the Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including Committed Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording. The Borrower shall indemnify the Administrative Agent and the Lenders and each Agent-Related Person from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence, bad faith or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(h) Private-Side Information Contacts. Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private-Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to information that is not made available through the "Public-Side Information" portion of the Platform and that may contain Private-Side Information with respect to Holdings, its Subsidiaries or their respective securities for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither the Borrower nor the Administrative Agent has (A) any responsibility for such Public Lender's decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents and (B) any duty to disclose such information to such Public Lender or to use such information on behalf of such Public Lender, and shall not be liable for the failure to so disclose or use, such information.

SECTION 11.03 No Waiver; Cumulative Remedies. No forbearance, failure or delay by any Lender or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall impair such right, remedy, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and independent of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent and the Collateral Agent in accordance with Article IX for the benefit of all the Lenders; *provided* that the foregoing shall not prohibit (i) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the

other Loan Documents, (ii) [reserved], (iii) any Lender from exercising setoff rights in accordance with Section 11.09 (subject to the terms of Section 2.15) or (iv) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise provided to the Administrative Agent pursuant to Article IX and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

SECTION 11.04 Attorney Costs and Expenses. The Borrower agrees (a) if the Closing Date occurs, to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arranger and the Supplemental Administrative Agents for all reasonable and documented in reasonable detail out-of-pocket expenses incurred on or after the Closing Date in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), limited, in the case of legal fees and expenses, to the Attorney Costs of (x) one primary counsel to the Collateral Agent and the Administrative Agent and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Administrative Agent and the Collateral Agent (which may be a single local counsel acting in multiple material jurisdictions) and (y) one primary counsel and, if reasonably necessary, one local counsel in each relevant jurisdiction material to the interests of the Lenders taken as a whole (which may be a single local counsel acting in multiple material jurisdictions), and (b) to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, and the Lenders for all reasonable and documented in reasonable detail out-of-pocket costs and expenses incurred in connection with the enforcement or protection of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of (x) one counsel to the Administrative Agent, the Collateral Agent, and the Supplemental Administrative Agents taken as a whole (and, if reasonably necessary, one local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) to the Administrative Agent, the Collateral Agent, and the Supplemental Administrative Agents taken as a whole), (y) one counsel to the Lead Arranger and the Lenders taken as a whole (and, if reasonably necessary, one local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) to the Lead Arranger and the Lenders taken as a whole) and (z) solely in the event of a conflict of interest between the Lead Arranger and the Lenders, where the Person or Persons affected by such conflict of interest inform the Borrower in writing of such conflict of interest, one additional counsel in each relevant material jurisdiction to each group of affected Persons similarly situated taken as a whole)). The agreements in this Section 11.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 11.04 shall be paid promptly following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document.

SECTION 11.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Agent, each Lender, the Lead Arranger, and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives

(collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the Attorney Costs of (x) one counsel to the Administrative Agent, the Collateral Agent, any Supplemental Administrative Agent and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives taken as a whole and, if reasonably necessary, a single local counsel for all such Persons referred to in this clause (x) taken as a whole in each relevant jurisdiction that is material to the interests of such Persons, (y) one counsel all other Indemnitees taken as a whole and, if reasonably necessary, a single local counsel for all such Indemnitees taken as whole in each relevant jurisdiction that is material to the interest of such Indemnitees (which may be a single local counsel acting in multiple material jurisdictions), and (z) solely in the case of a conflict of interest between Indemnitees (where the Indemnitee affected by such conflict of interest informs the Borrower in writing of such conflict of interest), one additional counsel in each relevant jurisdiction to each group of affected Indemnitees similarly situated taken as a whole),

(a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including the reliance in good faith by any Indemnitee on any notice purportedly given by or on behalf of the Borrower),

(b) the Transaction,

(c) any Commitment, Loan or the use or proposed use of the proceeds therefrom,

(d) any actual or alleged presence or release of, or exposure to, any Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any other Loan Party, or any Environmental Claim or Environmental Liability arising out of the activities or operations of or otherwise related to the Borrower or any other Loan Party, or

(e) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing (including in connection with enforcing the terms of this [Section 11.05](#)), whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto

(all of the foregoing, collectively, the “**Indemnified Liabilities**”);

provided that such indemnity shall not, as to any Indemnitee, be available to the extent that a court of competent jurisdiction determines in a final-non-appealable judgment that any such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (i) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any Related Indemnified Person of such Indemnitee, (ii) other than in the case of the Administrative Agent, the Collateral Agent and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives, a material breach of any obligations of such Indemnitee under any Loan Document by such Indemnitee or Related Indemnified Person, or (iii) any dispute solely among Indemnitees or of any Related Indemnified Person of such Indemnitee other than any claims against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent, the Collateral Agent or the Lead Arranger (or other Agent role) under the

Facility and other than any claims arising out of any act or omission of the Borrower or any of its Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 11.05 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks, DebtDomain or other similar information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct, bad faith or gross negligence of such Indemnitee or any Related Indemnified Person (as determined by a final and non-appealable judgment of a court of competent jurisdiction), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 11.05 (after the determination of a court of competent jurisdiction, if required pursuant to the terms of this Section 11.05) shall be paid within twenty Business Days after written demand therefor. The agreements in this Section 11.05 shall survive the resignation of the Administrative Agent, the Collateral Agent, replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 11.05 shall not apply to Taxes, except it shall apply to any taxes that represent losses, claims, damages, etc. arising from a non-tax claim (including a value added tax or similar tax charged with respect to the supply of legal or other services).

SECTION 11.06 Marshaling; Payments Set Aside. None of the Administrative Agent, any Lender, or the Collateral Agent shall be under any obligation to marshal any assets in favor of the Loan Parties or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent, or any Lender (or to the Administrative Agent, on behalf of any Lender), or any Agent or any Lender enforces any security interests or exercises its right of setoff, and such payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any 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 and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred and (b) each Lender 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.

SECTION 11.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Holdings nor the Borrower may, except as permitted by Section 7.04 or 7.11(b), assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except,

- (i) to an assignee in accordance with the provisions of subsection (b) of this Section,
- (ii) by way of participation in accordance with the provisions of subsection (d) of this Section,
- (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or
- (iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void).

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, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment and the Loans at the time owing to it; *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Term Loans at the time held by it, or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) with respect to any assignment not described in subsection (b)(i)(A) of this Section, such assignment shall be in an aggregate amount of not less than with respect to the assigning Lender's Term Loans, \$1,000,000 each of the Administrative Agent, and so long as no Specified Event of Default has occurred and is continuing at the time of such assignment, the Borrower otherwise consents (such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment of Term Loans shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Term Loans being assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 11.07(b)(i)(B) of this Section and the following:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is made to a Lender, an Affiliate of a Lender or an Approved Fund; *provided, however*, that the Borrower shall be deemed to have consented to any assignment of Term Loans if the

Borrower does not respond within ten Business Days of a written request for its consent with respect to such assignment;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund; *provided, however*, that the consent of the Administrative Agent shall not be required for any assignment to an Affiliated Lender or a Person that upon effectiveness of an assignment would be an Affiliated Lender;

(C) [reserved]; and

(D) [reserved].

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that the Administrative Agent may, at the sole discretion of the Required Lenders, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms required under Sections 3.01(b), (c), (d) and (e), as applicable. Upon receipt of the processing and recordation fee and any written consent to assignment required by Section 11.07(b)(iii), the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register.

(v) No Assignments to Certain Persons. No such assignment shall be made,

(A) to Holdings, the Borrower or any of the Borrower's Subsidiaries except as permitted under Section 2.07(a)(iv) or under subsection (l) below,

(B) subject to subsection (h) below, any of the Borrower's Affiliates (other than Holdings or any of the Borrower's Subsidiaries),

(C) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing persons described in this clause,

(D) to a natural person, or

(E) to a Disqualified Lender or Lender who has become a Disqualified Lender.

To the extent that any assignment is purported to be made to a Disqualified Lender (notwithstanding clause (E) of the foregoing sentence), such Disqualified Lender shall be required immediately (and in any event within five Business Days) to assign all Loans and Commitments then owned by such Disqualified Lender to another Lender (other than a Defaulting Lender) or Eligible Assignee (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence).

(vi) Defaulting Lenders Assignments. 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 sub-participations, 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 (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full Pro Rata Share of all Loans. 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.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section (and, in the case of an Affiliated Lender or a Person that, after giving effect to such assignment, would become an Affiliated Lender, subject to the requirements of clause (h) of this Section), from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement (except in the case of an assignment to or purchase by Holdings, the Borrower or any of Holdings' Subsidiaries) and, to the extent of the interest assigned by such Assignment and Assumption and as permitted by this [Section 11.07](#), 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 Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of [Sections 3.01, 3.04, 3.05, 11.04](#) and [11.05](#) with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its applicable Notes, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

(c) **Register.** The Administrative Agent, acting solely for this purpose as anon-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at one of its offices located in the United States a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Agents 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 or any Lender (but only, in the case of a Lender at the Administrative Agent's office and with respect to any entry relating to such Lender's Commitments, Loans, and other Obligations), at any reasonable time and from time to time upon reasonable prior notice. This [Section 11.07\(c\)](#) and [Section 2.13](#) shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) **Participations.** Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, or any other Person sell participations to any Person (other than a natural person, a Disqualified Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries)

(each, a “**Participant**”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); *provided* that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso of the first paragraph of Section 11.01 (other than clause (d) and (g) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Sections 3.01(b), (c), (d) and (e), as applicable (it being understood that the documentation required under such Sections shall be delivered to the participating Lender)), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 11.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.15 as though it were a Lender. To the extent that any participation is purported to be made to a Disqualified Lender, such transaction shall be required immediately (and in any event within five Business Days) to be unwound and shall be deemed null and void (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence).

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 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 or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation. Each Lender that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations) issued thereunder relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under this Agreement (the “**Participant Register**”). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) or proposed Section 1.163-5(b) of the United States Treasury regulations (or any amended or successor version). 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.

(f) Liens on Loans. Any Lender may, at any time without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Special Purpose Funding Vehicles Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “**SPC**”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Sections 3.01, 3.04 and 3.05), (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (C) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (1) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (2) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) Affiliated Lenders. Any Lender may, at any time, assign all or a portion of its rights and obligations with respect to Loans and Commitments under this Agreement (including under Incremental Term Facilities) to a Person who is or will become, after such assignment, an Affiliated Lender (including any Affiliated Debt Fund) through (i) Dutch auctions open to all Lenders in accordance with the procedures set forth on Exhibit L or (ii) open market purchase on a non-*pro rata* basis, in each case subject to the following limitations applicable to Affiliated Lenders that are not Affiliated Debt Funds:

(i) Such Affiliated Lenders (A) will not receive information provided solely to Lenders by the Administrative Agent or any Lender except to the extent such materials are made available to the Borrower and will not be permitted to attend or participate in conference calls or meetings attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Term Loans or Commitments required to be delivered to Lenders pursuant to Article II, (B) will not receive the advice of counsel provided solely to the Administrative Agent or the Lenders, and (C) may not challenge the attorney-client privilege between the Administrative Agent and counsel to the Administrative Agent or between the Lenders and counsel to the Lenders;

(ii) the Assignment and Assumption will include either (A) a representation by the applicable Affiliated Lender acquiring or disposing of Term Loans in such assignment that, as of the date of any such purchase or sale, it is not in possession of material non-public information with respect to the Borrower, its Subsidiaries or their respective securities or (B) a statement by the applicable Affiliated Lender acquiring or disposing of Term Loans in such assignment that it cannot make the representation set forth in the foregoing clause (A);

(iii) (A) the aggregate principal amount of Term Loans held by all Affiliated Lenders that are not Affiliated Debt Funds shall not exceed 25% of the aggregate outstanding principal amount of all Term Loans at the time of purchase or assignment (such percentage, the “**Affiliated Lender Term Loan Cap**”), (B) unless otherwise agreed to in writing by the Required Facility Lenders, regardless of whether consented to by the Administrative Agent or otherwise, no assignment which would result in Affiliated Lenders that are not Affiliated Debt Funds holding Term Loans with an aggregate principal amount in excess of the Affiliated Lender Term Loan Cap, shall in either case be effective with respect to such excess amount of the Term Loans (and such excess assignment shall be and be deemed null and void); *provided* that each of the parties hereto agrees and acknowledges that the Administrative Agent shall not be liable for any losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever incurred or suffered by any Person in connection with any compliance or non-compliance with this clause (h)(iii) or any purported assignment exceeding the Affiliated Lender Term Loan Cap limitation or for any assignment being deemed null and void hereunder and (C) in the event of an acquisition pursuant to the last sentence of this clause (h) which would result in the Affiliated Lender Term Loan Cap being exceeded, the most recent assignment to an Affiliated Lender involved in such acquisition shall be unwound and deemed null and void to the extent that the Affiliated Lender Term Loan Cap, would otherwise be exceeded;

(iv) [reserved]; and

(v) as a condition to each assignment pursuant to this clause (h), the Administrative Agent shall have been provided a notice in the form of Exhibit D-2 to this Agreement in connection with each assignment to an Affiliated Lender or an Affiliated Debt Fund or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender or an Affiliated Debt Fund, and (without limitation of the provisions of clause (iii) above) shall be under no obligation to record such assignment in the Register until three Business Days after receipt of such notice.

Each Affiliated Lender and each Affiliated Debt Fund agrees to notify the Administrative Agent promptly (and in any event within ten Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent promptly (and in any event within ten Business Days) if it becomes an Affiliated Lender or an Affiliated Debt Fund. Such notice shall contain the type of information required and be delivered to the same addressee as set forth in Exhibit D-2.

(i) Voting Limitations. Notwithstanding anything in Section 11.01 or the definition of “Required Lenders” to the contrary:

(i) for purposes of determining whether the Required Lenders have (A) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to Section 11.07(j), any plan of reorganization pursuant to the U.S. Bankruptcy Code, (B) otherwise acted on any matter related to any Loan Document, or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, in each case, that does not require the consent of a specific Lender, each Lender or each affected Lender, or does not affect such Affiliated Lender that is not an Affiliated Debt Fund in a disproportionately adverse manner as compared to other Lenders holding similar obligations, Affiliated Lenders that are not Affiliated Debt Funds will be deemed to have voted in the same proportion as non-affiliated Lenders voting on such matters; and

(ii) Affiliated Debt Funds may not in the aggregate account for more than 49.9% of the amounts set forth in the calculation of Required Lenders and any amount in excess of 49.9% will be subject to the limitations set forth in clause (i)(i) above.

(j) Insolvency Proceedings. Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender that is not an Affiliated Debt Fund hereby agrees that, if a proceeding under any Debtor Relief Law shall be commenced by or against the Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Term Loans held by such Affiliated Lender in any manner in the Administrative Agent's sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Term Loans held by it as the Administrative Agent directs; *provided* that such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) in connection with any plan of reorganization to the extent any such plan of reorganization proposes to treat any Obligations held by such Affiliated Lender in a manner that is less favorable in any material respect to such Affiliated Lender than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Borrower. The Lenders and each Affiliated Lender that is not an Affiliated Debt Fund agree and acknowledge that the provisions set forth in this Section 11.07(j) and the related provisions set forth in each Assignment and Assumption entered into by an Affiliated Lender constitute a "subordination agreement" as such term is contemplated by, and utilized in, Section 510(a) of the United States Bankruptcy Code, and, as such, would be enforceable for all purposes in any case where Holdings, the Borrower or any Restricted Subsidiary has filed for protection under any law relating to bankruptcy, insolvency or reorganization or relief of debtors applicable to Holdings, the Borrower or such Restricted Subsidiary, as applicable. Each Affiliated Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliated Lender's attorney-in-fact, with full authority in the place and stead of such Affiliated Lender and in the name of such Affiliated Lender (solely in respect of Term Loans and participations therein and not in respect of any other claim or status such Affiliated Lender may otherwise have), from time to time in the Administrative Agent's discretion to take any action and to execute any instrument that the Administrative Agent may deem reasonably necessary to vote on behalf of such Affiliated Lender as set forth in this Section 11.07(j).

(k) [Reserved].

(l) Assignments to Borrower, etc.

