

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

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

Date of Report (Date of earliest event reported): **July 12, 2017**

**EXELA TECHNOLOGIES, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**001-36788**

(Commission File Number)

**47-1347291**

(I.R.S. Employer  
Identification Number)

**2701 E. Grauwlyer Rd.**

**Irving, TX**

(Address of principal executive offices)

**75061**

(Zip Code)

Company's telephone number, including area code: **(214) 740-6500**

**Quinpario Acquisition Corp. 2**

**12935 N. Forty Drive, Suite 201,**

**St. Louis, MO**

(Former name or former address, if changed since last report)

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

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

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

Emerging growth company

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

Introductory Note

On July 12, 2017, Exela Technologies, Inc. (formerly known as Quinpario Acquisition Corp. 2) (the "Company") announced that it had consummated the transactions contemplated by that certain Business Combination Agreement (as amended, the "Business Combination Agreement"), dated February 21, 2017, with Quinpario Merger Sub I, Inc. ("SourceHOV Merger Sub"), Quinpario Merger Sub II, Inc. ("Novitex Merger Sub"), SourceHOV Holdings, Inc. ("SourceHOV"), Novitex Holdings, Inc. ("Novitex"), HOVS LLC, HandsOn Fund 4 I, LLC and Novitex Parent, L.P. ("Novitex Parent"), as amended by that certain Consent, Waiver and Amendment, dated June 15, 2017, by and among the Company, SourceHOV Merger Sub, Novitex Merger Sub, SourceHOV, Novitex, Novitex Parent, Ex-Sigma LLC, HOVS LLC and HandsOn Fund 4 I, LLC (the "Modification Agreement"). Pursuant to the terms of the Business Combination Agreement, SourceHOV Merger Sub merged with and into SourceHOV, with SourceHOV continuing as the surviving company and an indirect subsidiary of the Company, and Novitex Merger Sub merged with and into Novitex, with Novitex as the surviving company and an indirect subsidiary of the Company (collectively, the "Business Combination"). A complete description of the Business Combination and the Business Combination Agreement and the transactions contemplated thereby is contained in the Company's definitive proxy statement, as filed with the Securities and Exchange Commission on June 26, 2017 (the "Proxy Statement"), which is incorporated herein by reference. Concurrently with the filing of this Current Report on Form 8-K, the Company is filing another Current Report on Form 8-K (the "Other Form 8-K") to include additional Items which, due to size constraints, were not able to be included in this Form 8-K. To the extent any information in this Current Report on Form 8-K or the Other Form 8-K updates or replaces any information contained in the Proxy Statement, such information in the Proxy Statement is superseded by the information contained herein or therein. The foregoing summary of the Business Combination is qualified in its entirety by reference to the complete text of the Business Combination Agreement and Modification Agreement, copies of which are filed herewith as Exhibits 2.1 and 2.2 and incorporated herein by reference.

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

***Debt Financing***

In connection with the consummation of the Business Combination, the Company entered into certain debt financing transactions described below. The proceeds of the debt financing have been or will be used (1) to repay certain existing indebtedness of SourceHOV and Novitex; (2) to pay fees and expenses incurred in connection with the Business Combination; and (3) for general corporate purposes.

***Senior Credit Facilities***

In connection with the Business Combination, the Company, the Borrower (as defined below) and the Guarantors (as defined below) entered into a First Lien Credit Agreement, dated July 12, 2017, with Royal Bank of Canada, Credit Suisse AG, Cayman Islands Branch, Natixis, New York Branch and KKR Corporate Lending LLC (the “Credit Agreement”) providing Exela Intermediate LLC, a wholly owned subsidiary of the Company (the “Borrower”), upon the terms and subject to the conditions set forth in the Credit Agreement, in the aggregate a (i) \$350 million senior secured term loan maturing July 12, 2023 and (ii) a \$100 million senior secured revolving facility maturing July 12, 2022, none of which is currently drawn.

The Credit Agreement provides for the following interest rates for borrowings under the senior secured term facility and senior secured revolving facility: at the Borrower’s option, either (1) an adjusted LIBOR, subject to a 1.00% floor in the case of term loans, or (2) a base rate, in each case plus an applicable margin. The initial applicable margin for the senior secured term facility is 7.50% with respect to LIBOR borrowings and 6.50% with respect to base rate borrowings. The initial applicable margin for the senior secured revolving facility is 7.00% with respect to LIBOR borrowings and 6.00% with respect to base rate borrowings. The applicable margin for borrowings under the senior secured revolving facility is subject to step-downs based on leverage ratios.

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The senior secured term loan is subject to amortization payments, commencing on the last day of the first full fiscal quarter of the Borrower following the closing date, of 0.625% of the aggregate principal amount for each of the first eight payments and 1.25% of the aggregate principal amount for payments thereafter, with any balance due at maturity.

Subject to certain customary and other exceptions, the obligations of the Borrower under the Credit Agreement are (a) guaranteed on a joint and several basis by Exela Intermediate Holdings LLC, a wholly-owned subsidiary of the Company (“Holdings”), and all material domestic wholly-owned subsidiaries of Holdings, (together with Holdings, collectively, the “Guarantors”), and (b) secured by a first priority lien on substantially all of the assets of the Borrower and the guarantors.

The Credit Agreement contains various negative covenants that, subject to agreed upon exceptions, limit the ability of Holdings, the Borrower and their respective subsidiaries to (among other restrictions):

- incur indebtedness and issue preferred equity;
- grant liens;
- liquidate, consolidate or merge with or into other companies;
- make loans, acquisitions and investments;
- pay dividends and make certain other distributions;
- sell assets;
- enter into transactions with affiliates;
- enter into burdensome agreements;
- enter into sale and leaseback transactions;
- make certain modifications to organizational documents; and
- make prepayments of subordinated debt.