(i) Any Lender may, so long as no Event of Default has occurred and is continuing or would result therefrom, assign all or a portion of its rights and obligations with respect to the Term Loans and the Term Loan Commitments under this Agreement to Holdings, the Borrower or any of its Subsidiaries through (i) Dutch auctions open to all Lenders in accordance with the procedures set forth on Exhibit L or (ii) open market purchase on a non-pro rata basis, in each case subject to the following limitations; *provided*, that:

(A) if the assignee is Holdings or a Restricted Subsidiary of the Borrower, upon such assignment, transfer or contribution, the applicable assignee shall 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

(B) if the assignee is the Borrower (including through contribution or transfers set forth in clause (A) above), (1) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred

to the Borrower shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer and (2) the Borrower shall promptly provide notice to the Administrative Agent of such contribution, assignment or transfer of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register; and

(C) if the proceeds of any Revolving Loans (as defined in the First Lien Credit Agreement) are used to finance such purchase and assignment, on a Pro Forma Basis for such assignment the Borrower's Liquidity equals or exceeds 33% of the Revolving Commitments (as defined in the First Lien Credit Agreement) (whether or not drawn) as of the date of determination.

(ii) Any Affiliated Lender may, in its discretion (but is not required to), assign all or a portion of its rights and obligations with respect to the Term Loans and the Term Loan Commitments under this Agreement to Holdings, the Borrower or any of its Subsidiaries (regardless of whether any Default or Event of Default has occurred and is continuing or would result therefrom), on a non-*pro rata* basis, for purposes of cancelling such Term Loans or Term Loan Commitments, which may include contribution (with the consent of the Borrower) to the Borrower (whether through any of its direct or indirect parent entities or otherwise) in exchange for (A) debt on a dollar-for-dollar basis or (B) Equity Interests of the Borrower (or any of its direct or indirect parent entities) that are otherwise permitted to be incurred or issued by the Borrower (or such direct or indirect parent entity) at such time.

SECTION 11.08 Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Lead Arranger and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed,

(a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (a) but only to the extent that a list of such Disqualified Lender is available to all Lenders upon request),

(b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including the Federal Reserve Bank or any other central bank or any self-regulatory authority, such as the National Association of Insurance Commissioners),

(c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, *provided* that the Administrative Agent, the Collateral Agent, such Lead Arranger or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation,

(d) to any other party hereto (it being understood that in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (d) but only to the extent that a list of such Disqualified Lenders is available to all Lenders),

(e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder,

(f) subject to an agreement containing provisions at least as restrictive as those of this Section 11.08 (it being understood that in no event shall such disclosure be made to any Disqualified Lender pursuant to this clause (f) but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request), to (i) any *bona fide* assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and their obligations or (iii) to any Lender's financing sources (other than any Disqualified Lender),

(g) with the prior written consent of the Borrower,

(h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender),

(i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 11.08 or (ii) becomes available to the Administrative Agent, the Collateral Agent, any Lead Arranger, any Lender, or any of their respective Affiliates on a non-confidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Person to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower, or

(j) to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent, Collateral Agent and Lenders, in each case in connection with the administration, settlement and management of this Agreement and the other Loan Documents.

In addition, each of the Administrative Agent, the Collateral Agent, the Lead Arranger, and the Lenders may disclose the existence of this Agreement and the information about this Agreement to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Loans, market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, the Collateral Agent, the Lead Arranger and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

For purposes of this Section 11.08, "**Information**" means all information received from or on behalf of any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, the Collateral Agent or any Lender on a non-confidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that all information received from Holdings, the Borrower or any Subsidiary after the date hereof shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, the Lead Arranger and the Lenders acknowledges that (A) the Information may include Private-Side Information concerning Holdings, the Borrower or a Subsidiary, as the case may be, (B) it has developed compliance procedures regarding the use of Private-Side Information and (C) it will handle such Private-Side Information in accordance with applicable Law, including United States Federal and state securities Laws.

Notwithstanding anything to the contrary therein, nothing in any Loan Document shall require Holdings or any of their subsidiaries to provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by applicable Law, (iii) that is subject to attorney client or similar privilege or constitutes attorney work product or (iv) the disclosure of which is restricted by binding agreements not entered into primarily for the purpose of qualifying for the exclusion in this clause (iv).

SECTION 11.09 Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, without notice to any Loan Party or to any other Person (other than the Administrative Agent), any such notice being hereby expressly waived, 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, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not (a) such Lender shall have made any demand under this Agreement or any other Loan Document and (b) the principal of or the interest on the Loans or any other amounts due hereunder shall have become due and payable pursuant to Article II and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Sections 2.15 and 2.19 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 (ii) 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 their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) that such Lender or Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 11.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents with respect to any of the Obligations, shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "**Maximum Rate**"). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an 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. If the rate of interest under this Agreement at any time exceeds the Maximum Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Maximum Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if

the Maximum Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lenders and the Borrower to conform strictly to any applicable usury laws.

SECTION 11.11 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging (including in.pdf or .tif format) means shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 11.12 Electronic Execution of Assignments and Certain Other Documents. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 11.13 Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 3.01, 3.04, 3.05, 11.04, 11.05 and 11.09 and the agreements of the Lenders set forth in Sections 2.15, 10.03 and 10.07 shall survive the satisfaction of the Termination Conditions, the termination hereof and the resignation of the Administrative Agent and/or the Collateral Agent.

SECTION 11.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable in any jurisdiction, (a) the legality, validity and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 11.15 GOVERNING LAW.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF ANY UNITED STATES FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ACTIONS BY ANY AGENT IN RESPECT OF RIGHTS UNDER ANY SECURITY AGREEMENT GOVERNED BY A LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK OR WITH RESPECT TO ANY COLLATERAL SUBJECT THERETO), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

SECTION 11.16 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) HEREBY IRREVOCABLY 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 OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON 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 BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 11.16 AND EXECUTED BY EACH OF THE PARTIES HERETO AND THE LEAD ARRANGER), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

SECTION 11.17 Limitation of Liability. The Loan Parties agree that no Indemnitee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnitee's gross negligence, willful misconduct or bad faith or, other than in the case of the Administrative Agent, the Collateral Agent and their related Indemnitees, breach by such Indemnitee of its material obligations under this Agreement. In no event, shall any party hereto, any Loan Party or any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings) (other than, in the case of the Borrower, in respect of any such damages incurred or paid by an Indemnitee to a third party). Each party hereto (and by its acceptance of its appointment in such capacity, the Lead Arranger) hereby waives, releases and agrees (each for itself and on behalf of its Subsidiaries) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

SECTION 11.18 Use of Name, Logo, Etc. Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or any Lead Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo or Trademark; *provided* that any such Trademarks or logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Borrower or any of its

Subsidiaries or the reputation or goodwill of any of them. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and such Lead Arranger, as applicable.

SECTION 11.19 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act, the Administrative Agent (for itself and not on behalf of any Lender) and the Collateral Agent hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender, the Administrative Agent or the Collateral Agent, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. Each Loan Party shall, promptly following a request by the Administrative Agent, the Collateral Agent or any Lender, provide all documentation and other information that the Administrative Agent, the Collateral 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.

SECTION 11.20 Service of Process. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, THE LEAD ARRANGER) IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 11.21 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), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding that: (a) (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Agents, the Lenders, and the Lead Arranger on the one hand, and the Loan Parties and their Affiliates, on the other hand, (ii) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Loan Parties is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Agents and the Lead Arranger are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, its stockholders or its Affiliates (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters), or any other Person and (ii) none of the Agents, the Lead Arranger nor any Lender has any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Lead Arranger, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates, and none of the Agents, the Lead Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Agents, the Lead Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 11.22 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower, Holdings and the Administrative Agent and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, Holdings, each Agent, each Lender and their respective successors and assigns.

SECTION 11.23 Obligations Several; Independent Nature of Lender's Rights. The obligations of the Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by the Lenders pursuant hereto or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

SECTION 11.24 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 11.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

MISTER CAR WASH HOLDINGS, INC., as Borrower

By: /s/ Bruce A. Schumacher _____

Name: Bruce A. Schumacher

Title: Treasurer

[SIGNATURE PAGE TO SECOND LIEN CREDIT AGREEMENT]

HOTSHINE INTERMEDIATECO, INC., as Holdings

By: /s/ Bruce A. Schumacher

Name: Bruce A. Schumacher

Title: Treasurer

[SIGNATURE PAGE TO SECOND LIEN CREDIT AGREEMENT]

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Administrative Agent and Collateral Agent

By: /s/ Jamie Rosenberg
Name: Jamie Rosenberg
Title: Assistant Vice President

[SIGNATURE PAGE TO SECOND LIEN CREDIT AGREEMENT]

**CRESCENT MEZZANINE PARTNERS VI, L.P., as
Lender**

By: /s/ Yev Kuznetsov
Name: Yev Kuznetsov
Title: Managing Director

By: /s/ Mandy Epler Brown
Name: Mandy Epler Brown
Title: Assistant Vice President

[SIGNATURE PAGE TO SECOND LIEN CREDIT AGREEMENT]

FIRST AMENDMENT TO SECOND LIEN CREDIT AGREEMENT

FIRST AMENDMENT TO SECOND LIEN CREDIT AGREEMENT (this "First Amendment"), dated as of March 31, 2020, by and among MISTER CAR WASH HOLDINGS, INC., a Delaware corporation (the "Borrower"), HOTSHINE INTERMEDIATECO, INC., a Delaware corporation ("Holdings"), the Subsidiaries of the Borrower party hereto, as Subsidiary Guarantors, WILMINGTON TRUST, NATIONAL ASSOCIATION, as Administrative Agent (in such capacity, together with any successor in such capacity, the "Administrative Agent") and as Collateral Agent (in such capacity, together with any successor in such capacity, the "Collateral Agent"), the undersigned lenders party to that certain Second Lien Credit Agreement, dated as of May 14, 2019 (as amended from time to time, the "Second Lien Credit Agreement"), by and among Holdings, the Borrower, the Agents, the lenders party thereto from time to time (the "Second Lien Lenders" and, the undersigned Second Lien Lenders, together with their respective successors and permitted assigns, the "Consenting Second Lien Lenders"), and the Persons listed on the March 2020 Incremental Term Loan Commitment Schedule attached hereto as Annex I (acting in their capacities as lenders making Incremental Term Loans, collectively, the "March 2020 Incremental Lenders").

PRELIMINARY STATEMENTS

WHEREAS, in accordance with Section 11.01 of the Second Lien Credit Agreement, Holdings and the Borrower have requested that the Second Lien Lenders agree to make certain amendments to the Second Lien Credit Agreement as set forth in Section 3 hereto, including, among other things, to allow the Borrower the option to make the interest payments due on the last Business Day of March, June and September, 2020 via payment-in-kind by adding such amount to the outstanding principal amount of Term Loans under the Second Lien Credit Agreement;

WHEREAS, pursuant to Section 11.01 of the Second Lien Credit Agreement, the consent of the Borrower and each Second Lien Lender directly and adversely affected thereby, and the acknowledgement of the Administrative Agent, on the First Amendment Effective Date, is required to effect certain amendments to the Second Lien Credit Agreement as set forth in Section 3 hereto;

WHEREAS, the Consenting Second Lien Lenders constitute all Lenders under the Second Lien Credit Agreement on the First Amendment Effective Date; and

WHEREAS, each Consenting Second Lien Lender consents to amend the Second Lien Credit Agreement as set forth herein, and the Administrative Agent acknowledges such amendments to the Second Lien Credit Agreement as set forth herein;

WHEREAS, the Borrower hereby elects to make the entire interest payment due under the Second Lien Credit Agreement on the last Business Day of March, 2020 (after giving effect to the amendments contemplated hereby, in the amount of \$5,874,152.26) via payment-in-kind by adding such amount to the outstanding principal amount of Term Loans on such date; and

WHEREAS, in accordance with Section 2.16 of the Second Lien Credit Agreement, the March 2020 Incremental Lenders, the Consenting Second Lien Lenders and the Administrative Agent have agreed, upon the terms and subject to the conditions set forth herein, that, on the last Business Day of March 2020, the March 2020 Incremental Lenders will make Incremental Term Loans to the Borrower in an aggregate principal amount of \$5,625,000, the proceeds of which will be used for general corporate purposes and to finance transactions not prohibited by the Second Lien Credit Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by each party hereto, it is agreed as follows.

SECTION 1. DEFINED TERMS. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Second Lien Credit Agreement or the Closing Date Intercreditor Agreement, as applicable.

SECTION 2. INCREMENTAL AMENDMENT.

(a) Pursuant to Section 2.16 of the Second Lien Credit Agreement, the Borrower hereby proposes to incur \$5,625,000 of Incremental Term Loans (such Incremental Term Loans, the "March 2020 Incremental Term Loans").

(b) Each March 2020 Incremental Lender identified on the March 2020 Incremental Term Loan Commitment Schedule attached hereto as Annex I (the "March 2020 Incremental Term Loan Commitment Schedule") has been invited by the Borrower, and each has severally agreed, subject to the terms hereof, to (i) provide an Incremental Term Loan Commitment in an amount equal to the amount allocated to such March 2020 Incremental Lender on the March 2020 Incremental Term Loan Commitment Schedule (such Incremental Term Loan Commitments, collectively, the "March 2020 Incremental Term Loan Commitments") and (ii) make that portion of the March 2020 Incremental Term Loans equal to the Incremental Term Loan Commitment allocated to such March 2020 Incremental Lender on the March 2020 Incremental Term Loan Commitment Schedule to the Borrower in Dollars on the First Amendment Effective Date. The aggregate amount of the March 2020 Incremental Term Loan Commitments immediately prior to the funding of the March 2020 Incremental Term Loans on the First Amendment Effective Date is \$5,625,000. The Administrative Agent shall be entitled to conclusively assume that the entire amount of the March 2020 Incremental Term Loans contemplated to be made on the First Amendment Effective Date have been made as of such date, including for purposes of maintaining the Register.

(c) Pursuant to Section 2.16 of the Second Lien Credit Agreement, by execution and delivery of this First Amendment, each March 2020 Incremental Lender agrees and acknowledges that it shall have an Incremental Term Loan Commitment in an amount equal to the amount allocated to such March 2020 Incremental Lender on the March 2020 Incremental Term Loan Commitment Schedule. Upon the funding of the March 2020 Incremental Term Loans, the March 2020 Incremental Term Loan Commitments shall be automatically and permanently reduced to \$0.

(d) The Borrower has elected to incur the March 2020 Incremental Term Loans in reliance on the Ratio Amount *provided* that if it should later be determined that such amount was not permitted under the Ratio Amount for any reason, such amount shall automatically be deemed to have been incurred under the Fixed Incremental Amount.

(e) The terms of the March 2020 Incremental Term Loans shall be identical to the terms of the Initial Term Loans for all purposes under the Second Lien Credit Agreement and the other Loan Documents (*provided* that it is understood that the March 2020 Incremental Term Loans shall be issued at par). The March 2020 Incremental Term Loans shall be of the same Class as the Initial Term Loans and the March 2020 Incremental Term Loans shall have the same rights as and be subject to the provisions of the Second Lien Credit Agreement and the other Loan Documents on the same basis as the Initial Term Loans. The parties hereto intend to treat the March 2020 Incremental Term Loans as fungible with the Initial Term Loans outstanding immediately prior to the First Amendment Effective Date for U.S. federal income tax purposes. For the avoidance of doubt, the aggregate principal amount of Initial Term Loans that shall be outstanding on the First Amendment Effective Date after (i) giving effect to the incurrence of the March 2020 Incremental Term Loans and (ii) making the entire interest payment due under the Second Lien Credit Agreement on the last Business Day of March, 2020 via payment-in-kind, is \$236,499,152.26.

(f) Each March 2020 Incremental Lender, by delivering its signature page to this First Amendment on the First Amendment Effective Date,

(i) confirms that it has received a copy of the Second Lien Credit Agreement and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Sections 6.01(a) and (b) thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this First Amendment and to make that portion of the March 2020 Incremental Term Loans equal to the March 2020 Incremental Term Loan Commitment allocated to such March 2020 Incremental Lender on the March 2020 Incremental Term Loan Commitment Schedule;

(ii) confirms that it has, independently and without reliance upon the Administrative Agent or any Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this First Amendment and to make that portion of the March 2020 Incremental Term Loans equal to the March 2020 Incremental Term Loan Commitment allocated to such March 2020 Incremental Lender on the March 2020 Incremental Term Loan Commitment Schedule, and confirms that it will independently and without reliance upon the Administrative Agent or any Lender and based on such documents and information as it shall deem appropriate at the time, make its own credit analysis and decisions in taking or not taking action under the Loan Documents;

(iii) irrevocably appoints and authorizes Wilmington Trust, National Association to act on its behalf as the Administrative Agent and Collateral Agent

under the Loan Documents and authorizes each of the Administrative Agent and Collateral Agent to take such actions as agent on its behalf and to exercise such powers under this First Amendment, the Second Lien Credit Agreement and the other Loan Documents as are delegated to or otherwise conferred upon the Administrative Agent and the Collateral Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto; and

(iv) agrees that it will be bound by the provisions of the Second Lien Credit Agreement as a Lender thereunder and will perform in accordance with their terms all of the obligations which by the terms of the Second Lien Credit Agreement are required to be performed by it as a Lender.

Furthermore, (A) each March 2020 Incremental Lender acknowledges that it is an Affiliated Lender for all purposes under the Second Lien Credit Agreement and (B) each party hereto acknowledges that (L) other parties hereto currently may have, and later may come into possession of, information regarding the Loan Parties or the Obligations that is not known to it and that may be material to a decision with respect to the Obligations (“Excluded Information”), (2) it has determined to enter into this Amendment and the transactions contemplated hereby notwithstanding its lack of knowledge of the Excluded Information, and (3) no other party shall have no liability to it, and it hereby to the maximum extent permitted by law waives and releases any claims it may have against the other parties hereto, with respect to the nondisclosure of the Excluded Information; *provided* that the Excluded Information shall not and does not affect the truth or accuracy of the representations or warranties set forth herein.

(g) It is understood and agreed that (i) the March Incremental Term Loans are “Incremental Loans,” “Incremental Term Loans” and “Initial Term Loans”; (ii) the March Incremental Term Loan Commitments are “Incremental Term Loan Commitments”; (iii) each March 2020 Incremental Lender is an “Additional Lender” and an “Affiliated Lender”; and (iv) this First Amendment is an “Incremental Amendment,” in each case, as defined in the Second Lien Credit Agreement. It is further understood and agreed that this First Amendment is a “Loan Document” as defined in the Second Lien Credit Agreement.

(h) In connection with the issuance of the March 2020 Incremental Term Loans, the Consenting Second Lien Lenders hereby agree to waive the requirements set forth in Section 2.16(c) of the Second Lien Credit Agreement that (i) the Borrower deliver a certificate from a Responsible Officer of the Borrower demonstrating the calculation of the Incremental Amount immediately after giving effect to the incurrence of the March 2020 Incremental Term Loans and (ii) each Incremental Facility be in an integral multiple of \$1,000,000 and in an aggregate principal amount that is not less than \$10,000,000.

SECTION 3. ADDITIONAL AMENDMENTS TO SECOND LIEN CREDIT AGREEMENT. Subject to the satisfaction (or, other than with respect to Section 4(d), waiver in writing by the Consenting Second Lien Lenders) of the conditions set forth in Section 4 hereof, and in accordance with Section 11.01 of the Second Lien Credit Agreement, each Consenting Second

Lien Lender, each March 2020 Incremental Lender and the Borrower agree that the Second Lien Credit Agreement is hereby amended as follows:

(a) Section 1.01 of the Second Lien Credit Agreement is hereby amended by inserting the following new definitions in the appropriate alphabetical order:

“First Amendment Effective Date” means March 31, 2020.

“Interest Period” means each three consecutive calendar month period ending on the last Business Day of each March, June, September and December of each calendar year.

“PIK Election” has the meaning set forth in Section 2.10(a).

“PIK Period” means the period from the First Amendment Effective Date until the earliest of (i) September 30, 2020, (ii) the receipt by the Administrative Agent and the Lenders of a PIK Period Termination Notice, and (iii) the occurrence of any Event of Default under Section 9.01(f).

“PIK Period Termination Notice” means a written notice from the Borrower to the Administrative Agent and the Lenders notifying the Administrative Agent and the Lenders that the Borrower is irrevocably terminating the PIK Period.

“September 2020 Incremental Term Loans” means Incremental Term Loans made by the Sponsor (or an Affiliate of the Sponsor) that is an Affiliated Lender (including any Affiliated Debt Fund) to the Borrower in an aggregate principal amount of \$5,625,000, which Incremental Term Loans shall (i) shall have terms which are identical to the terms of the Initial Term Loans for all purposes under this Agreement and the other Loan Documents (*provided* that it is understood that the September 2020 Incremental Term Loans shall be issued at par), (ii) be of the same Class as the Initial Term Loans, and (iii) have the same rights as and be subject to the provisions of this Agreement and the other Loan Documents on the same basis as the Initial Term Loans.

“September PIK Condition” means the making of the September 2020 Incremental Term Loans.

(b) Section 1.01 of the Second Lien Credit Agreement is hereby amended by amending and restating the following definitions as set forth below:

“Applicable Rate” means,

(a) with respect to Initial Term Loans,

(i) with respect to the Interest Periods ending March 31, 2020 and, if the Borrower has made a PIK Election with respect to such Term Loans, June 30, 2020, a percentage *per annum* equal to 10.50%,

(ii) with respect to the Interest Period ending September 30, 2020, if the Borrower has made a PIK Election with respect to such Term Loans, a percentage *per annum* equal to 11.00%, or

(iii) otherwise, if the Borrower has not made a PIK Election with respect to such Term Loans or for any period outside of the PIK Period, a percentage *per annum* equal to 10.0%, or

(b) with respect to any Term Loans (other than Initial Term Loans), as specified in the applicable Incremental Amendment, Extension Amendment or Refinancing Amendment (or if not so specified or if such Term Loans have terms identical to the Initial Term Loans), the rate that is then applicable to Initial Term Loans.”

(c) Section 2.10(a) of the Second Lien Credit Agreement is hereby amended and restated in its entirety as follows:

“(a) Each Term Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate *per annum* equal to the Applicable Rate. For each Interest Payment Date occurring during the PIK Period, the Borrower may make an election upon written notice to the Administrative Agent and the Lenders no later than three Business Days prior to the applicable Interest Payment Date (each such election, the “PIK Election”) to have interest on the Term Loans at the Applicable Rate paid-in-kind by capitalizing and adding the full amount of interest due on such Interest Payment Date to the then-outstanding principal amount of the Term Loans on such Interest Payment Date, and on each applicable Interest Payment Date, if the PIK Election has been so made with respect to any Term Loans, an amount equal to the amount of interest that accrued on such Term Loans during the Interest Period ending on such Interest Payment Date shall be capitalized and added to the then-outstanding principal amount of the Term Loans unpaid on such Interest Payment Date; *provided* that the Borrower shall not be permitted to make a PIK Election for the Interest Period ending September 30, 2020 unless the September PIK Condition is or will be satisfied prior to, or substantially concurrently with, the capitalization of the interest payment due on September 30, 2020. Upon being capitalized and added to the then-outstanding principal amount of the Term Loans, interest so capitalized shall be treated as principal of the Term Loans for all purposes of this Agreement and the other Loan Documents.”

(d) Section 2.10(e) of the Second Lien Credit Agreement is hereby amended and restated in its entirety as follows:

“(e) Interest on each Loan shall be due and payable on each Interest Payment Date applicable thereto; *provided*, that, such interest may be paid by being capitalized and added to the then-outstanding principal amount of the Term Loans solely to the extent provided in Section 2.10(a) above. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding, under any Debtor Relief Law.”

(e) Section 7.06 of the Second Lien Credit Agreement is hereby amended by adding the following two paragraphs to the end of Section 7.06:

“Notwithstanding anything in this Section 7.06 to the contrary, (i) during the PIK Period, neither the Borrower nor any Restricted Subsidiary may declare or make, directly or indirectly, any Restricted Payment, except pursuant to the exceptions provided in Sections 7.06(a), (b), (d), (e), (g), (j) and (ii) during the period commencing on the First Amendment Effective Date and ending on January 1, 2021, neither the Borrower nor any Restricted Subsidiary may declare or make, directly or indirectly, any Restricted Payment in reliance on Section 7.06(d) as such exception relates to the payment of amounts permitted by Section 7.08(e), other than indemnification payments permitted by such Section 7.08(e).

In addition to the restrictions applicable to the Borrower and any Restricted Subsidiary pursuant to this Section 7.06, during the PIK Period, no Unrestricted Subsidiary may, directly or indirectly, use the proceeds of an Investment made in it by a Loan Party or any Restricted Subsidiary to finance any Restricted Payment, including any payment on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any Equity Interest of Holdings, or on account of any return of capital to Holdings’ stockholders, partners or members.”

(f) Section 9.01 of the Second Lien Credit Agreement is hereby amended by (i) deleting the word “or” appearing at the end of clause (j) thereof, (ii) replacing the word “Effect.” appearing at the end of clause (k) thereof with the word “Effect;” and (iii) adding the following as new clauses (l) and (m) thereto:

“(l) Failure to Issue Incremental Term Loans. Solely to the extent that the Borrower makes a PIK Election for the Interest Period ending on September 30, 2020, the Borrower fails to either (i) pay the cash interest that would be due on the Term Loans as if such PIK Election had not been made or (ii) cause the September 2020 Incremental Term Loans to be issued prior to, or substantially concurrently with, the capitalization of the interest payment due on September 30, 2020; or”

“(m) Failure to Comply with the First Amendment. Holdings, the Borrower or any other Loan Party fails to perform or observe any term, covenant or agreement contained in Section 6 or Section 7 of the First Amendment.”

(g) Each Term Loan Note outstanding as of the First Amendment Effective Date (and the corresponding Exhibit for any Term Loan Note as well as any Term Loan Note issued on after the First Amendment Effective Date) is hereby amended by modifying the first sentence of such Term Loan Note by inserting at the end thereof the following clause: “; *provided* that the principal amount of this Term Loan Note shall be deemed to be automatically increased by the amount attributable to this Term Loan Note of each interest payment paid-in-kind that is added to the then-outstanding principal amount of the Initial Term Loans on each Interest Payment Date during the PIK Period for which the Borrower has made a PIK Election in accordance with Section 2.10(a) of the Second Lien Credit Agreement.”.

SECTION 4. CONDITIONS PRECEDENT. This First Amendment shall become effective as of the first date (the "First Amendment Effective Date") when each of the conditions set forth in this Section 4 shall have been satisfied or waived:

(a) the Administrative Agent's and the Consenting Second Lien Lenders' receipt of the following, each of which shall be originals, facsimiles or copies in .pdf format unless otherwise specified, each properly executed by a Responsible Officer of Borrower or Holdings (as applicable):

(i) executed counterparts of this First Amendment by each of the Borrower, Holdings, each March 2020 Incremental Lender, the Administrative Agent, the Subsidiary Guarantors and each Consenting Second Lien Lender; and

(ii) a committed loan notice in respect of the March Incremental Term Loans as required by Section 4.02 of the Second Lien Credit Agreement;

(b) both immediately before and after giving effect to this First Amendment (including the incurrence of the March 2020 Incremental Term Loans), (i) no Default or Event of Default under Section 9.01 of the Second Lien Credit Agreement shall have occurred or be continuing or result therefrom and (ii) the representation and warranties contained in Article V of the Second Lien Credit Agreement, as amended by this First Amendment, or in any other Loan Document, shall be true and correct in all material respects (except for representations and warranties that are already covered by materiality, which representations and warranties will be true and correct in all respects) both immediately before and after giving effect to this First Amendment (including the incurrence of the March 2020 Incremental Term Loans);

(c) to the extent invoiced in reasonable detail on or prior to the First Amendment Effective Date, all fees and expenses required to be paid hereunder on the First Amendment Effective Date shall have been paid in full in cash; and

(d) to the extent invoiced in reasonable detail on or prior to the First Amendment Effective Date, the Administrative Agent shall have received payment in full of an extraordinary administration fee in the amount of \$5,000.00 invoiced by the Administrative Agent to the Borrower in respect of this First Amendment.

SECTION 5. COSTS AND EXPENSES. The Borrower agrees to pay on the First Amendment Effective Date all invoiced, reasonable and documented fees and out-of-pocket expenses of primary counsel to the Lenders and of primary counsel to the Administrative Agent.

SECTION 6. POST-CLOSING MATTERS. On or prior to the date that is ten Business Days after the First Amendment Effective Date, the Borrower will deliver to the Administrative Agent and the Second Lien Lenders a perfection certificate duly completed by the Borrower on behalf of the Loan Parties.

SECTION 7. RIGHT OF FIRST OFFER.

(a) New Senior Debt. The Borrower and Holdings hereby agree that if, at any time during the PIK Period, the Borrower or any of the other Loan Parties incurs any term Indebtedness that is Senior Priority Lien Debt (any such Indebtedness, "New Senior Debt"), the Borrower shall, subject to the provisions of the Closing Date Intercreditor Agreement, be required to first offer the Consenting Second Lien Lenders a bona fide opportunity to provide such New Senior Debt, with all of the material terms of such New Senior Debt to be set forth in writing (the "New Senior Debt Offer"). Each Consenting Second Lien Lender shall be entitled to accept or decline, in writing, the New Senior Debt Offer to provide all or a portion of such New Senior Debt in its sole discretion, and, if the Consenting Second Lien Lenders (or any of their respective Affiliates), as applicable, do not accept the New Senior Debt Offer to provide such New Senior Debt in full within 10 Business Days after the date of receiving the making of such New Senior Debt Offer (such period, the "New Senior Debt Offer Period"), the Borrower shall, within 15 Business Days thereafter, be permitted to cause such New Senior Debt to be provided by such other Persons as the Borrower may choose in its discretion on terms identical to those contained in the New Senior Debt Offer. Should the New Senior Debt Offer be oversubscribed, it shall be subject to pro rata cutbacks. Notwithstanding the foregoing provisions of this Section 7(a), if the Borrower and Holdings determine in good faith that making the New Senior Debt Offer for the duration of the New Senior Debt Offer Period would have, or could reasonably be expected to have, a material adverse effect on Holdings, the Borrower or any of the other Loan Parties, then Holdings and the Borrower shall be permitted to cause a Lender to provide all or a portion of the New Senior Debt on terms identical to those contained in the New Senior Debt Offer without regard to the New Senior Debt Offer Period, which shall be deemed not to exist for purposes of the incurrence of such New Senior Debt; *provided* that it shall be a condition to the incurrence of such New Senior Debt that the Lender providing such New Senior Debt shall be required thereafter to, not later than five Business Days after such incurrence, offer each Consenting Second Lien Lender the opportunity to purchase all or a portion of such New Senior Debt in a manner and on terms (including with respect to economic terms) that give effect to the ability such Consenting Second Lien Lender would otherwise have had to acquire all or a portion of such New Senior Debt pursuant to the New Senior Debt Offer.

(b) Unrestricted Subsidiary Debt. The Borrower and Holdings hereby agree that if, at any time during the PIK Period, any Unrestricted Subsidiary incurs any Indebtedness (any such Indebtedness, "New Unrestricted Subsidiary Debt"), the Borrower shall be required to first offer the Consenting Second Lien Lenders a bona fide opportunity to provide such New Unrestricted Subsidiary Debt, with all of the material terms of such New Unrestricted Subsidiary Debt to be set forth in writing (the "New Unrestricted Subsidiary Debt Offer"). Each Consenting Second Lien Lender shall be entitled to accept or decline, in writing, the New Unrestricted Subsidiary Debt Offer to provide all or a portion of such New Unrestricted Subsidiary Debt in its sole discretion, and, to the extent the Consenting Second Lien Lenders (or any of their respective Affiliates), as applicable, do not accept the New Unrestricted Subsidiary Debt Offer to provide such New Unrestricted Subsidiary Debt in full within 10 Business Days after the date of receiving the making of such New Unrestricted Subsidiary Debt Offer (such period, the "New Unrestricted Subsidiary Debt Offer Period"), the Borrower shall, within 15 Business Days thereafter, be permitted to cause such New Unrestricted Subsidiary Debt to be provided by such other Persons as it may choose in its discretion on terms identical to those contained in the New Unrestricted Subsidiary Debt Offer. Notwithstanding the foregoing provisions of this Section 7(b), if the Borrower and Holdings

determine in good faith that making the New Unrestricted Subsidiary Debt Offer for the duration of the New Unrestricted Subsidiary Debt Offer Period would have, or could reasonably be expected to have, a material adverse effect on Holdings, the Borrower or any of the other Loan Parties, then Holdings and the Borrower shall be permitted to cause an Affiliated Lender to provide all or a portion of the New Unrestricted Subsidiary Debt on terms identical to those contained in the New Unrestricted Subsidiary Debt Offer without regard to the New Unrestricted Subsidiary Debt Offer Period, which shall be deemed not to exist for purposes of the incurrence of such New Unrestricted Subsidiary Debt; *provided* that it shall be a condition to the incurrence of such New Unrestricted Subsidiary Debt that the Affiliated Lender providing such New Unrestricted Subsidiary Debt shall be required thereafter to, not later than 5 Business Days after such incurrence, offer each Consenting Second Lien Lender the opportunity to purchase all or a portion of such New Unrestricted Subsidiary Debt in a manner and on terms (including with respect to economic terms) that give effect to the ability such Consenting Second Lien Lender would otherwise have had to acquire all or a portion of such New Unrestricted Subsidiary Debt pursuant to the New Unrestricted Subsidiary Debt Offer.