The Credit Agreement also contains a net first lien leverage ratio covenant that such ratio shall not exceed 5.10 to 1.00, tested quarterly.

The Credit Agreement contains customary representations and warranties, affirmative covenants and events of default. If an event of default occurs under the Credit Agreement, then the lenders may (a) terminate their commitments under the Credit Agreement, (b) declare any outstanding loans under the Credit Agreement to be immediately due and payable, (c) foreclose on the collateral securing the obligations under the Credit Agreement and/or (d) take certain other actions generally available to a secured creditor.

***Senior Secured Notes***

Pursuant to an Indenture, dated July 12, 2017, by and among Exela Intermediate LLC (the “Issuer”), Exela Finance Inc. (the “Co-Issuer” and, together with the Issuer, the “Issuers”), each of which is an indirect wholly-owned subsidiary of the Company, and Wilmington Trust, National Association, as Trustee (the “Trustee”), the Issuers issued \$1 billion in aggregate principal amount of 10% First Priority Senior Secured Notes due 2023 (the “Notes”). The Notes are guaranteed by the subsidiary guarantors (as defined below) pursuant to a Supplemental Indenture, dated July 12, 2017, by and among the Issuers, the subsidiary guarantors party thereto (the “subsidiary guarantors”) and the Trustee. The Notes bear interest at a rate of 10% per year. The Issuer pays interest on the Notes on January 15 and July 15 of each year, commencing on January 15, 2018. The Notes will mature on July 15, 2023. The Issuer may redeem the Notes, in whole or in part, at any time on or after July 15, 2020 at an initial premium of 105% of the principal, declining to 100%. The Issuers may redeem up to 40% of the aggregate principal amount of the Notes on or prior to July 15, 2020 in an amount equal to the net proceeds from certain equity offerings at a redemption price of 110%, plus accrued and unpaid interest, if any. Prior to July 15, 2020, the Issuers may redeem

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some or all of the Notes at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest, if any, plus the applicable “make-whole” premium. There is no sinking fund for the Notes.

The Notes are fully and unconditionally guaranteed by each of the Issuer's wholly owned domestic restricted subsidiaries that provides a guarantee under the Credit Agreement. To the extent lenders under the Credit Agreement release the guarantee of any subsidiary guarantor, such subsidiary guarantor will also be released from its obligations under the Notes. The Notes and related guarantees are secured by first-priority security interests in, subject to permitted liens and certain exceptions substantially all of the existing and future assets of the Issuers and the subsidiary guarantors (the "collateral"), which assets also secure indebtedness under the Credit Agreement. The Notes and guarantees rank (i) equally in right of payment with all of the Issuers' existing and future senior indebtedness, (ii) senior to all of the Issuers' future subordinated indebtedness, (iii) effectively senior to all of the Issuers' future unsecured indebtedness to the extent of the value of the collateral securing the Notes, (iv) equal to all of the Issuers' existing and future indebtedness that is secured by the collateral on a first-priority basis, including indebtedness under the Credit Agreement, to the extent of the value of the collateral, (v) effectively senior to all of the Issuers' future indebtedness that is secured by the collateral on a junior-priority basis to the extent of the value of the collateral and (vi) structurally subordinated to all obligations of each of the Issuers' subsidiaries that is not a guarantor of the Notes.

The foregoing summary of the Credit Agreement, the Indenture and the Supplemental Indenture is qualified in its entirety by reference to the complete text of the Credit Agreement and Indenture, copies of which are filed herewith as Exhibits 10.1, 4.1 and 4.2 and incorporated herein by reference.

### **Registration Rights Agreement and Nomination Agreement**

At the closing of the Business Combination, the Company entered into (i) a Registration Rights Agreement, dated July 12, 2017, with certain holders of the Common Stock (the "Registration Rights Agreement"), which supersedes the Company's existing registration rights agreement and (ii) Director Nomination Agreements, dated July 12, 2017, with each of Novitex Parent and HOVS LLC, HandsOn Fund 4 I, LLC and certain of their respective affiliates (collectively, the "Nomination Agreements"). A summary of the material terms of the Registration Rights Agreement and the Nomination Agreements is contained in the Proxy Statement, which is incorporated herein by reference, which summary is qualified in its entirety by reference to the complete text of the Registration Rights Agreement and Nomination Agreements, which are filed herewith as Exhibits 10.2, 10.3 and 10.4 and incorporated herein by reference.

### **Item 2.01 Completion of Acquisition or Disposition of Assets.**

On July 12, 2017, the Company, through its wholly owned subsidiaries, SourceHOV Merger Sub and Novitex Merger Sub, consummated the Business Combination pursuant to the Business Combination Agreement. The disclosures required by Item 2.01 of this Current Report on Form 8-K are set forth in Items 1.01 and 9.01 of this Current Report on Form 8-K and in the Proxy Statement, which are incorporated herein by reference.

In connection with the closing of the Business Combination, the Company redeemed a total of 16,646,342 shares of its common stock ("Common Stock") pursuant to the terms of the Company's certificate of incorporation, resulting in a total cash payment from the Company's trust account to redeeming stockholders of \$166,463,420.00.

As of July 12, 2017, after giving effect to the closing of the Business Combination and the PIPE Investment as described in Item 3.02 of this Current Report on Form 8-K, there were 146,910,648 shares of Common Stock outstanding, held of record by approximately 43 holders of common stock, 9,194,233 shares of Series A Convertible Preferred Stock outstanding held of record by 16 holders of preferred stock and 35,000,000 warrants outstanding held of record by approximately 2 holders of warrants

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Such numbers do not include Depository Trust Company participants or beneficial owners holding shares through nominee names.