(c) Without limiting the provisions of the Second Lien Credit Agreement (including Article X thereof) and the other Loan Documents, the Administrative Agent and the Collateral 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 of this Section 7, and may assume that the Borrower and Holdings have complied with this Section 7 in connection with the incurrence of any New Senior Debt or New Unrestricted Subsidiary Debt.

SECTION 8. RELEASE OF CLAIMS.

(a) In consideration of the agreements of the Administrative Agent, the Collateral Agent and the Consenting Second Lien Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, on and as of the First Amendment Effective Date, (I) each Loan Party, on behalf of itself and its successors and assigns, and its present and former members, managers, shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents, legal representatives and other representatives (each such Person, collectively with their successors, assigns and representatives, a "Loan Party Releasing Party"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges, in each case to the maximum extent permitted by law, each of the Administrative Agent, the Collateral Agent, each Consenting Second Lien Lender, and each such Person's successors and assigns, and present and former shareholders, members, managers, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents, legal representatives and other representatives, in each case in its capacity as such (the Administrative Agent, the Collateral Agent, each Consenting Second Lien Lender and all such other Persons being hereinafter referred to collectively as the "Existing Lender Releasees" and individually as an "Existing Lender Releasee"), and (II) each Consenting Second Lien Lender, on behalf of itself and its successors and assigns, and its present and former members, managers, shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents, legal representatives and other representatives (each such Person, collectively with their successors, assigns and representatives, a "Consenting Second Lien Lender Releasing

Party” and each Loan Party Releasing Party and Consenting Second Lien Lender Releasing Party, a “Releasing Party”), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges, in each case to the maximum extent permitted by law, each of the March 2020 Incremental Lenders and each such Person’s successors and assigns, and present and former shareholders, members, managers, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents, legal representatives and other representatives, in each case in its capacity as such (each March 2020 Incremental Lender and all such other Persons being hereinafter referred to collectively as the “March 2020 Incremental Lender Releasees” and individually as an “March 2020 Incremental Lender Releasee” and, together with the Existing Lender Releasees, the “Releasees” and each Existing Lender Releasee and March 2020 Incremental Lender Releasee, individually a “Releasee”), in each case, of and from any and all demands, actions, causes of action, suits, damages and any and all other claims, counterclaims, defenses, rights of set off, demands and liabilities whatsoever (individually, a “Claim” and collectively, “Claims”) of every kind and nature, known or unknown, suspected or unsuspected, at law or in equity, which any Releasing Party may own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the date of this First Amendment for or on account of, or in relation to this First Amendment, the Second Lien Credit Agreement, any of the other Loan Documents or any of the transactions hereunder or thereunder.

(b) Each party hereto agrees that the release set forth above may be pleaded as a full and complete defense to any Claim and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(c) Each party hereto agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered will affect in any manner the final, absolute and unconditional nature of the release set forth above.

(d) Each party hereto agrees that this general release shall have full force and effect notwithstanding any Event of Default or Default under the Second Lien Credit Agreement.

(e) Each Releasing Party hereby absolutely, unconditionally and irrevocably covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by any Releasing Party pursuant to this Section 8. If any Releasing Party violates the foregoing covenant, each Loan Party, jointly and severally, for itself and each other Releasing Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

SECTION 9. REAFFIRMATION.

(a) To induce the Agents and the Second Lien Consenting Lenders party hereto to enter into this First Amendment, each of the Loan Parties hereby acknowledges and reaffirms its

obligations under each Loan Document to which it is a party, in each case as amended, restated, supplemented or otherwise modified prior to or as of the date hereof. The Borrower acknowledges and agrees that each of the Loan Documents to which it is a party or otherwise bound shall continue in full force and effect, that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this First Amendment.

(b) In furtherance of the foregoing Section 9(a), each Guarantor (in such capacity, each a “Reaffirming Guarantor”) reaffirms its guarantee of the Guaranteed Obligations (as defined in the Guaranty) under the terms and conditions of each Guaranty and agrees that such Guaranty remains in full force and effect to the extent set forth in such Guaranty and after giving effect to this First Amendment, and is hereby ratified, reaffirmed and confirmed. Each Reaffirming Guarantor hereby confirms that it consents to the terms of this First Amendment and the Second Lien Credit Agreement and that the principal of the March Incremental Term Loans constitute “Obligations” under the Loan Documents. Each Reaffirming Guarantor hereby (i) confirms that each Loan Document to which it is a party or is otherwise bound will continue to guarantee to the fullest extent possible in accordance with the Loan Documents, the due and punctual payment and performance of the Guaranteed Obligations, in each case, whether such Guaranteed Obligations are now existing or hereafter incurred under, arising out of or in connection with any Loan Document, and whether at maturity, by acceleration or otherwise, (ii) acknowledges and agrees that its Guaranty and each of the Loan Documents to which it is a party or otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid and enforceable and shall not be impaired or limited by the execution or effectiveness of this First Amendment, and (iii) acknowledges, agrees and warrants for the benefit of the Second Lien Lenders that there are no rights of set-off, counterclaim, recoupment or termination that would enable such Reaffirming Guarantor to avoid the performance of its obligations under the Loan Documents.

SECTION 10. MISCELLANEOUS PROVISIONS.

(a) Ratification. This First Amendment is limited to the matters specified herein and shall not constitute a modification, acceptance or waiver of any other provision of the Second Lien Credit Agreement or any other Loan Document. Nothing herein contained shall be construed as a substitution or novation of the obligations outstanding under the Second Lien Credit Agreement or any other Loan Document, which shall remain in full force and effect as modified hereby or by instruments executed concurrently herewith.

(b) Governing Law; Submission to Jurisdiction, Etc. This First Amendment shall be governed by, and construed in accordance with, the laws of the State of New York. Sections 11.15 and 11.16 of the Second Lien Credit Agreement are incorporated by reference herein as if such sections appeared herein, *mutatis mutandis*.

(c) Severability. Section 11.14 of the Second Lien Credit Agreement is incorporated by reference herein as if such section appeared herein, *mutatis mutandis*.

(d) Counterparts; Headings. This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telecopier, .pdf or other electronic imaging means of an executed counterpart of a signature page to this First Amendment shall be effective as delivery of an original executed counterpart of this First Amendment. Section headings herein are included for convenience of reference only and shall not affect the interpretation of this First Amendment

(e) Direction To Administrative Agent and Collateral Agent. Each of the Consenting Second Lien Lenders, collectively constituting all Lenders party to the Second Lien Credit Agreement prior to giving effect hereto, and each of the March 2020 Incremental Lenders, each hereby (i) authorize and direct each of the Administrative Agent and the Collateral Agent to execute and deliver this First Amendment (including, without limitation, to approve the March 2020 Incremental Term Loans, in the amount and on the terms set forth herein) and (ii) acknowledge and agree that (x) the direction in this Section 10(e) constitutes a direction from all Lenders under the provisions of Article X of the Second Lien Credit Agreement and (y) Sections 10.03 and 10.07 of the Second Lien Credit Agreement shall apply to any and all actions taken by either of the Administrative Agent or the Collateral Agent in accordance with such direction.

[Remainder of page intentionally blank; signatures begin next page]

IN WITNESS WHEREOF, the parties hereto have caused their duly Responsible Officers to execute and deliver this First Amendment as of the date first above written.

MISTER CAR WASH HOLDINGS, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

HOTSHINE INTERMEDIATECO, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

[Signature Page to First Amendment to Second Lien Credit Agreement]

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Administrative Agent and Collateral Agent

By: /s/ Andrew Lennon

Name: Andrew Lennon

Title: AVP

[Signature Page to First Amendment to Second Lien Credit Agreement]

MARCH 2020 INCREMENTAL LENDERS:

GREEN EQUITY INVESTORS VI, L.P.

By: **GEI CAPITAL VI, LLC**, its General Partner

By: /s/ Andrew Goldberg
Name: Andrew Goldberg
Title: General Counsel

GREEN EQUITY INVESTORS SIDE VI, L.P.

By: **GEI CAPITAL VI, LLC**, its General Partner

By: /s/ Andrew Goldberg
Name: Andrew Goldberg
Title: General Counsel

[Signature Page to First Amendment to Second Lien Credit Agreement]

SUBSIDIARY GUARANTORS:

CAR WASH PARTNERS, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWP ASSET CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWPS CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWP WEST CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWPU CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

[Signature Page to First Amendment to Second Lien Credit Agreement]

CPW MANAGEMENT CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CAR WASH HEADQUARTERS, INC.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

MCW GC LLC

By: **CAR WASH PARTNERS, INC.**, its sole member

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

CWP CALIFORNIA CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer and Chief Financial Officer

PS ACQUISITION SUB CORP.

By: /s/ Jedidiah Gold
Name: Jedidiah Gold
Title: Treasurer

[Signature Page to First Amendment to Second Lien Credit Agreement]

PRIME SHINE, LLC

By: /s/ Jediah Gold

Name: Jediah Gold

Title: Treasurer

[Signature Page to First Amendment to Second Lien Credit Agreement]

CRESCENT MEZZANINE PARTNERS VI, L.P.
as a Second Lien Lender

By: Crescent Capital Group LP, its investment advisor

By: /s/ Yev Kuznetsov
Name: Yev Kuznetsov
Title: Managing Director

By: /s/ Mandy Epler Brown
Name: Mandy Epler Brown
Title: Senior Vice President

CRESCENT MEZZANINE PARTNERS VIB, L.P.
as a Second Lien Lender

By: Crescent Capital Group LP, its investment advisor

By: /s/ Yev Kuznetsov
Name: Yev Kuznetsov
Title: Managing Director

By: /s/ Mandy Epler Brown
Name: Mandy Epler Brown
Title: Senior Vice President

CRESCENT MEZZANINE PARTNERS VIC, L.P.
as a Second Lien Lender

By: Crescent Capital Group LP, its investment advisor

By: /s/ Yev Kuznetsov
Name: Yev Kuznetsov
Title: Managing Director

By: /s/ Mandy Epler Brown
Name: Mandy Epler Brown
Title: Senior Vice President

[Signature Page to First Amendment to Second Lien Credit Agreement]

**CRESCENT MEZZANINE PARTNERS VIB
(CAYMAN), L.P.,**
as a Second Lien Lender

By: Crescent Mezzanine VI, LLC, its general partner

By: /s/ Yev Kuznetsov

Name: Yev Kuznetsov

Title: Managing Director

By: /s/ Mandy Epler Brown

Name: Mandy Epler Brown

Title: Senior Vice President

**CRESCENT CIT II LEVERED INVESTMENT
PARTNERSHIP, LP**
as a Second Lien Lender

By: Crescent Capital Group LP, its investment adviser

By: /s/ Yev Kuznetsov

Name: Yev Kuznetsov

Title: Managing Director

By: /s/ Mandy Epler Brown

Name: Mandy Epler Brown

Title: Senior Vice President

CRESCENT CAPITAL TRUST II, a fund established
under Crescent Capital Collective Investment Trust
as a Second Lien Lender

By: Crescent Capital Group LP, its investment adviser

By: /s/ Yev Kuznetsov

Name: Yev Kuznetsov

Title: Managing Director

By: /s/ Mandy Epler Brown

Name: Mandy Epler Brown

Title: Senior Vice President

[Signature Page to First Amendment to Second Lien Credit Agreement]

**PENFUND CAPITAL FUND VI LIMITED
PARTNERSHIP**

as a Second Lien Lender

By: PENFUND CAPITAL PARTNERS VI INC.,
as its general partner

By: /s/ Jeremy Thompson

Name: Jeremy Thompson

Title: Authorized Signatory

**PENFUND CAPITAL FUND VI U.S. LIMITED
PARTNERSHIP**

as a Second Lien Lender

By: PENFUND CAPITAL PARTNERS VI INC.,
as its general partner

By: /s/ Jeremy Thompson

Name: Jeremy Thompson

Title: Authorized Signatory

**PENFUND CAPITAL FUND V-A LIMITED
PARTNERSHIP**

as an Second Lien Lender

By: PENFUND CAPITAL PARTNERS V INC.,
as its general partner

By: /s/ Jeremy Thompson

Name: Jeremy Thompson

Title: Authorized Signatory

[Signature Page to First Amendment to Second Lien Credit Agreement]

**PENFUND CAPITAL FUND V-B LIMITED
PARTNERSHIP**

as a Second Lien Lender

By: PENFUND CAPITAL PARTNERS V INC.,
as its general partner

By: /s/ Jeremy Thompson

Name: Jeremy Thompson

Title: Authorized Signatory

**PENFUND CAPITAL FUND V-C LIMITED
PARTNERSHIP**

as a Second Lien Lender

By: PENFUND CAPITAL PARTNERS V INC.,
as its general partner

By: /s/ Jeremy Thompson

Name: Jeremy Thompson

Title: Authorized Signatory

**PENFUND CAPITAL FUND V (US) LIMITED
PARTNERSHIP**

as a Second Lien Lender

By: PENFUND CAPITAL PARTNERS V INC.,
as its general partner

By: /s/ Jeremy Thompson

Name: Jeremy Thompson

Title: Authorized Signatory

[Signature Page to First Amendment to Second Lien Credit Agreement]

**PORTFOLIO ADVISORS CREDIT STRATEGIES
FUND, L.P.,**

as a Second Lien Lender

By: PACSF GP, LLC,
as its general partner

By: /s/ William Indelicato

Name: William Indelicato

Title: Managing Member

PACS INTERMEDIATE, L.P.,

as a Second Lien Lender

By: PACSF GP, LLC,
as its general partner

By: /s/ William Indelicato

Name: William Indelicato

Title: Managing Member

[Signature Page to First Amendment to Second Lien Credit Agreement]

Annex I
March 2020 Incremental Term Loan Commitment
Schedule

	March 2020 Incremental Term Loan Commitment	Pro Rata Share of March 2020 Incremental Term Loan Commitment
Green Equity Investors VI, L.P.	\$ 3,524,437.69	62.65667%
Green Equity Investors Side VI, L.P.	\$ 2,100,562.31	37.34333%
Total	\$ 5,625,000.00	100.00000%

**2014 STOCK OPTION PLAN OF
HOTSHINE HOLDINGS, INC.**

Hotshine Holdings, Inc., a Delaware corporation (the "Company"), hereby adopts this 2014 Stock Option Plan of Hotshine Holdings, Inc. (the "Plan"). The purposes of the Plan are as follows:

(1) To further the growth, development and financial success of the Company and its Subsidiaries (as defined herein) by providing additional incentives to Employees, Consultants and Independent Directors (as such terms are defined below) of the Company and its Subsidiaries who have been or will be given responsibility for the management or administration of the Company's or one of its Subsidiaries' business affairs, by assisting them to become owners of Common Stock (as defined herein), thereby enabling them to benefit directly from the growth, development and financial success of the Company and its Subsidiaries.

(2) To enable the Company and its Subsidiaries to obtain and retain the services of the type of professional, technical and managerial Employees, Consultants and Independent Directors considered essential to the long-range success of the Company and its Subsidiaries by providing and offering them an opportunity to become owners of Common Stock through the exercise of Options (as defined herein), including, in the case of certain Employees, Options that are intended to qualify as "incentive stock options" under Section 422 of the Code (as defined herein).

**ARTICLE I.
DEFINITIONS**

Whenever the following terms are used in this Plan, they shall have the meaning specified below unless the context clearly indicates to the contrary. The singular pronoun shall include the plural where the context so indicates.

Section 1.1 "Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person where "control" shall have the meaning given such term under Rule 405 of the Securities Act.

Section 1.2 "Board" shall mean the Board of Directors of the Company.

Section 1.3 "Closing" shall mean the consummation of the transactions contemplated by that certain Agreement and Plan of Merger by and among Hotshine Holdings, Inc., Hotshine MergerCo, Inc., Mister Car Wash Holdings, Inc., ONCAP Investment Partners II Inc., dated as of July 14, 2014.

Section 1.4 "Code" shall mean the Internal Revenue Code of 1986, as amended.Section 1.5 "Committee" shall mean the Committee appointed as provided in Section 6.1.

Section 1.6 "Common Stock" shall mean the common stock, par value \$0.01 per share, of the Company.

Section 1.7 “Company” shall mean Hotshine Holdings, Inc., a Delaware corporation. In addition, “Company” shall mean any corporation assuming, or issuing new employee stock options in substitution for, Incentive Stock Options outstanding under the Plan in a transaction to which Section 424(a) of the Code applies.

Section 1.8 “Consultant” shall mean any consultant or adviser if: (a) the consultant or adviser renders *bona fide* services to the Company or a Subsidiary thereof; (b) the services rendered by the consultant or adviser are not in connection with the offer or sale of securities in a capital-raising transaction and do not directly or indirectly promote or maintain a market for the Company’s securities; and (c) the consultant or adviser is a natural person.

Section 1.9 “Corporate Event” shall mean, as determined by the Committee (or by the Board in the case of Options granted to Independent Directors) in its reasonable discretion, any transaction or event described in Section 7.1(a) or any unusual or nonrecurring transaction or event affecting the Company, any Affiliate of the Company, or the financial statements of the Company or any Affiliate of the Company, or any change in applicable laws, regulations, or accounting principles.

Section 1.10 “Director” shall mean a member of the Board.

Section 1.11 “Eligible Representative” for an Optionee shall mean such Optionee’s personal representative or such other person as is empowered under a deceased Optionee’s will or the then-applicable laws of descent and distribution to represent the Optionee hereunder.

Section 1.12 “Employee” shall mean, with respect to any entity, any employee of such entity (as defined in accordance with the regulations and revenue rulings then applicable under Section 3401(c) of the Code).

Section 1.13 “Equity Restructuring” shall mean a non-reciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, spin-off, rights offering or recapitalization through a large, nonrecurring cash dividend, that affects the shares of Common Stock (or other securities of the Company) or the share price of the Common Stock (or other securities of the Company) and causes a change in the per share value of the Common Stock underlying outstanding Options.

Section 1.14 “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

Section 1.15 “Fair Market Value” of a share of Common Stock as of a given date shall be:

(a) The closing price of a share of Common Stock on the New York Stock Exchange, Nasdaq or such other principal exchange on which such shares are then trading, if any (or as reported on any composite index which includes the New York Stock Exchange, Nasdaq or such other principal exchange), on the most recent trading day prior to such determination date on which a sale occurred; or

(b) If Common Stock is not traded on an exchange but is quoted on a quotation system, the mean between the closing representative bid and asked prices for a share of Common Stock on the most recent trading day prior to such determination date on which sales prices or bid and asked prices, as applicable, are reported by such quotation system; or

(c) If Common Stock is not publicly traded on an exchange and not quoted on a quotation system, the fair market value of a share of Common Stock as determined by the Board in its reasonable discretion.

Section 1.16 “Incentive Stock Option” shall mean an Option that conforms to the applicable provisions of Sections 422 and 424 of the Code and that is designated as an Incentive Stock Option by the Committee.

Section 1.17 “Independent Director” shall mean a member of the Board who is not (a) an Employee of the Company or any of its Subsidiaries or (b) an employee, principal, partner or other Affiliate of any of the Principal Stockholders.

Section 1.18 “Initial Public Offering” shall mean the first underwritten public offering of the Common Stock pursuant to an effective registration statement filed by the Company with the United States Securities and Exchange Commission (other than on Forms S-4 or S-8 or successors to such forms) under the Securities Act.

Section 1.19 “Non-Qualified Stock Option” shall mean an Option which is not an “incentive stock option” within the meaning of Section 422 of the Code.

Section 1.20 “Officer” shall mean an officer of the Company, as defined in Rule 16a-1(f) under the Exchange Act, as such Rule may be amended from time to time.

Section 1.21 “Option” shall mean an option granted under the Plan to purchase Common Stock. Subject to Section 3.2, an Option shall, as determined by the Committee, be either an Incentive Stock Option or a Non-Qualified Stock Option.

Section 1.22 “Optionee” shall mean an Employee, Consultant or Independent Director to whom an Option is granted under the Plan.

Section 1.23 “Person” shall mean an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature.

Section 1.24 “Plan” shall mean this 2014 Stock Option Plan of Hotshine Holdings, Inc., as amended from time to time.

Section 1.25 “Principal Stockholders” shall mean (a) Green Equity Investors VI, L.P., (b) Green Equity Investors Side VI, L.P., (c) LGP Associates VI-A, LLC, (d) LGP Associates VI-B LLC, and (e) the Affiliates of the Persons described in Sections 1.25(a) through (d); *provided* that in no event shall the Company or any of its Subsidiaries be considered a Principal Stockholder.

Section 1.26 “Rule 16b-3” shall mean Rule 16b-3 promulgated under the Exchange Act, as such Rule may be amended from time to time.

Section 1.27 “Securities Act” shall mean the Securities Act of 1933, as amended. Section 1.28 “Stock Option Agreement” shall have the meaning set forth in Section 4.1. Section 1.29 “Stockholders Agreement” shall mean that certain Hotshine Holdings, Inc.

Stockholders Agreement, entered into as of August 21, 2014, as it may be amended from time to time.

Section 1.30 “Subsidiary” of any entity shall mean any entity in an unbroken chain of entities beginning with such entity if each of the entities other than the last entity in the unbroken chain then owns stock or ownership interests possessing 50% or more of the total combined voting power of all classes of stock or ownership interests in one of the other entities in such chain.

Section 1.31 “Termination of Consultancy” shall mean the time when the engagement of an Optionee as a Consultant to the Company or a Subsidiary thereof is terminated for any reason, with or without cause, including, but not by way of limitation, by resignation, discharge, death or retirement, but excluding a termination where there is a simultaneous commencement of employment with the Company or any Subsidiary thereof and/or the Consultant becomes (or remains) a Director. The Committee, in its sole discretion, shall determine the effect of all matters and questions relating to Termination of Consultancy.

Section 1.32 “Termination of Directorship” shall mean the time when an Optionee who is an Independent Director ceases to be a Director for any reason, including but not by way of limitation, a termination by resignation, failure to be elected or appointed, death or retirement. The Board, in its sole discretion, shall determine the effect of all matters and questions relating to Termination of Directorship.

Section 1.33 “Termination of Employment” shall mean the time when the employee- employer relationship between an Optionee and the Company (and its Subsidiaries), is terminated for any reason, with or without cause, including, but not by way of limitation, a termination by resignation, discharge, death or retirement, but excluding a termination where there is a simultaneous reemployment by the Company or one of its Subsidiaries of the Employee and/or the Employee becomes a Director. The Committee shall determine the effect of all matters and questions relating to Termination of Employment for purposes of the Plan, including, but not by way of limitation, the question of whether a Termination of Employment resulted from a discharge for cause for purposes of the Plan, and all questions of whether a particular leave of absence constitutes a Termination of Employment for purposes of the Plan; *provided, however*, that, with respect to Incentive Stock Options, a leave of absence shall constitute a Termination of Employment if, and to the extent that, such leave of absence interrupts employment for the purposes of Section 422(a)(2) of the Code and the then-applicable regulations and revenue rulings under Section 422(a)(2) of the Code; *provided, further*, that any Incentive Stock Option that remains outstanding following the time an Optionee ceases to be an Employee (even if the Optionee continues to serve as a Director) shall become a Non-Qualified Stock Option as of the three-month anniversary of the date the Optionee ceases to be an Employee.

Section 1.34 "Termination of Services" shall mean the time of any Termination of Employment, Termination of Consultancy or Termination of Directorship, as applicable, following which an Optionee no longer provides any services to the Company or any Subsidiary thereof as (a) an Employee, (b) a Consultant, or (c) an Independent Director.

ARTICLE II.
SHARES SUBJECT TO PLAN

Section 2.1 Shares Subject to Plan. The shares of stock subject to Options shall be shares of Common Stock. Subject to Section 7.1, the aggregate number of such shares which may be issued upon exercise of Options shall not exceed 386,979.00 shares of Common Stock.

Section 2.2 Unexercised Options. If any Option (or portion thereof) expires or is canceled without having been fully exercised, the number of shares of Common Stock subject to such Option (or portion thereof), but as to which such Option was not exercised prior to its expiration or cancellation, may again be optioned hereunder, subject to the limitations of Section 2.1.

ARTICLE III.
GRANTING OF OPTIONS

Section 3.1 Eligibility. Subject to Section 3.2, any (a) Employee of the Company or one of its Subsidiaries; (b) Consultant; or (c) Independent Director shall be eligible to be granted Options.

Section 3.2 Qualification of Incentive Stock Options. Notwithstanding Section 3.1, no Incentive Stock Option shall be granted to any person who is not an Employee of the Company or one of its corporate Subsidiaries.

Section 3.3 Granting of Options to Employees and Consultants

(a) The Committee shall from time to time:

(i) Select from among the Employees and Consultants of the Company and any of its Subsidiaries (including those to whom Options have been previously granted under the Plan) such of them as in its opinion should be granted Options;

(ii) Determine the number of shares of Common Stock to be subject to such Options granted to such Employees and Consultants and, subject to Section 3.2, determine whether such Options are to be Incentive Stock Options or Non-Qualified Stock Options; and

(iii) Determine the terms and conditions of such Options, consistent with the Plan.

(b) Upon the selection of an Employee or Consultant of the Company or any

of its Subsidiaries to be granted an Option pursuant to Section 3.3(a), the Committee shall instruct the corporate secretary or another authorized Officer to issue such Option and may impose such conditions on the grant of such Option as it deems appropriate. Without limiting the generality of the preceding sentence, the Committee may require as a condition to the grant of an Option to such Employee or Consultant that such Employee or Consultant surrender for cancellation some or all of the unexercised Options which have been previously granted to him or her. An Option the grant of which is conditioned upon such surrender may have an Option price lower (or higher) than the Option price of the surrendered Option, may cover the same (or a lesser or greater) number of shares as the surrendered Option, may contain such other terms as the Committee deems appropriate, and shall be exercisable in accordance with its terms, without regard to the number of shares, price, period of exercisability or any other term or condition of the surrendered Option.

Section 3.4 Granting of Options to Independent Directors

(a) The Board may from time to time:

(i) Select from among the Independent Directors (including those to whom Options have previously been granted under the Plan) such of them as in its opinion should be granted Options;

(ii) Determine the number of shares of Common Stock to be subject to such Options granted to such selected Independent Directors;
and

(iii) Determine the terms and conditions of such Options, consistent with the Plan;*provided, however*, that all Options granted to Independent Directors shall be Non- Qualified Stock Options.

(b) Upon the selection of an Independent Director to be granted an Option pursuant to Section 3.4(a), the Board shall instruct the corporate secretary or another authorized Officer to issue such Option and may impose such conditions on the grant of such Option as it deems appropriate. Without limiting the generality of the preceding sentence, the Board may require as a condition to the grant of an Option to an Independent Director that the Independent Director surrender for cancellation some or all of the unexercised Options which have been previously granted to him or her. An Option the grant of which is conditioned upon such surrender may have an Option price lower (or higher) than the Option price of the surrendered Option, may cover the same (or a lesser or greater) number of shares as the surrendered Option, may contain such other terms as the Board deems appropriate, and shall be exercisable in accordance with its terms, without regard to the number of shares, price, period of exercisability or any other term or condition of the surrendered Option.

**ARTICLE IV.
TERMS OF OPTIONS**

Section 4.1 Stock Option Agreement. Each Option shall be evidenced by a written stock option agreement ("Stock Option Agreement"), which shall be executed by the Optionee and an authorized Officer and which shall contain such terms and conditions as the Committee (or the Board in the case of Options granted to Independent Directors) shall determine, consistent with the Plan. Stock Option Agreements evidencing Incentive Stock Options shall contain such terms and conditions as may be necessary to qualify such Options as "incentive stock options" within the meaning of Section 422 of the Code.

Section 4.2 Exercisability of Options

(a) Each Option shall become exercisable according to the terms of the applicable Stock Option Agreement *provided, however*, that by a resolution adopted after an Option is granted the Committee (or the Board in the case of Options granted to Independent Directors) may, on such terms and conditions as it may determine to be appropriate, accelerate the time at which such Option or any portion thereof may be exercised.

(b) Except as otherwise provided in the applicable Stock Option Agreement, no portion of an Option which is unexercisable at Termination of Services shall thereafter become exercisable.

(c) To the extent that the aggregate Fair Market Value of stock with respect to which "incentive stock options" (within the meaning of Section 422 of the Code, but without regard to Section 422(d) of the Code) are exercisable for the first time by an Optionee during any calendar year (under the Plan and all other incentive stock option plans of the Company or any Subsidiary thereof) exceeds \$100,000, such options shall be treated and taxable as Non-Qualified Stock Options. The rule set forth in the preceding sentence shall be applied by taking options into account in the order in which they were granted, and any stock certificate issued upon exercise of options shall designate whether such stock was acquired upon exercise of an Incentive Stock Option. For purposes of these rules, the Fair Market Value of stock shall be determined as of the date of grant of the Option granted with respect to such stock.

Section 4.3 Option Price. The price of the shares subject to each Option shall be set by the Committee (or the Board in the case of Options granted to Independent Directors); *provided, however*, that in the case of an Incentive Stock Option, the price per share shall be not less than 100% of the Fair Market Value of such shares on the date such Option is granted; and *provided, further*, that in the case of an Incentive Stock Option granted to an individual then owning (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or any of its Subsidiaries, the price per share shall not be less than 110% of the Fair Market Value of such shares on the date such Incentive Stock Option is granted.

Section 4.4 Expiration of Options. No Option may be exercised to any extent by anyone after the first to occur of the following events (or such earlier date as may be set forth in any applicable Stock Option Agreement):

(a) With respect to a Non-Qualified Stock Option, the expiration of ten years from the date the Non-Qualified Stock Option was granted; or

(b) With respect to an Incentive Stock Option in the case of an Optionee owning (within the meaning of Section 424(d) of the Code), at the time the Incentive Stock Option was granted, 10% or less of the total combined voting power of all classes of stock of the Company or any Subsidiary thereof, the expiration of ten years from the date the Incentive Stock Option was granted; or

(c) With respect to an Incentive Stock Option in the case of an Optionee owning (within the meaning of Section 424(d) of the Code), at the time the Incentive Stock Option was granted, more than 10% of the total combined voting power of all classes of stock of the Company or any Subsidiary thereof, the expiration of five years from the date the Incentive Stock Option was granted.

Section 4.5 At-Will Services. Nothing in the Plan or in any Stock Option Agreement hereunder shall confer upon any Optionee any right to continue in the employ of, or service as a Consultant or Director to, the Company or any Subsidiary thereof, or shall interfere with or restrict in any way the rights of the Company and any Subsidiary thereof, which are hereby expressly reserved, to discharge any Optionee at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in a written agreement between the Optionee and the Company or any Subsidiary thereof.

ARTICLE V. EXERCISE OF OPTIONS

Section 5.1 Person Eligible to Exercise. During the lifetime of the Optionee, only he or she may exercise an Option (or any portion thereof); *provided, however*, that the Optionee's Eligible Representative may exercise such Optionee's Option during the period of his or her disability, notwithstanding that an Option so exercised may not qualify as an Incentive Stock Option. After the death of the Optionee, any exercisable portion of an Option may, prior to the time when such portion becomes unexercisable under the Plan or the applicable Stock Option Agreement, be exercised by his or her Eligible Representative.

Section 5.2 Partial Exercise. At any time and from time to time prior to the time when the Option becomes unexercisable under the Plan or the applicable Stock Option Agreement, the exercisable portion of an Option may be exercised in whole or in part; *provided, however*, that the Company shall not be required to issue fractional shares and the Committee (or the Board in the case of Options granted to Independent Directors) may, by the terms of the Stock Option Agreement, require any partial exercise to exceed a specified minimum number of shares.