### **Indemnification of Directors and Officers**

The Company is incorporated under the laws of the State of Delaware. Section 102(b)(7) of the Delaware General Corporation Law ("DGCL") allows a corporation to provide in its certificate of incorporation that a director of the corporation will not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except where the director breached the duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. The Company's certificate of incorporation provides for this limitation of liability.

The Company's certificate of incorporation provides that its officers and directors will be indemnified by the Company to the fullest extent authorized by Delaware law, as it now exists or may in the future be amended. The Company's bylaws also provide that the Company will indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) by reason of the fact that he is or was a director, officer, employee or agent of the Company or any subsidiary thereof, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding. The Company's bylaws further provide that, to the extent that a director, officer, employee or agent of the Company has been successful on the merits or otherwise in defense of any such action, suit or proceeding, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

The indemnification rights set forth above are not exclusive of any other right which an indemnified person may have or hereafter acquire under any statute, provision of the Company's certificate of incorporation or Bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

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

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

### **Item 3.02 Unregistered Sales of Equity Securities.**

On July 12, 2017, the Registrant sold shares of Common Stock and Series A Perpetual Convertible Preferred Stock ("Preferred Stock") in a private placement in connection with the Business Combination, which private placement included the issuance of an aggregate of 9,194,233 shares of Preferred Stock and

21,700,265 shares of Common Stock (the "PIPE Investment"). The PIPE Investment was not underwritten and there was no underwriting discount or commission.

In addition to the PIPE Investment, 2,524,553 shares of Common Stock were issued in a private placement to certain investors in respect of fees and other consideration.

A summary of the material terms of the Preferred Stock is contained in the Proxy Statement, which is incorporated herein by reference, which summary is qualified in its entirety by reference to the complete text of the Certificate of Designations, Preferences, Rights and Limitations of the Preferred Stock, which is filed herewith as Exhibit 3.3 and incorporated herein by reference.

Pursuant to the terms of the Business Combination Agreement, Ex-Sigma LLC, the sole stockholder of SourceHOV immediately prior to the closing, received 80,600,000 shares of Common Stock at the closing (that were assigned to its wholly owned subsidiary Ex-Sigma 2 LLC), and Novitex Parent, the sole stockholder of Novitex immediately prior to the closing, received 30,600,000 shares of Common Stock at the closing.

The shares of Common Stock and Preferred Stock issued in connection with the Business Combination Agreement and the PIPE Investment were not be registered under the Securities Act of 1933, as amended (the "Securities Act"), in reliance on the exemption from registration provided by Section 4(a)(2) of the Securities Act.

As of July 12, 2017, after giving effect to the closing of the Business Combination and the PIPE Investment, there were 146,910,648 shares of Common Stock and 9,194,233 shares of Preferred Stock issued and outstanding.

### **Item 3.03 Material Modification to Rights of Security Holders.**

The information set forth in Item 5.03 of this Current Report on Form 8-K is incorporated herein by reference.

### **Item 5.01 Changes in Control of Company.**

The closing of the Business Combination and the PIPE Investment on July 12, 2017 resulted in a change of control of the Company from Quinpario Partners 2, LLC and its affiliates due to the issuance of 80,600,000 shares of Common Stock to Ex-Sigma LLC (that were assigned to its wholly owned subsidiary Ex-Sigma 2 LLC), an entity controlled by HOVS LLC, Hands On Fund 4 I, LLC and certain affiliates thereof (collectively, with Ex-Sigma LLC and Ex-Sigma 2 LLC, the "HGM Group"), the purchase by Ex-Sigma 2 LLC of 2,669,233 shares of Preferred Stock and 4,312,500 shares of Common Stock in the PIPE Investment (that were assigned to its wholly owned subsidiary Ex-Sigma 2 LLC) and the purchase by the HGM Group of an additional 1,250,000 shares of Common Stock. As a result, as of the closing, the HGM Group beneficially owns approximately 59.5% of the Common Stock as determined in accordance with Rule 13d-3 of the Securities Exchange Act of 1934, as amended (assuming the conversion at its Preferred Stock into Common Stock).

Pursuant to the Nomination Agreement, the HGM Group has the right to nominate: for so long as the HGM Group beneficially owns at least 35% of the then outstanding shares of the Common Stock (without giving effect to the exercise of any outstanding warrants to purchase the Common Stock), three directors; for so long as the HGM Group beneficially owns at least 15%, but less than 35%, of the then outstanding shares of the Common Stock (without giving effect to the exercise of any outstanding warrants to purchase the Common Stock), two directors; and for so long as the HGM Group (or an affiliate) beneficially owns at least 5%, but less than 15%, of the then outstanding shares of the Common Stock (without giving effect to the exercise of any outstanding warrants to purchase the Common Stock), one director. The directors designated by the HGM Group and elected at closing are Par Chadha, Ronald Cogburn and Jim Reynolds, as further described in Item 5.02 of this Current Report on Form 8-K, which is incorporated herein by reference. Ex-Sigma LLC invested \$55,853,864 in the Company pursuant to the PIPE Investment, pursuant to which Ex-Sigma LLC received 4,312,500 shares of Common Stock and 2,669,233 shares of Preferred Stock (that were assigned to its wholly owned subsidiary Ex-Sigma 2 LLC). The source of funds for Ex-Sigma 2 LLC's PIPE Investment is the New SourceHOV Financing, as such term is defined in and described in the Proxy Statement, which summary is incorporated herein by reference, in an amount equal to \$55,853,864. The source of funds for the 1,250,000 shares of Common Stock was the Consulting Agreement Termination Fee payable under the Business Combination Agreement.

Under the Nasdaq Stock Market's listing standards, a "controlled company" is a company of which more than 50% of the voting power is held by an individual, a group or another company. Upon the closing of the Business Combination, the Company determined that it was a "controlled company" within the meaning of the Nasdaq Stock Market's listing standards due to the fact that the HGM Group held more than 50% of the Company's voting power, as further described above.