Section 5.3 Manner of Exercise. An exercisable Option, or any exercisable portion thereof, may be exercised solely by delivery to the corporate secretary of all of the following prior to the time when such Option or such portion becomes unexercisable under the Plan or the applicable Stock Option Agreement:

(a) Notice in writing signed by the Optionee or his or her Eligible Representative stating that such Option or portion is exercised, and specifically stating the number of shares with respect to which the Option is being exercised;

(b) A copy of the Stockholders Agreement signed by the Optionee or Eligible Representative, as applicable;

(c) Full payment for the shares with respect to which such Option or portion is thereby exercised:

(i) In cash, by certified or bank cashier check, or by wire transfer; or

(ii) With the consent of the Committee (or the Board in the case of Options granted to Independent Directors) (which shall be granted in its reasonable discretion), (A) shares of Common Stock owned by the Optionee, duly endorsed for transfer to the Company with a Fair Market Value on the date of delivery equal to the aggregate exercise price of the Option or exercised portion thereof (provided such shares of Common Stock have been held by the Optionee for at least six (6) months after the date on or after which the Optionee first acquired such Shares and such Shares became vested); (B) except with respect to Incentive Stock Options, shares of Common Stock issuable to the Optionee upon exercise of the Option, with a Fair Market Value on the date of Option exercise equal to the aggregate exercise price of the Option or exercised portion thereof; (C) following an Initial Public Offering and pursuant to any policies and procedures adopted by the Committee (or the Board in the case of Options granted to Independent Directors), delivery of a notice that the Optionee has placed a market sell order with a broker with respect to shares of Common Stock then issuable upon exercise of the Option, and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Option exercise price; or (D) any combination of the consideration listed in this Section 5.3(c)(ii) or any other property of any kind which is deemed to constitute good and valuable consideration by the Committee (or the Board in the case of Options granted to Independent Directors);

(d) The payment to the Company (in cash, by certified or bank cashier check, by wire transfer or by any other means of payment approved by the Committee) of all amounts necessary to satisfy any and all federal, state and local tax withholding requirements arising in connection with the exercise of the Option; *provided* that the Committee may, in its reasonable discretion, allow the Optionee to satisfy the withholding tax obligations arising in connection with the exercise of any Option under the Plan by electing to have the Company withhold from the Common Stock to be issued that number of shares of Common Stock having a Fair Market Value equal to the amount required to be withheld (based on minimum applicable statutory withholding rates), determined on the date that the amount of tax to be withheld is determined;

(e) Such representations and documents as the Committee (or the Board in the case of Options granted to Independent Directors) deems necessary or advisable to effect compliance with all applicable provisions of the Securities Act, Exchange Act and any other federal or state securities laws or regulations. The Committee (or the Board in the case of Options granted to Independent Directors) may, in its sole discretion, also take whatever additional actions it deems appropriate to effect such compliance including, without limitation, placing legends on share certificates and issuing stop-transfer orders to transfer agents and registrars; and

(f) In the event that the Option or portion thereof shall be exercised pursuant to Section 5.1 by any person or persons other than the Optionee, appropriate proof of the right of such person or persons to exercise the Option or portion thereof.

Section 5.4 Conditions to Issuance of Shares. The shares of Common Stock issuable upon the exercise of an Option, or any portion thereof, may be either previously authorized but unissued shares or issued shares which have then been reacquired by the Company. The Company shall not be required to record on the books of the Company any shares of Common Stock purchased upon the exercise of any Option or portion thereof or issue or deliver any certificate or certificates for shares of Common Stock purchased upon the exercise of any Option or portion thereof prior to fulfillment of all of the following conditions:

(a) The admission of such shares to listing on any and all stock exchanges on which such class of stock is then listed;

(b) The execution by the Optionee and delivery to the Company of the Stockholders Agreement;

(c) The completion of any registration or other qualification of such shares under any state or federal law or under the rulings or regulations of the Securities and Exchange Commission or any other governmental regulatory body, which the Committee (or the Board in the case of Options granted to Independent Directors) shall, in its sole discretion, deem necessary or advisable;

(d) The obtaining of any approval or other clearance from any state or federal governmental agency which the Committee (or the Board in the case of Options granted to Independent Directors) shall, in its sole discretion, determine to be reasonably necessary or advisable; and

(e) The payment to the Company of all amounts which it is required to withhold under federal, state or local law in connection with the exercise of the Option.

Section 5.5 Rights as Stockholders. The holder of an Option shall not be, nor have any of the rights or privileges of, a stockholder of the Company in respect of any shares purchasable upon the exercise of any part of an Option unless and until such holder has signed the Stockholders Agreement and complied with the conditions set forth in Section 5.4.

Section 5.6 Transfer Restrictions. Shares acquired upon exercise of an Option shall be subject to the terms and conditions of the Stockholders Agreement. In addition, the Committee (or the Board in the case of Options granted to Independent Directors), in its sole discretion, may impose further restrictions on the transferability of the shares purchasable upon the exercise of an Option as it deems appropriate. Any such restriction shall be set forth in the respective Stock Option Agreement and may be referred to on any certificates evidencing such shares. The Committee may require an Employee to give the Company prompt notice of any disposition of shares of Common Stock acquired by exercise of an Incentive Stock Option within two years from the date of granting such Option or one year after the transfer of such shares to such Employee. The Committee may direct that any certificates evidencing shares acquired by exercise of an Incentive Stock Option refer to such requirement.

ARTICLE VI. ADMINISTRATION

Section 6.1 Committee. Prior to an Initial Public Offering, the Committee shall be the full Board, *provided* that the Board may delegate its authority hereunder in accordance with Section 6.2. Following an Initial Public Offering, if any, the full Board shall administer the Plan unless and until there is appointed a Compensation Committee (or another committee or a subcommittee of the Board assuming the functions of the Committee under the Plan) that, unless otherwise determined by the Board, shall consist solely of two or more Independent Directors appointed by and holding office at the pleasure of the Board, each of whom is both a “non- employee director” as defined by Rule 16b-3 and an “outside director” for purposes of Section

162(m) of the Code); *provided that any action taken by the Committee shall be valid and effective, whether or not members of the Committee at the time of such action are later determined not to have satisfied the requirements for membership set forth in this Section 6.1 or otherwise provided in the charter of the Committee. In its sole discretion, the Board may at any time and from time to time exercise any and all rights and duties of the Committee under the Plan except with respect to matters which under Rule 16b-3 or Section 162(m) of the Code (in each case, to the extent applicable), or any regulations or rules issued thereunder, are required to be determined in the sole discretion of the Committee. The governance of the Committee shall be subject to the charter of the Committee as approved by the Board.*

Section 6.2 Delegation of Authority. The Committee may, but need not, from time to time delegate some or all of its authority to grant Options under the Plan to a committee or subcommittee consisting of one or more members of the Committee or of one or more Officers; *provided, however*, that the Committee may not delegate its authority to grant Options to individuals (a) who are subject on the date of the grant to the reporting rules under Section 16(a) of the Exchange Act, (b) whose compensation the Committee determines is, or may become, subject to the deduction limitations set forth in Section 162(m) of the Code or (c) who are Officers who are delegated authority by the Committee hereunder. Any delegation hereunder shall be subject to the restrictions and limits that the Committee specifies at the time of such delegation, and the Committee may at any time rescind the authority so delegated or appoint a new delegatee. At all times, the delegatee appointed under this Section 6.2 shall serve in such capacity at the pleasure of the Committee.

Section 6.3 Duties and Powers of the Committee. It shall be the duty of the Committee to conduct the general administration of the Plan in accordance with its provisions. The Committee shall have the power to interpret the Plan and the Options and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. Notwithstanding the foregoing, the full Board, acting by a majority of its members in office, shall conduct the general administration of the Plan with respect to Options granted to Independent Directors. Any such interpretations and rules in regard to Incentive Stock Options shall be consistent with the terms and conditions applicable to "incentive stock options" within the meaning of Section 422 of the Code. All determinations and decisions made by the Committee under any provision of the Plan or of any Option granted thereunder shall be final, conclusive and binding on all persons.

Section 6.4 Compensation, Professional Assistance, Good Faith Actions. The members of the Committee shall receive such compensation, if any, for their services hereunder as may be determined by the Board. All expenses and liabilities incurred by the members of the Committee or the Board in connection with the administration of the Plan shall be borne by the Company. The Committee or the Board may employ attorneys, consultants, accountants, appraisers, brokers or other persons. The Committee, the Company and the Officers and Directors shall be entitled to rely upon the advice, opinions or valuations of any such persons. All actions taken and all interpretations and determinations made by the Committee and the Board in good faith shall be final and binding upon all Optionees, the Company and all other interested persons. No member of the Board shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or the Options, and all members of the Board shall be fully protected by the Company in respect to any such action, determination or interpretation.

ARTICLE VII.
OTHER PROVISIONS

Section 7.1 Changes in Common Stock; Disposition of Assets and Corporate Events

(a) Subject to Section 7.1(e), in the event that the Committee (or the Board in the case of Options granted to Independent Directors) determines in its reasonable discretion that any dividend or other distribution, recapitalization, reclassification, stock split, reverse stock split, reorganization, merger, consolidation, combination, repurchase, liquidation, dissolution, or sale, transfer, exchange or other disposition of all or substantially all of the assets of the Company, or exchange of Common Stock or other securities of the Company, issuance of warrants or other rights to purchase Common Stock or other securities of the Company, or other similar corporate transaction or event (other than an Equity Restructuring), affects the Common Stock such that an adjustment is determined by the Committee (or the Board in the case of Options granted to Independent Directors) to be appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to an Option, then the Committee (or the Board in the case of Options granted to Independent Directors) shall, in such manner as it may deem equitable, adjust any or all of:

(i) The number and kind of shares of Common Stock (or other securities or property) with respect to which Options may be granted under the Plan (including, but not limited to, adjustments of the limitations in Section 2.1 on the maximum number and kind of shares which may be issued);

(ii) The number and kind of shares of Common Stock (or other securities or property) subject to outstanding Options;

(iii) The exercise price with respect to any Option; and

(iv) The financial or other “targets” specified in each Stock Option Agreement for determining the exercisability of Options, if applicable.

(b) Subject to Section 7.1(e) and the terms of outstanding Stock Option Agreements, upon the occurrence of a Corporate Event or other transaction or event described in Section 7.1(a) or any unusual or nonrecurring transactions or events (other than an Equity Restructuring) affecting the Company, any Affiliate of the Company, or the financial statements of the Company or any Affiliate, or of changes in applicable laws, regulations, or accounting principles, the Committee (or the Board in the case of options granted to Independent Directors), in its sole discretion, is hereby authorized to take any one or more of the following actions whenever the Committee (or the Board in the case of Options granted to Independent Directors) determines that such action is appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan or with respect to any Option under this Plan, to facilitate such Corporate Event or transactions or events or to give effect to such changes in laws, regulations or principles:

(i) In its sole discretion, and on such terms and conditions as it deems appropriate, the Committee (or the Board in the case of Options granted to Independent Directors) may provide, either by the terms of the applicable Stock Option Agreement or by action taken prior to the occurrence of such Corporate Event and either automatically or upon the Optionee’s request, for either (A) the purchase of any such Option for an amount of cash,

securities, or other property equal to the amount that could have been attained upon the exercise of the vested portion of such Option (and such additional portion of the Option as the Board or Committee may determine) immediately prior to the occurrence of such transaction or event (and, for the avoidance of doubt, if as of the date of the occurrence of such transaction or event the Committee (or the Board in the case of Options granted to Independent Directors) determines in good faith that no amount would have been obtained upon the exercise of such Option, then the Option may be terminated by the Company without payment), or (B) the replacement of such vested (and other) portion of such Option with other rights, cash, securities or other property selected by the Committee (or the Board in the case of Options granted to Independent Directors) in its sole discretion;

(ii) In its sole discretion, the Committee (or the Board in the case of Options granted to Independent Directors) may provide, either by the terms of the applicable Stock Option Agreement or by action taken prior to the occurrence of such Corporate Event, that the Option (or any portion thereof) cannot be exercised after such event;

(iii) In its sole discretion, and on such terms and conditions as it deems appropriate, the Committee (or the Board in the case of Options granted to Independent Directors) may provide, either by the terms of the applicable Stock Option Agreement or by action taken prior to the occurrence of such Corporate Event, that for a specified period of time prior to such Corporate Event, such Option shall be exercisable as to all shares covered thereby or a specified portion of such shares, notwithstanding anything to the contrary in this Plan or the applicable Stock Option Agreement;

(iv) In its sole discretion, and on such terms and conditions as it deems appropriate, the Committee (or the Board in the case of Options granted to Independent Directors) may provide, either by the terms of the applicable Stock Option Agreement or by action taken prior to the occurrence of such Corporate Event, that upon such event, such Option (or any portion thereof) shall be assumed by the successor or survivor corporation, or a parent or Subsidiary thereof (including without limitation any common parent of the Company and any other company or companies), or shall be substituted for by similar options, rights or awards covering the stock of the successor or survivor corporation, or a parent or Subsidiary thereof (including without limitation any common parent of the Company and any other company or companies), with appropriate adjustments as to the number and kind of shares and prices;

(v) In its sole discretion, and on such terms and conditions as it deems appropriate, the Committee (or the Board in the case of Options granted to Independent Directors) may make adjustments in the number and type of shares of Common Stock (or other securities or property) subject to outstanding Options (or any portion thereof) and/or in the terms and conditions of (including the exercise price), and the criteria included in, outstanding Options and Options which may be granted in the future; and

(vi) In its sole discretion, and on such terms and conditions as it deems appropriate, the Committee (or the Board, in the case of Options granted to Independent Directors) may, for reasons of administrative convenience, provide that some or all Options may not be exercised during a specified period of not more than thirty (30) days prior to the consummation of a Corporate Event.

(c) In connection with the occurrence of any Equity Restructuring:

(i) The number and type of securities subject to each outstanding Option and the exercise price thereof, if applicable, shall be equitably adjusted. The adjustments provided under this Section 7.1(c)(i) shall be nondiscretionary and shall be final and binding on the affected Optionee and the Company.

(ii) The Committee (or the Board, in the case of Options granted to Independent Directors) shall make such equitable adjustments, if any, as the Committee (or the Board, in the case of Options granted to Independent Directors) in its discretion may deem appropriate to reflect such Equity Restructuring with respect to the aggregate number and kind of shares of Common Stock (or other securities or property) that may be issued under the Plan (including, but not limited to, adjustments of the limitation set forth in Section 2.1).

(d) Subject to Section 7.1(e), the Committee (or the Board in the case of Options granted to Independent Directors) may, in its sole discretion, include such further provisions and limitations in any Stock Option Agreement as it may deem equitable and in the best interests of the Company and its Affiliates.

(e) With respect to Incentive Stock Options, no adjustment or action described in this Section 7.1 or in any other provision of the Plan shall be authorized to the extent that such adjustment or action would cause the Plan to violate Section 422(b)(1) of the Code or any successor provisions thereto, unless the Committee determines that the Plan and/or the Options are not to comply with Section 422(b)(1) of the Code. If any rounding of the number of shares of Common Stock subject to any Option is required in connection with any adjustment or action described in this Section 7.1, the number of shares of Common Stock subject to such Option shall always be rounded down to the next higher whole number.

(f) Notwithstanding the foregoing provisions of this Section 7.1, unless otherwise determined by the Committee (or the Board in the case of Options granted to Independent Directors), no adjustments described in this Section 7.1 shall be made in connection with (i) any equity investment by the Company's stockholders in the Company pursuant to a Corporate Event in connection with which the shares of Common Stock are sold at the then-current Fair Market Value or (ii) any equity investment by third parties which results in a dilution of ownership of the Common Stock affecting all of the Company's stockholders in the same manner.

Section 7.2 Options Not Transferable. No Option or interest or right therein or part thereof shall be liable for the debts, contracts or engagements of the Optionee or his or her successors in interest or shall be subject to disposition by transfer, alienation, anticipation, pledge, encumbrance, assignment or any other means whether such disposition be voluntary or involuntary or by operation of law, by judgment, levy, attachment, garnishment or any other legal or equitable proceedings (including bankruptcy), and any attempted disposition thereof shall be null and void and of no effect; *provided, however*, that nothing in this Section 7.2 shall prevent transfers by will or by the applicable laws of descent and distribution.

Section 7.3 Amendment, Suspension or Termination of the Plan The Plan may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Board or the Committee. However, without stockholder approval within twelve (12) months before or after such action, no action of the Board or the Committee may, except as provided in Section 7.1, increase any limit imposed in Section 2.1 on the maximum number of shares which may be issued on exercise of Options, reduce the minimum Option price requirements of Section 4.3, or extend the limit imposed in this Section 7.3 on the period during which Options may be granted. Except as provided by Section 7.1, neither the amendment, suspension nor termination of the Plan shall, without the consent of the holder of the Option, impair any rights or obligations under any Option theretofore granted (other than in a de minimis manner). No Option may be granted during any period of suspension nor after termination of the Plan, and in no event may any Option be granted under this Plan after the expiration of ten years from the date the Plan is adopted by the Board.