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

On July 12, 2017, immediately prior to the closing of the Business Combination, the Company's certificate of incorporation (the "Charter") was amended and restated to:

- authorize an additional 1,465,000,000 shares of the Company's Common Stock and an additional 19,000,000 shares of preferred stock;
- provide that certain provisions of the certificate of incorporation of the Company are subject to the Nomination Agreements;
- change the Company's corporate name from "Quinpario Acquisition Corp. 2" to "Exela Technologies, Inc.";
- provide that certain transactions are not "corporate opportunities" and that certain persons are not subject to the doctrine of corporate opportunity; and
- provide for certain additional changes, including eliminating certain provisions specific to the Company's status as a blank check company, providing that the Company's directors are not personally liable to the Company or its stockholders for monetary damages for a breach of fiduciary duty, and certain indemnification provisions for directors and officers.

In addition, following the closing of the Business Combination, the Company's bylaws ("Bylaws") were amended and restated to:

- provide for certain quorum requirements for meetings of the stockholders of the Company;
- provide the certain provisions of the bylaws are subject to the terms of the Nomination Agreements; and
- provide for indemnification and advancement of expenses for directors and officers.

The foregoing summary is qualified in its entirety by reference to the complete text of the amended and restated Charter and amended and restated Bylaws, copies of which are filed herewith as Exhibits 3.1 and 3.2 and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

(a) *Financial statements of businesses acquired*

The financial statements (together with the notes thereto) of Novitex included in the Proxy Statement on page F-98 through F-151 are incorporated herein by reference and the financial statements of SourceHOV, the accounting acquirer, are filed herewith as Exhibit 99.1 and incorporated herein by reference. The only difference between the SourceHOV financial statements filed herewith as Exhibit 99.1 and the financial statements (together with the notes thereto) of SourceHOV included in the Proxy Statement on page F-31 through F-97 is the deletion of the words “and in accordance with auditing standards generally accepted in the United States of America” in the Independent Auditors’ Report appearing on page F-31, in accordance with applicable PCAOB requirements.

(b) *Pro forma financial information*

The information set forth in the Proxy Statement in the section entitled “Unaudited Pro Forma Condensed Combined Financial Information” beginning on page 100 is incorporated herein by reference.

*Other Exhibits.* To the extent not superseded or replaced by virtue of the Business Combination, including the Exhibits set forth below, Item 15 “Exhibits” of the Annual Report on Form 10-K of Quinpario Acquisition Corp. 2 is incorporated by reference herein.

Index to Exhibits:

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Filing Date	Exhibit	
2.1	Business Combination Agreement	8-K	2/22/2017	2.1	
2.2	Consent, Waiver and Amendment	8-K	6/21/2017	10.1	

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Filing Date	Exhibit	
3.1	Restated Certificate of Incorporation, dated July 12, 2017				X
3.2	Amended and Restated Bylaws, dated July 12, 2017				X
3.3	Certificate of Designations, Preferences, Rights and Limitations of Series A Perpetual Convertible Preferred Stock				X
4.1	Indenture, dated July 12, 2017, by and among Exela Intermediate LLC and Exela Finance Inc. as Issuers, the Subsidiary Guarantors set forth therein and Wilmington Trust, National Association, as Trustee				X
4.2	First Supplemental Indenture, dated July 12, 2017, by and among Exela Intermediate LLC and Exela Finance Inc., as Issuers, the Subsidiary Guarantors set forth therein and Wilmington Trust, National Association, as Trustee				X
10.1	First Lien Credit Agreement, dated July 12, 2017, by and among Exela Intermediate Holdings LLC, Exela Intermediate LLC, the Lenders Party Thereto, Royal Bank of Canada, RBC Capital Markets, Credit Suisse Securities (USA) LLC, Natixis, New York Branch and KKR Capital Markets LLC				X
10.2	Amended & Restated Registration Rights Agreement, dated July 12, 2017, by and among the Company and the Holders				X
10.3	Exela Technologies, Inc. Director Nomination Agreement, dated July 12, 2017, by and between the Company and Apollo Novitex Holdings, L.P.				X
10.4	Exela Technologies, Inc. Director Nomination Agreement, dated July 12, 2017, by and among the				X

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Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Filing Date	Exhibit	
99.1	Audited Consolidated Financial Statements for SourceHOV Holdings, Inc. and Unaudited Condensed Consolidated Financial Statements for SourceHOV Holdings, Inc. for the periods indicated therein				X

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**SIGNATURE**

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

Dated: July 18, 2017

EXELA TECHNOLOGIES, INC.

By: /s/ Jim Reynolds

Name: Jim Reynolds

Title: Chief Financial Officer

**SECOND AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
QUINPARIO ACQUISITION CORP. 2**

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**Pursuant to Section 245 of the  
Delaware General Corporation Law**

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QUINPARIO ACQUISITION CORP. 2, a corporation existing under the laws of the State of Delaware (the "Corporation"), by its Chief Executive Officer, hereby certifies as follows:

1. The name of the Corporation is "QUINPARIO ACQUISITION CORP. 2"

2. The Corporation's Certificate of Incorporation was filed in the office of the Secretary of State of the State of Delaware on July 15, 2014 and the Amended and Restated Certificate of Incorporation was filed in the office of the Secretary of State of the State of Delaware on January 15, 2015, as amended on January 19, 2017 (the "*Certificate of Incorporation*").

3. This Second Amended Restated Certificate of Incorporation restates, integrates and amends the Certificate of Incorporation of the Corporation.