Section 7.4 Effect of Plan Upon Other Option and Compensation Plans The adoption of this Plan shall not affect any other compensation or incentive plans in effect for the Company or any Affiliate. Nothing in this Plan shall be construed to limit the right of the Company or any Affiliate (a) to establish any other forms of incentives or compensation for directors, employees or consultants of the Company or any Affiliate; or (b) to grant or assume options otherwise than under this Plan in connection with any proper corporate purpose, including, but not by way of limitation, the grant or assumption of options in connection with the acquisition by purchase, lease, merger, consolidation or otherwise, of the business, stock or assets of any corporation, firm or association.

Section 7.5 Approval of Plan by Stockholders This Plan will be submitted for the approval of the Company's stockholders within twelve (12) months after the date of the Board's initial adoption of this Plan. No Option may be exercised to any extent by anyone unless and until the Plan is so approved by the stockholders, and if such approval has not been obtained by the end of said 12-month period, the Plan and all Options theretofore granted shall thereupon be canceled and become null and void.

Section 7.6 Titles Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of the Plan.

Section 7.7 Conformity to Securities Laws The Plan is intended to conform to the extent necessary with all provisions of (a) the Securities Act and the Exchange Act and any and all regulations and rules promulgated by the Securities and Exchange Commission thereunder and (b) any applicable state and local securities laws and any and all regulations and rules promulgated by any applicable state or local regulatory authority thereunder, in each case to the extent the Company or any Optionee is subject to the provisions thereof. Notwithstanding anything herein to the contrary, the Plan shall be administered, and Options shall be granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and Options granted hereunder shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

Section 7.8 Governing Law To the extent not preempted by federal law, the Plan shall be construed in accordance with and governed by the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof, or principles of conflicts of law of any other jurisdiction which could cause the application of the laws of any jurisdiction other than the State of Delaware.

Section 7.9 Severability In the event any portion of the Plan or any action taken pursuant thereto shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provisions had not been included, and the illegal or invalid action shall be null and void.

Section 7.10 Section 409A. To the extent applicable, the Plan and Stock Option Agreements shall be interpreted in accordance with Section 409A of the Code and the Department of Treasury regulations and other interpretive guidance issued thereunder. Notwithstanding any provision of the Plan to the contrary, in the event that the Committee determines that any Option may be subject to Section 409A of the Code, the Committee may adopt such amendments to the Plan and the applicable Stock Option Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Committee determines are necessary or appropriate to (a) exempt the Option from Section 409A of the Code and/or preserve the intended tax treatment of the benefits provided with respect to the Option, or (b) comply with the requirements of Section 409A of the Code and related Department of Treasury guidance and thereby avoid the application of penalty taxes under such Section 409A. Notwithstanding anything herein to the contrary, no provision of the Plan shall be interpreted or construed to transfer any liability for failure to comply with the requirements of Section 409A of the Code from any Optionee or other Person to the Company or any of its Affiliates, employees or agents.

* * * * *

**NON-QUALIFIED STOCK OPTION AGREEMENT
OF
HOTSHINE HOLDINGS, INC.**

THIS AGREEMENT (the "Agreement") is entered into as of [] (the "Grant Date") by and between Hotshine Holdings, Inc., a Delaware corporation (the "Company"), and [], an employee, consultant or director of the Company or one of its Subsidiaries (hereinafter referred to as the "Optionee").

WHEREAS, the Board of Directors of the Company has approved the 2014 Stock Option Plan of Hotshine Holdings, Inc. (as it may be amended from time to time, the "Plan"), the terms of which are hereby incorporated by reference and made a part of this Agreement;

WHEREAS, the Committee appointed to administer the Plan pursuant to Section 6.1 of the Plan (the "Committee") has determined that it would be to the advantage and best interest of the Company and its shareholders to grant the Non-Qualified Stock Option provided for herein to the Optionee as an inducement to enter into or remain in the service of the Company or one of its Subsidiaries and as an incentive for increased efforts during such service, and has advised the Company thereof and instructed the undersigned officers to issue said Option; and

WHEREAS, the Optionee has entered into a Stockholders Agreement with the Company.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I.
DEFINITIONS

Whenever the following terms are used in this Agreement, they shall have the meaning specified below unless the context clearly indicates to the contrary. Capitalized terms used in this Agreement and not defined below shall have the meaning given such terms in the Plan. The singular pronoun shall include the plural, where the context so indicates.

Section 1.1 "Cash Equivalents" shall mean (a) securities issued or directly and fully guaranteed or insured by the full faith and credit of the United States government; (b) certificates of deposit or bankers acceptances with maturities of one year or less from institutions with at least \$1 billion in capital and surplus and whose long-term debt is rated at least "A-1" by Moody's or the equivalent by Standard & Poor's; (c) commercial paper issued by a corporation rated at least "A-1" by Moody's or the equivalent by Standard & Poor's and in each case maturing within one year; (d) investment funds investing at least ninety-five percent (95%) of their assets in cash or assets of the types described in clauses (a) through (c) above; and (e) securities that are freely tradeable by the holder thereof on the New York Stock Exchange, Nasdaq or another principal exchange and in which there is sufficient trading activity and volume to allow for the orderly disposition of such securities by the holders thereof.

Section 1.2 “Cause” has the meaning provided therefor in the Employment Agreement or, if the Optionee is not at the time party to an effective Employment Agreement with a “Cause” definition, then “Cause” means any of the following: (a) commission of, conviction of, or entry of a plea by the Optionee of *nolo contendere* to a felony that is materially detrimental to the Company or any of its Subsidiaries, its reputation, or its stockholders; (b) malfeasance, willful or gross misconduct, or willful dishonesty of the Optionee that materially and adversely affects the business or affairs of the Company or any of its Subsidiaries, its reputation, or its stockholders; (c) conviction of or entry of a plea by the Optionee of *nolo contendere* to a crime involving fraud; (d) material violation by the Optionee of the ethics/policy code of the Company or any of its Subsidiaries, including breach of duty of loyalty to the Company or such Subsidiary; (e) willful failure by the Optionee to perform his duties and responsibilities hereunder or under any Employment Agreement, which failure has not been cured by the Optionee within fifteen (15) days after written notice thereof to the Optionee from the Company; (f) inappropriate use or disclosure by the Optionee of the Proprietary Information in violation of this Agreement, the Stockholders Agreement or any Employment Agreement that adversely affects the business or the affairs of the Company or any of its Subsidiaries in a material way; or (g) material breach by the Optionee not caused by the Company or any of its Subsidiaries of any terms and conditions of this Agreement, the Stockholders Agreement or any Employment Agreement, which breach has not been cured by the Optionee within fifteen (15) days after written notice thereof to the Optionee from the Company or any of its Subsidiaries.

Section 1.3 “Change in Control” shall mean (a) the sale of all or substantially all of the assets of the Company to any other Person (other than the Company, any of its Subsidiaries, any of the Principal Stockholders or any of their Affiliates, or any employee benefit plan maintained by the Company or any of its Subsidiaries), or (b) a change in beneficial ownership or control of the Company effected through a transaction or series of transactions (other than an offering of Common Stock or other securities to the general public through a registration statement filed with the Securities and Exchange Commission) whereby any “person” or related “group” of “persons” (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) (other than the Company, any of its Subsidiaries, any of the Principal Stockholders or any of their Affiliates, or any employee benefit plan maintained by the Company or any of its Subsidiaries), directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company possessing more than 50% of the total combined voting power of the Company’s securities outstanding immediately after such acquisition.

Section 1.4 “Committee” shall have the meaning set forth in the Recitals hereto.

Section 1.5 “Company” shall have the meaning set forth in the preamble hereto.

Section 1.6 “Disability” shall mean the Board has made a good faith determination that the Optionee has become physically or mentally incapacitated or disabled such that the Optionee is unable to perform for the Company substantially the same services as the Optionee performed prior to incurring such incapacity or disability, and such incapacity or disability exists for an aggregate of four (4) calendar months in any twelve (12) month period. In connection with making such determination, the Company, at its option and expense, shall be entitled to select and retain a physician to confirm the existence of such incapacity or disability, and the determination made by such physician shall be binding on the parties for the purposes of this Agreement.

Section 1.7 “Employment Agreement” shall mean the written employment agreement between the Optionee and the Company or any of its Subsidiaries (or their successors in interest) in effect at such time, if any.

Section 1.8 “Grant Date” shall have the meaning set forth in the preamble hereto.

Section 1.9 “Inventions” shall have the meaning set forth in Section 4.5.

Section 1.10 “Investment” shall mean the aggregate investment of funds by the Principal Stockholders in equity securities of the Company and its Subsidiaries (other than any purchase of equity securities by a Principal Stockholder at any time from any other Principal Stockholder).

Section 1.11 “Investor Return” shall mean the annual compounded pre-tax internal rate of return on the Investment reasonably determined by the Committee with respect to the period beginning on the Closing and ending on the Measurement Date.

Section 1.12 “IPO Date” shall mean the effective date of an Initial Public Offering.

Section 1.13 “Maximum Amount” shall mean, with respect to the Investment, a dollar amount representing the lesser of:

- (a) the amount of Proceeds necessary to result in a Principal Stockholder MOIC equal to [__]; or
- (b) the amount of Proceeds necessary to result in an Investor Return equal to [__]%

Section 1.14 “Measurement Date” shall mean the earlier of (a) the date of the consummation of the first Change in Control after the Closing or (b) the IPO Date.

Section 1.15 “Noncompetition Period” shall mean the period of the Optionee’s employment or services with the Company and the twelve (12) month period thereafter.

Section 1.16 “Option” shall mean the Non-Qualified Stock Option to purchase Common Stock granted under this Agreement.

Section 1.17 “Optionee” shall have the meaning set forth in the preamble hereto.

Section 1.18 “Performance-Vesting Option” shall have the meaning set forth in Section 3.1(b).

Section 1.19 “Plan” shall have the meaning set forth in the Recitals hereto.

Section 1.20 “Principal Stockholder MOIC” shall mean the “multiple of invested capital” received by the Principal Stockholders on the Investment as of the Measurement Date, which shall be equal to the ratio of (a) the sum of (i) the amount of all actual Proceeds received by the Principal Stockholders with respect to the Investment on or prior to such Measurement Date and (ii) the aggregate value of the equity securities of the Company held by the Principal Stockholders immediately following the Change in Control or Initial Public Offering, as applicable, that do not constitute Proceeds (determined based on the price per share in connection with the Change in Control or Initial Public Offering) to (b) the amount of the Investment made on or prior to such Measurement Date.

Section 1.21 “Proceeds” shall mean actual cash proceeds received by the Principal Stockholders in respect of the Investment on or after the Closing (other than any cash proceeds received by a Principal Stockholder from another Principal Stockholder), including (a) any cash dividends, cash distributions or cash interest made or paid by the Company or any of its Subsidiaries in respect of the Investment (but excluding any management and similar fees or other amounts payable that are not directly attributable to the Investment) and (b) any cash or Cash Equivalents received for the disposal of any portion of the Investment (including, without limitation, any cash or Cash Equivalents received by the Principal Stockholders on or prior to the Measurement Date upon the conversion of non-Cash Proceeds realized by the Principal Stockholders on the Investment).

Section 1.22 “Proprietary Information” shall mean (a) the name or address of any customer, supplier or affiliate of the Company or any information concerning the transactions or relations of any customer, supplier or affiliate of the Company or any of its shareholders; (b) any information concerning any product, service, technology or procedure offered or used by the Company, or under development by or being considered for use by the Company; (c) any information relating to marketing or pricing plans or methods, capital structure, or any business or strategic plans of the Company; (d) any Inventions; and (e) any other information which the Board has determined by resolution and communicated to the Optionee in writing to be proprietary information for purposes hereof; *provided, however*, that “Proprietary Information” shall not include any information that is or becomes generally known to the public other than through actions of the Optionee in violation of the restrictive covenants set forth in Article IV.

Section 1.23 “Qualifying Termination” shall mean the date of the Optionee’s Termination of Services due to death or Disability.

Section 1.24 “Target Amount” shall mean, with respect to the Investment, a dollar amount representing the lesser of:

- (a) the amount of Proceeds necessary to result in a Principal Stockholder MOIC equal to [____]; or
- (b) the amount of Proceeds necessary to result in an Investor Return equal to [____] %.

Section 1.25 “Time-Vesting Option” shall have the meaning set forth in Section 3.1(a).

ARTICLE II. GRANT OF OPTION

Section 2.1 Grant of Option. In consideration of the Optionee’s agreement to enter into or remain in the employ of, consultancy to or other service relationship with the Company or one of its Subsidiaries, and for other good and valuable consideration, as of the Grant Date, the Company irrevocably grants to the Optionee the Option to purchase any part or all of an aggregate of [____] shares of Common Stock upon the terms and conditions set forth in the Plan and this Agreement.

Section 2.2 Option Subject to Plan. The Option granted hereunder is subject to the terms and provisions of the Plan, including without limitation, Article V and Sections 7.1, 7.2 and 7.3 thereof.

Section 2.3 Option Price. The purchase price of the shares of Common Stock covered by the Option shall be \$[] per share (without commission or other charge), which is not less than 100% of the Fair Market Value of a share of Common Stock as of the Grant Date.

ARTICLE III.
EXERCISABILITY

Section 3.1 Commencement of Exercisability.

(a) Subject to Sections 3.1(c) and 3.3, 60% of the Option (the "Time-Vesting Option") shall become exercisable in five equal and cumulative installments; *provided* that the Optionee remains continuously employed or engaged in active service by the Company or any of its Subsidiaries (and no Termination of Services occurs) from the Grant Date through such date, as follows:

(i) The first installment shall consist of 12% of the shares covered by the Option (20% of the Time-Vesting Option) and shall become exercisable on [];

(ii) The second installment shall consist of an additional 12% of the shares covered by the Option (20% of the Time-Vesting Option) and shall become exercisable on [];

(iii) The third installment shall consist of an additional 12% of the shares covered by the Option (20% of the Time-Vesting Option) and shall become exercisable on [];

(iv) The fourth installment shall consist of an additional 12% of the shares covered by the Option (20% of the Time-Vesting Option) and shall become exercisable on []; and

(v) The fifth installment shall consist of the remaining 12% of the shares covered by the Option (20% of the Time-Vesting Option) and shall become exercisable on [].

Notwithstanding the foregoing, upon the occurrence of a Change in Control of the Company, the Time-Vesting Option shall become fully vested and exercisable immediately prior to the effective date of such Change in Control; *provided* that the Optionee remains continuously employed or engaged in active service by the Company or any of its Subsidiaries (and no Termination of Services occurs) from the Grant Date through the consummation of such Change in Control.

(b) Subject to Sections 3.1(c) and 3.3, 40% of the Option (the "Performance-Vesting Option") shall be eligible to become exercisable; *provided* that the Optionee remains continuously employed or engaged in active service by the Company or any of its Subsidiaries (and no Termination of Services occurs) from the Grant Date through the applicable Measurement Date, as follows:

(i) 20% of the shares covered by the Option (50% of the Performance-Vesting Option) shall become vested and exercisable on the Measurement Date if, as of the Measurement Date, the Principal Stockholders receive Proceeds greater than or equal to the Target Amount; and

(ii) The remaining 20% of the shares covered by the Option (50% of the Performance-Vesting Option) shall become vested and exercisable on the Measurement Date if, as of the Measurement Date, the Principal Stockholders receive Proceeds greater than or equal to the Maximum Amount.

For the avoidance of doubt, the Performance-Vesting Option shall become vested and exercisable immediately prior to the Measurement Date to the extent that the Principal Stockholders receive Proceeds greater than or equal to the Target Amount and/or Maximum Amount, as applicable, as of the Measurement Date; *provided* that the Optionee remains continuously employed or engaged in active service by the Company or any of its Subsidiaries (and no Termination of Services occurs) from the Grant Date through the Measurement Date.

(c) No portion of the Option which is unexercisable at Termination of Services for any reason shall thereafter become exercisable (and such unexercisable portion shall be forfeited as of the date of such Termination of Services); provided that, notwithstanding the foregoing, in the event that a Qualifying Termination occurs prior to any Measurement Date, a portion of the Performance-Vesting Option equal to the portion of the Time-Vesting Option that has already vested as of the date of such Qualifying Termination shall become vested and exercisable such that, immediately following such vesting, an equivalent percentage of the Time-Vesting Option and the Performance-Vesting Option shall be vested and exercisable. No portion of the Performance-Vesting Option which is unexercisable immediately following the Measurement Date (after taking into account any vesting that occurs pursuant to Section 3.1(b) on any Measurement Date) shall thereafter become exercisable (and such unexercisable portion shall be forfeited as of immediately following the Measurement Date).