4. This Second Amended and Restated Certificate of Incorporation was duly adopted by joint written consent of the directors and stockholders of the Corporation in accordance with the applicable provisions of Sections 141(f), 228, 242 and 245 of the General Corporation Law of the State of Delaware ("*GCL*").

5. The text of the Certificate of Incorporation of the Corporation is hereby amended and restated to read in full as follows:

FIRST: The name of the corporation is EXELA TECHNOLOGIES, INC. (hereinafter sometimes referred to as the "*Corporation*").

SECOND: The registered office of the Corporation is to be located at Cogency Global Inc. 850 New Burton Road, Suite 201, Dover, County of Kent, DE 19904. The name of its registered agent at that address is Cogency Global Inc.

THIRD: The purpose of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized under the GCL.

FOURTH: The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 1,620,000,000 of which 1,600,000,000 shares shall be Common Stock of the par value of \$.0001 per share and 20,000,000 shares shall be Preferred Stock of the par value of \$.0001 per share.

A. Preferred Stock. The Board of Directors of the Corporation (the "*Board*") is expressly granted authority to issue shares of the Preferred Stock, in one or more series, and to fix for each such series such voting powers, full or limited, and such designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof as shall be stated and expressed in the resolution or resolutions adopted by the Board providing for the issue of such series and included in a certificate of designation (a "*Preferred Stock Designation*") and as may be permitted by the GCL. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the then outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, without a separate

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vote of the holders of the Preferred Stock, or any series thereof, unless a vote of any such holders is required pursuant to any Preferred Stock Designation.

B. Common Stock. Except as otherwise required by law or as otherwise provided in any Preferred Stock Designation, the holders of the Common Stock shall exclusively possess all voting power and each share of Common Stock shall have one vote for each such share on each matter properly submitted to the stockholders on which the holders of Common Stock are entitled to vote.

FIFTH: The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

A. Election of directors need not be by ballot unless the by-laws of the Corporation so provide.

B. The Board shall be divided into three classes: Class A, Class B and Class C. The number of directors in each class shall be as nearly equal as possible. At the first election of directors by the incorporator, the incorporator shall elect a Class C director for a term expiring at the Corporation's third Annual Meeting of Stockholders. The Class C director shall then appoint additional Class A, Class B and Class C directors, as necessary. The directors in Class A shall be elected for a term expiring at the first Annual Meeting of Stockholders, the directors in Class B shall be elected for a term expiring at the second Annual Meeting of Stockholders and the directors in Class C shall be elected for a term expiring at the third Annual Meeting of Stockholders. Commencing at the first Annual Meeting of Stockholders, and at each annual meeting thereafter, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election. Except as the GCL may

otherwise require, in the interim between annual meetings of stockholders or special meetings of stockholders called for the election of directors and/or the removal of one or more directors and the filling of any vacancy in that connection, newly created directorships and any vacancies in the Board, including unfilled vacancies resulting from the removal of directors for cause, may be filled by the vote of a majority of the remaining directors then in office, although less than a quorum (as defined in the Corporation's by-laws), or by the sole remaining director. All directors shall hold office until the expiration of their respective terms of office and until their successors shall have been elected and qualified. A director elected to fill a vacancy resulting from the death, resignation or removal of a director shall serve for the remainder of the full term of the director whose death, resignation or removal shall have created such vacancy and until his successor shall have been elected and qualified.

C. The Board shall have the power, without the assent or vote of the stockholders, to make, alter, amend, change, add to or repeal the by-laws of the Corporation as provided in the by-laws of the Corporation.

D. The directors in their discretion may submit any contract or act for approval or ratification at any annual meeting of the stockholders or at any meeting of the stockholders called for the purpose of considering any such act or contract, and any contract or act that shall be approved or be ratified by the vote of the holders of a majority of the stock of the Corporation which is represented in person or by proxy at such meeting and entitled to vote thereat (provided that a lawful quorum of stockholders be there represented in person or by proxy) shall be as valid and binding upon the Corporation and upon all the stockholders as though it had been approved or ratified by every stockholder of the Corporation, whether or not the contract or act would otherwise be open to legal attack because of directors' interests, or for any other reason.

E. In addition to the powers and authorities hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation; subject, nevertheless, to the provisions of the statutes of Delaware, of this Second Amended and Restated Certificate of Incorporation, and to any by-laws from time to time made by the stockholders; provided, however, that no by-law so made shall invalidate any prior act of the directors which would have been valid if such by-law had not been made.

SIXTH: A. A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the GCL as the same exists or may hereafter be amended. If the GCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors,

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then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the GCL, as so amended. Any repeal or modification of this paragraph A by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation with respect to events occurring prior to the time of such repeal or modification.

B. The Corporation, to the full extent permitted by Delaware law, as the same exists or may hereafter be amended from time to time, shall indemnify and hold harmless each person whom it may indemnify pursuant thereto. Expenses (including attorneys' fees) incurred by any such indemnified person in defending any civil, criminal, administrative, or investigative action, suit or proceeding for which such person may be entitled to indemnification hereunder shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized hereby. The rights to indemnification and advancement of expenses conferred by this paragraph B shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent of the Corporation and shall inure to the benefit of his or her heirs, executors and administrators.

C. The Corporation hereby acknowledges that an indemnitee may have certain rights to other indemnification, advancement of expenses and/or insurance (collectively, the "**Other Indemnitors**"). The Corporation hereby agrees that with respect to any and all losses arising by reason of the fact that such indemnitee is or was a director, officer, employee or agent of the Corporation or any subsidiary thereof, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, (i) that the Corporation is the indemnitor of first resort (i.e., its obligations to an indemnitee are primary and any obligation of the Other Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such indemnitee are secondary), (ii) that the Corporation shall be required to advance the full amount of expenses incurred by an indemnitee in accordance with this paragraph C and shall be liable for the full amount of all losses to the extent legally permitted and as required by the terms of this Second Amended and Restated Certificate of Incorporation (or any other agreement between the Corporation and an indemnitee), without regard to any rights an indemnitee may have against the Other Indemnitors, and, (iii) that the Corporation irrevocably waives, relinquishes and releases the Other Indemnitors from any and all claims against the Other Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Corporation further agrees that no advancement or payment by the Other Indemnitors on behalf of an indemnitee with respect to any claim for which such indemnitee has sought indemnification from the Corporation shall affect the foregoing and the Other Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such indemnitee against the Corporation. The Corporation and each indemnitee agree that the Other Indemnitors are express third party beneficiaries of the terms of this paragraph C.

D. Any repeal or amendment of this Article SIXTH by the stockholders of the Corporation or by changes in law, or the adoption of any other provision of this Second Amended and Restated Certificate inconsistent with this Article SIXTH, shall, unless otherwise required by law, be prospective only (except to the extent such amendment or change in law permits the Corporation to provide broader indemnification rights on a retroactive basis than permitted prior thereto), and shall not in any way diminish or adversely affect any right or protection existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of or related to any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

SEVENTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this

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Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

EIGHTH: A. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the GCL or this Second Amended and Restated Certificate of Incorporation or the Corporation's by-laws, or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction.

B. If any action the subject matter of which is within the scope of paragraph A immediately above is filed in a court other than a court located within the State of Delaware (a "**Foreign Action**") in the name of any stockholder, such stockholder shall be deemed to have consented to (i) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce paragraph A immediately above (an "**FSC Enforcement Action**") and (ii) having service of process made upon such stockholder in any such FSC Enforcement Action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

C. If any provision or provisions of this Article EIGHTH shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article EIGHTH (including, without limitation, each portion of any sentence of this Article EIGHTH containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article EIGHTH.

NINTH: The Corporation elects not to be governed by Section 203 of the GCL.

TENTH: A. The doctrine of corporate opportunity, or any other analogous doctrine, shall not apply with respect to the Corporation or any of its officers or directors in circumstances where the application of any such doctrine to a corporate opportunity would conflict with any fiduciary duties or contractual obligations they may have as of the date of this Second Amended and Restated Certificate or in the future. In addition to the foregoing, the doctrine of corporate opportunity shall not apply to any other corporate opportunity with respect to any of the directors or officers of the Corporation unless such corporate opportunity is offered to such person solely in his or her capacity as a director or officer of the Corporation and such opportunity is one the Corporation is legally and contractually permitted to undertake and would otherwise be reasonable for the Corporation to pursue.

B. Without limiting the foregoing, to the extent permitted by applicable law, each of the stockholders and directors of the Corporation, their respective affiliates and all of their respective partners, principals, directors, officers, members, managers, equity holders and/or employees, including any of the foregoing who serve as officers or directors of the Corporation (other than the Corporation and its subsidiaries and other than directors that are employees of the Corporation or any of its subsidiaries) (each, an "**Exempted Person**") shall not have any fiduciary duty to refrain from engaging directly or indirectly in the same or similar business activities or lines of business as the Corporation or any of its subsidiaries, except as otherwise expressly provided in any agreement entered into between the Corporation and such Exempted Person. To the fullest extent permitted by applicable law, the

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Corporation, on behalf of itself and its subsidiaries, renounces any interest or expectancy of the Corporation and its subsidiaries in, or in being offered an opportunity to participate in, business opportunities that are from time to time available to the Exempted Persons, even if the opportunity is one that the Corporation or its subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so, and each such Exempted Person shall have no duty to communicate or offer such business opportunity to the Corporation (and there shall be no restriction on the Exempted Persons using the general knowledge and understanding of the industry in which the Corporation operates which it has gained as an Exempted Person in considering and pursuing such opportunities or in making investment, voting, monitoring, governance or other decisions relating to other entities or securities) and, to the fullest extent permitted by applicable law, shall not be liable to the Corporation or any of its subsidiaries or stockholders for breach of any fiduciary or other duty, as a director or officer or otherwise, by reason of the fact that such Exempted Person pursues or acquires such business opportunity, directs such business opportunity to another person or fails to present such business opportunity, or information regarding such business opportunity, to the Corporation or its subsidiaries, or uses such knowledge and understanding in the manner described herein, in each case, except as otherwise expressly provided in any agreement entered into between the Company and such Exempted Person. In addition to and notwithstanding the foregoing, a corporate opportunity shall not be deemed to belong to the Corporation if it is a business opportunity that the Corporation is not financially able or contractually permitted or legally able to undertake, or that is, from its nature, not in the line of the Corporation's business or is of no practical advantage to it or that is one in which the Corporation has no interest or reasonable expectancy. Any person or entity purchasing or otherwise acquiring any interest in any shares of stock of the Corporation shall be deemed to have notice of the provisions of this Article TENTH.

C. Neither the alteration, amendment, addition to or repeal of this Article TENTH, nor the adoption of any provision of this Second Amended and Restated Certificate (including any Preferred Stock Designation) inconsistent with this Article TENTH, shall eliminate or reduce the effect of this Article TENTH in respect of any business opportunity first identified or any other matter occurring, or any cause of action, suit or claim that, but for this Article TENTH, would accrue or arise, prior to such alteration, amendment, addition, repeal or adoption. This Article TENTH shall not limit any protections or defenses available to, or indemnification or advancement rights of, any director or officer of the Corporation under this Second Amended and Restated Certificate, the Bylaws or applicable law

ELEVENTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Second Amended and Restated Certificate (including any Preferred Stock Designation), in the manner now or hereafter prescribed by this Second Amended and Restated Certificate and the

GCL; and, except as set forth in this Article ELEVENTH, all rights, preferences and privileges herein conferred upon stockholders, directors or any other persons by and pursuant to this Second Amended and Restated Certificate in its present form or as hereafter amended are granted subject to the right reserved in this Article ELEVENTH. In the event that the provisions of this Second Amended and Restated Certificate and the nomination agreement between the Corporation and Apollo Novitex Holdings, L.P. and the nomination agreement between the Corporation and HOVS LLC, HOVS Capital II LLC, Stern Capital LLC, Sunraj LLC, Pidgin Associates LLC, HandsOn Fund 4 I, LLC, Sonino LLC and Ex-Sigma LLC conflict, the provisions of the such nomination agreements shall take precedence over this Second Amended and Restated Certificate.