Section 3.2 Duration of Exercisability. The installments provided for in Section 3.1 are cumulative. Each such installment which becomes exercisable pursuant to Section 3.1 shall remain exercisable until it becomes unexercisable; *provided* that, to the extent the Company provides notice of any Agreement Breach (as defined below) pursuant to Section 3.3(c), the Optionee may not exercise any installment unless and until the Optionee has cured such Agreement Breach.

Section 3.3 Expiration of Option. The Option may not be exercised to any extent by anyone after the first to occur of the following events:

(a) The tenth anniversary of the Grant Date; or

(b) The 90th day following the date of the Optionee's Termination of Services for any reason other than (i) termination by the Company for Cause or (ii) a Qualifying Termination; or

(c) Notwithstanding the provisions of Section 3.1, in the event of the Optionee's Termination of Services by the Company for Cause the Optionee shall, immediately prior to such Termination of Services (and subject to such Termination of Services), forfeit the Option, whether vested or unvested; in addition, if the Optionee breaches this Agreement, the Stockholders Agreement or any Employment Agreement following the Optionee's Termination of Services in a manner that would constitute Cause under subsection (g) of the definition thereof (an "Agreement Breach") and the Optionee does not cure such Agreement Breach within fifteen (15) days after written notice thereof to the Optionee from the Company or any of its Subsidiaries, the Optionee shall, immediately following the expiration of such cure period, forfeit the Option, whether vested or unvested (assuming the Optionee fails to timely cure the applicable Agreement Breach); or

(d) In the case of a Qualifying Termination, the expiration of one year from the date of the Optionee's Termination of Services.

Section 3.4 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised in whole or in part at any time prior to the time when the Option or portion thereof becomes unexercisable; *provided, however*, that each partial exercise shall be for not less than 10 shares of Common Stock and shall be for whole shares of Common Stock only.

Section 3.5 Exercise of Option. The exercise of the Option shall be governed by the terms of this Agreement and the terms of the Plan, including, without limitation, the provisions of Article V of the Plan.

ARTICLE IV. RESTRICTIVE COVENANTS

Section 4.1 Non-Competition. The Optionee acknowledges that in the course of the Optionee's employment with the Company the Optionee will become familiar with Proprietary Information and that the Optionee's services will be of special, unique and extraordinary value to the Company. Therefore, the Optionee agrees that, during the Noncompetition Period, the Optionee shall not directly or indirectly own, manage, control, participate in, consult with, render services for, or in any manner engage in any business competing with any business of the Company within the United States and any other geographical area in which the Company then engages in business or engaged in business at any time during the Optionee's employment with the Company, including, without limitation, each and every parish and municipality within Louisiana set forth in Exhibit A (such business, "Competing Business"). Nothing herein shall prohibit the Optionee from being a passive owner of not more than two percent (2%) of the outstanding stock of any class of a corporation which is publicly traded so long as the Optionee has no direct or indirect active participation in the business of such corporation.

Section 4.2 Non-Solicitation. During the Noncompetition Period, the Optionee shall not directly or indirectly (a) induce or attempt to induce any employee of the Company to terminate such employment, or in any way interfere with the employee relationship between the Company and any such employee; (b) hire any person who is, or, at any time during the 18-month period immediately prior to the date of the Optionee's Termination of Services, was, an employee of the Company; or (c) induce or attempt to induce any person having a business relationship with the Company to cease doing business with the Company or interfere materially with the relationship between any such person and the Company.

Section 4.3 Proprietary Information. The Optionee agrees that the Optionee shall not use for the Optionee's own purpose or for the benefit of any person or entity (including, without limitation, a Competing Business) other than the Company or its shareholders or affiliates, nor shall the Optionee otherwise disclose to any individual or entity at any time while the Optionee is employed by the Company or thereafter any Proprietary Information of the Company unless such disclosure (a) has been authorized by the Board; (b) is reasonably required within the course and scope of the Optionee's employment with the Company; or (c) is required by law, a court of competent jurisdiction or a governmental or regulatory agency.

Section 4.4 Surrender of Records. The Optionee agrees that, upon Termination of Services, the Optionee shall not retain and shall promptly surrender to the Company all correspondence, memoranda, files, manuals, financial, operating or marketing records, magnetic tape, or electronic or other media of any kind which may be in the Optionee's possession or under the Optionee's control or accessible to the Optionee which contain any Proprietary Information.

Section 4.5 Inventions and Patents.

(a) The Optionee agrees that all inventions, innovations, trade secrets, patents and processes in any way relating, directly or indirectly, to the Company's business developed by the Optionee alone or in conjunction with others ("Inventions") at any time during the Optionee's employment by the Company shall belong to the Company. The Optionee will use the Optionee's best efforts to perform all actions reasonably requested by the Board to establish and confirm such ownership by the Company. Notwithstanding the foregoing, the Optionee understands that this Agreement does not require assignment of any Invention to the extent that such Invention qualifies for protection under Section 2870 of the California Labor Code, 765 Ill. Comp. Stat. Ann. 1060/2, Section 44-130 of the Kansas Statutes, Section 181.78 of the 2016 Minnesota Statutes or Section 49.44.140 of the Revised Code of Washington, the current text of each of which is attached hereto as Exhibit B.

(b) The Optionee acknowledges that the Company has provided the Optionee with the following notice of immunity rights in compliance with the requirements of the Defend Trade Secrets Act of 2016: (i) the Optionee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of Proprietary Information that is made in confidence to a Federal, State, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, (ii) the Optionee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of Proprietary Information that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal and (iii) if the Optionee files a lawsuit for retaliation by the Company for reporting a suspected violation of law, the Optionee may disclose the Proprietary Information to his or her attorney and use the Proprietary Information in the court proceeding, if the Optionee files any document containing the Proprietary Information under seal, and does not disclose the Proprietary Information, except pursuant to court order.

Section 4.6 Non-Disparagement. The Optionee agrees not to disparage the Company, any of its products or practices, any of its directors, officers, agents, representatives, employees or affiliates, either orally or in writing, at any time; *provided* that the Optionee shall not be required to make any untruthful statement or to violate any law.

Section 4.7 Limited Exceptions. Notwithstanding anything to the contrary in Section 4, (a) to the extent this Section 4 is subject to the internal laws of the State of California, Section 4.1 and 4.2(c) shall not apply and the word “hire” in Section 4.2(b) shall be replaced with “solicit for the purpose of employing”; (b) to the extent this Section 4 is subject to the internal laws of the State of North Dakota, Section 4.1 and 4.2(c) shall not apply; (c) to the extent this Section 4 is subject to the internal laws of the State of Oklahoma, Section 4.1 shall not apply and Section 4.2 shall only apply to limit the Optionee’s direct solicitation of the Company’s established customers for purposes of sale of goods or services; (d) to the extent this Section 4 is subject to the internal laws of the State of Illinois or North Carolina, Section 4.2(c) shall only apply to limit inducing or attempting to induce persons that the Optionee has had business contact with while employed at the Company; and (e) to the extent this Section 4 is subject to the internal laws of the State of Missouri, Section 4.2(a) and (b) shall not apply to the extent the Optionee solicits secretarial or clerical employees of the Company.

Section 4.8 Definition of the Company. For purposes of this Article IV, the term “Company” shall include Hotshine Holdings, Inc. and any and all of its subsidiaries and joint ventures as the same may exist from time to time.

Section 4.9 Enforcement. The parties hereto agree that the time, duration and area for which the covenants set forth in this Article IV are to be effective are reasonable. In the event that any court or arbitrator determines that the time period or the area, or both of them, are unreasonable and that any of the covenants are to that extent unenforceable, the parties hereto agree that such covenants will remain in full force and effect, first, for the greatest time period, and second, in the greatest geographical area that would not render them unenforceable. The parties intend that this Article IV will be deemed to be a series of separate covenants, one for each and every county of each and every state of the United States of America. The Optionee agrees that damages are an inadequate remedy for any breach of the covenants in this Article IV and that the Company will, whether or not it is pursuing any potential remedies at law, be entitled to equitable relief in the form of preliminary and permanent injunctions without bond or other security upon any actual or threatened breach of this Article IV. The Optionee acknowledges and agrees that this Article IV (a) is ancillary to a valid employment relationship with the Company or one of its Subsidiaries, (b) is reasonably necessary to protect the Company’s legitimate business interest (including, without limitation, the Company’s customer relationships and Proprietary Information), and (c) does not unreasonably restrict the Optionee’s right to work in his chosen profession. Notwithstanding anything to the contrary, nothing herein is intended to or will prohibit the Optionee from filing a charge with, reporting possible violations of law or regulation to, participating in any investigation by, cooperating with, or communicating directly with, or providing information in confidence to, any governmental entity or making other disclosures that are protected under the whistleblower provisions of applicable law or regulation.

ARTICLE V.

REPURCHASE RIGHT.

Section 5.1 Repurchase Right. In the event of an Agreement Breach (which, for avoidance of doubt, includes but is not limited to any violation of Article IV of this Agreement), the Company shall have the right to purchase all or a portion of the shares of Common Stock issued upon exercise of the Option (the "Option Shares") held by such Optionee and any other Person to whom such Optionee has transferred such shares, at an aggregate purchase price equal to the lesser of (x) the exercise price paid by such Optionee in connection with the exercise of the Option and (y) the Fair Market Value thereof (the "Repurchase Right").

Section 5.2 Repurchase Notice and Closing. At any time following an Agreement Breach, the Company may exercise the Repurchase Right by delivering to the Optionee (or his or her transferee, as applicable) a written notice indicating the Company's intention to exercise the Repurchase Right and the amount to be paid to the Optionee in consideration for the repurchase of the Option Shares, which shall be paid in cash, by certified check or by wire transfer of immediately available funds. The closing of any repurchase of the Option Shares pursuant to this Article V shall occur on a date selected by the Company no later than 60 days following the date of delivery of the Company's written notice of exercise of the Repurchase Right and, following such closing, the Optionee (and his or her transferee, if applicable) shall have no further rights with respect to the Option Shares.

Section 5.3 Repurchase Delay. Notwithstanding anything to the contrary herein, if the Company requires the consent of any of its lenders in order to exercise the Repurchase Right pursuant to this Article V and cannot obtain such consent (or can obtain such consent only subject to the imposition by such lender of additional costs, restrictions or other obligations on the Company or any of its Affiliates), the Company may notify the Optionee in writing of such failure to obtain consent and defer the closing of the repurchase of such Option Shares until such time as such consent is obtained or is no longer required.

Section 5.4 Termination. The provisions of this Article V shall terminate upon the consummation of an Initial Public Offering.

**ARTICLE VI.
OTHER PROVISIONS**

Section 6.1 Not a Contract of Employment or Services. Nothing in this Agreement or in the Plan shall confer upon the Optionee any right to continue in the employ or engagement of the Company or any of its Subsidiaries or shall interfere with or restrict in any way the rights of the Company or its Subsidiaries, which are hereby expressly reserved, to discharge the Optionee at any time for any reason whatsoever, with or without Cause, except as may otherwise be provided by any written agreement entered into by and between the Company and the Optionee.

Section 6.2 Shares Subject to Plan and Stockholders Agreement; Entire Agreement. The Optionee acknowledges that any shares acquired upon exercise of the Option are subject to the terms of the Plan and the Stockholders Agreement. The terms of this Agreement are intended by the parties to be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Agreement (together with the Plan and the Stockholders Agreement) shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial, administrative, or other legal proceeding to vary the terms of this Agreement. For the avoidance of doubt, Article V of this Agreement is in addition to, and does not terminate, amend or modify, any repurchase rights with respect to the Option Shares under the Stockholders Agreement.

Section 6.3 Construction. This Agreement shall be administered, interpreted and enforced under the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof, or principles of conflicts of law of any other jurisdiction which could cause the application of the laws of any jurisdiction other than the State of Delaware. Notwithstanding the foregoing, (a) if Optionee primarily resides in California, Section 4 shall be administered, interpreted and enforced under the internal laws of the State of California, without regard to the principles of conflicts of law thereof, or principles of conflicts of law of any other jurisdiction which could cause the application of the laws of any jurisdiction other than the State of California and (b) if, pursuant to applicable state law, Section 4 is otherwise required to be administered, interpreted and enforced under the internal laws of a state other than the State of Delaware, Section 4 will be administered, interpreted and enforced under the internal laws of such state.

Section 6.4 Conformity to Securities Laws. The Optionee acknowledges that the Plan is intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any and all regulations and rules promulgated thereunder by the Securities and Exchange Commission, including without limitation Rule 16b-3. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the Option is granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations. To the extent permitted by applicable law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to such laws, rules and regulations.

Section 6.5 Amendment, Suspension and Termination. The Option may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Committee or the Board; *provided* that the Optionee's consent shall be required with respect to any such action unless (a) the Committee determines that the action, taking into account any related action, would not materially and adversely affect the Optionee or (b) such change is permitted under Section 7.1 of the Plan or Section 6.6 or 6.7 of this Agreement.

Section 6.6 Section 409A. To the extent applicable, this Agreement shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder. Notwithstanding any provision of this Agreement to the contrary, in the event that the Committee determines that this Option may be subject to Section 409A of the Code, the Committee may adopt such amendments to this Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions that the Committee determines are necessary or appropriate to (a) exempt the Option from Section 409A of the Code and/or preserve the intended tax treatment of the benefits provided with respect to the Option, or (b) comply with the requirements of Section 409A of the Code and related Department of Treasury guidance and thereby avoid the application of penalty taxes under such Section 409A. Notwithstanding anything herein to the contrary, in no event shall any liability for failure to comply with the requirements of Section 409A of the Code be transferred from the Optionee or any other Person to the Company or any of its Affiliates, employees or agents pursuant to the terms of this Agreement or otherwise.

Section 6.7 Stockholder Approval.

(a) Except as otherwise provided in Section 6.7(b), in the event that the Company determines that any right to receive the Option, payment or other benefit under this Agreement (including, without limitation, the acceleration of the vesting and/or exercisability of the Option and taking into account the effect of this Section) or any employment agreement by and between the Optionee and the Company, to or for the benefit of the Optionee (the "Payments"), would, in whole or part when aggregated with any other right, payment or benefit to or for the Optionee under all other agreements or benefit plans of the Company, be nondeductible by the Company (or other person making such payment or providing such benefit) as a result of Section 280G of the Code and/or would subject the Optionee to the excise tax imposed by Section 4999 of the Code (the "Excise Tax") then, to the extent necessary to make the Payments deductible and to exempt the Payments from the Excise Tax (but only to such extent and after taking into account any reduction in the Payments relating to Section 280G of the Code under any other plan, arrangement or agreement), the Option or any other right, payment or benefit under this Agreement shall not become exercisable, vested or paid.

(b) Notwithstanding any other provision of this Agreement, the provisions of Section 6.7(a) shall not apply to reduce the Payments if the Payments that would otherwise be nondeductible under Section 280G of the Code and/or would subject the Optionee to the Excise Tax are disclosed to and approved by the Company's stockholders in accordance with Section 280G(b)(5)(B) of the Code and the Department of Treasury regulations thereunder.

(c) The Company shall use commercially reasonable efforts to prepare and deliver to its stockholders the disclosure required by Section 280G(b)(5)(B) of the Code with respect to the Payments and to obtain the approval of the Company's stockholders pursuant to Section 6.7(b).

[signature page follows]

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the parties hereto as of the date first above written.

HOTSHINE HOLDINGS, INC.

By: _____
Its:

OPTIONEE

[]

Residence Address:

Optionee's Social Security Number:

Subsidiaries of Mister Car Wash Inc.

<u>Legal Name</u>	<u>State of Incorporation</u>
Car Wash Headquarters, Inc.	Delaware
Car Wash Partners, Inc.	Delaware
CWP Asset Corp.	Delaware
CWP California Corp.	Delaware
CWP Holdings, Inc.	Delaware
CWP Management Corp.	Delaware
CWP West Corp.	Delaware
CWPS Corp.	Delaware
CWPU Corp.	Delaware
DWB Tucson Holdings, LLC	Delaware
Hotshine Intermediate Co.	Delaware
MCW GC, LLC	Arizona
Mesquite Logistics, LLC	Delaware
Mister Car Wash Holdings, Inc.	Delaware
Prime Shine, LLC	California
PS Acquisition Sub Corp.	Delaware

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the use in this Registration Statement on Form S-1 of our report dated April 2, 2021, relating to the financial statements of Mister Car Wash, Inc. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ Deloitte & Touche LLP
Phoenix, Arizona
June 1, 2021