IN WITNESS WHEREOF, the Corporation has caused this Second Amended and Restated Certificate of Incorporation to be signed by Ronald Cogburn, its Chief Executive Officer, as of the 12<sup>th</sup> day of July, 2017.

/S/ Ronald Cogburn  
Ronald Cogburn, CEO

## AMENDED AND RESTATED

## BY LAWS

## OF

## Exela Technologies, Inc.

## ARTICLE I

OFFICES

1.1 Registered Office. The registered office of Exela Technologies, Inc. (the "Corporation") in the State of Delaware shall be established and maintained at 615 S. DuPont Highway, Kent County, Dover, Delaware and National Corporate Research, Ltd. shall be the registered agent of the corporation in charge thereof.

1.2 Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the board of directors of the Corporation (the "Board of Directors") may from time to time determine or the business of the Corporation may require.

## ARTICLE II

MEETINGS OF STOCKHOLDERS

2.1 Place of Meetings. All meetings of the stockholders shall be held at such time and place, either within or without the State of Delaware, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof; provided that the Board may in its sole discretion determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 2.13.

2.2 Annual Meetings. The annual meeting of stockholders shall be held on such date and at such time as may be fixed by the Board of Directors and stated in the notice of the meeting, for the purpose of electing directors and for the transaction of only such other business as is properly brought before the meeting in accordance with these Amended and Restated Bylaws (the "Bylaws").

Written notice of an annual meeting stating the place, date and hour of the meeting, shall be given to each stockholder entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the annual meeting.

To be properly brought before the annual meeting, business must be either (i) specified in the notice of annual meeting (or any supplement or amendment thereto) given by or at the direction of the Board of Directors, (ii) otherwise brought before the annual meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the annual meeting by a stockholder who is a stockholder of record on the date of the giving of the notice and on the record date for the determination of stockholders entitled to vote at such annual meeting and who complies with the notice procedures in this Section 2.2. In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than sixty (60) days nor more than ninety (90) days prior to the meeting; provided, however, that in the event that less than seventy (70) days notice or prior public disclosure of the date of the annual meeting is given or made to stockholders, notice by a stockholder, to be timely, must be received no later than the close of business on the tenth (10th) day following the day on which such notice of the date of the annual meeting was mailed or such public disclosure was made, whichever first occurs. A stockholder's notice to the Secretary shall set forth (a) as to each matter the stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting (including the text of any resolutions proposed for consideration and in the event such business includes a proposal to amend these Bylaws, the language of the proposed amendment) and the reasons for conducting such business at the annual meeting, and (ii) any material interest of the stockholder in such business, and (b) as to the stockholder giving the notice (i) the name and record address of the stockholder and (ii) the class,

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series and number of shares of capital stock of the Corporation which are beneficially owned by the stockholder. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at the annual meeting except in accordance with the procedures set forth in this Article II, Section 2. The officer of the Corporation presiding at an annual meeting shall, if the facts warrant, determine and declare to the annual meeting that business was not properly brought before the annual meeting in accordance with the provisions of this Article II, Section 2, and if such officer should so determine, such officer shall so declare to the annual meeting and any such business not properly brought before the meeting shall not be transacted.

2.3 Special Meetings. Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by statute or by the Second Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), may only be called by a majority of the entire Board of Directors, or the President or the Chairman, and shall be called by the Secretary at the request in writing of stockholders owning a majority in amount of the entire capital stock of the corporation issued and outstanding and entitled to vote. Without limiting the foregoing, upon the request of (a) HOVS LLC, HOVS Capital II LLC, Stern Capital LLC, Sunraj LLC, Pidgin Associates LLC, HandsOn Fund 4 I, LLC, Sonino LLC and Ex-Sigma LLC (collectively, the "HGM Group") (or its affiliate or assignee) so long as it (or its affiliate or assignee) has the right to nominate at least one director of the Board in accordance with the nomination agreement between the HGM Group and the Corporation or (b) Apollo Novitex Holdings, L.P. ("Apollo") (or its affiliate or assignee) so long as it (or its affiliate or assignee) has the right to nominate at least one director of the Board in accordance with the nomination agreement between Apollo and the Corporation (collectively with the nomination agreement between the HGM Group and the Corporation, (collectively, the "Nomination Agreements"), the Chairman or the President shall call a special meeting of stockholders. Such request shall state the purpose or purposes of the proposed meeting.

Unless otherwise provided by law, written notice of a special meeting of stockholders, stating the time, place and purpose or purposes thereof, shall be given to each stockholder entitled to vote at such meeting, not less than ten (10) or more than sixty (60) days before the date fixed for the meeting. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice.

2.4 Quorum. The holders of a majority of the capital stock issued and outstanding and entitled to vote thereat present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the Certificate of Incorporation. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the holders of a majority of the votes entitled to be cast by the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote at the meeting.

2.5 Organization. The Chairman of the Board of Directors shall act as chairman of meetings of the stockholders. The Board of Directors may designate any other officer or director of the Corporation to act as chairman of any meeting in the absence of the Chairman of the Board of Directors, and the Board of Directors may further provide for determining who shall act as chairman of any stockholders meeting in the absence of the Chairman of the Board of Directors and such designee.

The Secretary of the Corporation shall act as secretary of all meetings of the stockholders, but in the absence of the Secretary the presiding officer may appoint any other person to act as secretary of any meeting.

2.6 Voting. Unless otherwise required by law, the Certificate of Incorporation, the Nomination Agreements or these Bylaws, any question (other than the election of directors) brought before any meeting of stockholders shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote thereat. At all meetings of stockholders for the election of directors, a plurality of the votes cast shall be sufficient to elect. Each stockholder represented at a meeting of stockholders shall be entitled to cast one vote for each share of the capital stock entitled to vote thereat held by such stockholder, unless otherwise provided by the Certificate of Incorporation. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to

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corporate action in writing without a meeting may authorize any person or persons to act for him by proxy. All proxies shall be executed in writing and shall be filed with the Secretary of the Corporation not later than the day on which exercised. No proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his discretion, may require that any votes cast at such meeting shall be cast by written ballot.

2.7 Action of Shareholders Without Meeting. Any action required or permitted to be taken by the stockholders of the Corporation must be effected by a duly called annual or special meeting of such holders and may not be effected by written consent of the stockholders.

2.8 Voting List. The officer who has charge of the stock ledger of the corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the election, either at a place within the city, town or village where the election is to be held, which place shall be specified in the notice of the meeting, or, if not specified, at the place where said meeting is to be held. The list shall be produced and kept at the time and place of election during the whole time thereof, and may be inspected by any stockholder of the Corporation who is present. In the event that the Corporation determines to make the list available on an electronic network, the Corporation will take reasonable steps to ensure that such information is available only to stockholders of the Corporation.

2.9 Stock Ledger. The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 8 of this Article II or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

2.10 Adjournment. Any meeting of the stockholders, including one at which directors are to be elected, may be adjourned for such periods as the presiding officer of the meeting or the stockholders present in person or by proxy and entitled to vote shall direct.

2.11 Ratification. Any transaction questioned in any stockholders' derivative suit, or any other suit to enforce alleged rights of the Corporation or any of its stockholders, on the ground of lack of authority, defective or irregular execution, adverse interest of any director, officer or stockholder, nondisclosure, miscomputation or the application of improper principles or practices of accounting may be approved, ratified and confirmed before or after judgment by the Board of Directors or by the holders of Common Stock and, if so approved, ratified or confirmed, shall have the same force and effect as if the questioned transaction had been originally duly authorized, and said approval, ratification or confirmation shall be binding upon the Corporation and all of its stockholders and shall constitute a bar to any claim or execution of any judgment in respect of such questioned transaction.

2.12 Inspectors. The election of directors and any other vote by ballot at any meeting of the stockholders shall be supervised by at least one inspector. Such inspectors shall be appointed by the Board of Directors in advance of the meeting. If the inspector so appointed shall refuse to serve or shall not be present, such appointment shall be made by the officer presiding at the meeting.

2.13 Meetings by Means of Conference Telephone. Stockholders may participate in a meeting of the stockholders by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

### ARTICLE III DIRECTORS

3.1 Powers; Number; Qualifications. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise provided by law or in the Certificate of Incorporation. Subject to the terms and conditions in the Nomination Agreements, the number of directors which shall constitute the Board of Directors shall be not less than one (1) nor more than eight (8). Subject to the terms and

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conditions in the Nomination Agreements, the exact number of directors shall be fixed from time to time, within the limits specified in this Article III Section 1 or in the Certificate of Incorporation, by the Board of Directors. Directors need not be stockholders of the Corporation. The Board may be divided into Classes as more fully described in the Certificate of Incorporation.

3.2 Election; Term of Office; Resignation; Removal; Vacancies. Subject to the terms and conditions in the Nomination Agreements, each director shall hold office until the next annual meeting of stockholders at which his Class stands for election or until such director's earlier resignation, removal from office, death or incapacity. Unless otherwise provided in the Certificate of Incorporation and the Nomination Agreements, vacancies and newly created directorships resulting from any increase in the authorized number of directors or from any other cause may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director and each director so chosen shall hold office until the next election of the class for which such director shall have been chosen, and until his successor shall be elected and qualified, or until such director's earlier resignation, removal from office, death or incapacity.

3.3 Nominations. Nominations of persons for election to the Board of Directors of the Corporation at a meeting of stockholders of the Corporation may be made at such meeting by or at the direction of the Board of Directors, by any committee or persons appointed by the Board of Directors or by any stockholder of the Corporation entitled to vote for the election of directors at the meeting who is a stockholder of record on the date of the giving of the notice and on the record date for the determination of stockholders entitled to vote at such annual meeting and who complies with the notice procedures set forth in this Article III, Section 3. Such nominations by any stockholder shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the Corporation not less than sixty (60) days nor more than ninety (90) days prior to the meeting; provided however, that in the event that less than seventy (70) days notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder, to be timely, must be received no later than the close of business on the tenth (10th) day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made, whichever first occurs. Such stockholder's notice to the Secretary shall set forth (i) as to each person whom the stockholder proposes to nominate for election or reelection as a director, (a) the name, age, business address and residence address of the person, (b) the principal occupation or employment of the person, (c) the class and number of shares of capital stock of the Corporation which are beneficially owned by the person, and (d) any other information relating to the person that is required to be disclosed in solicitations for proxies for election of directors pursuant to the Rules and Regulations of the Securities and Exchange Commission under Section 14 of the Securities Exchange Act of 1934, as amended, and (ii) as to the stockholder giving the notice (a) the name and record address of the stockholder and (b) the class and number of shares of capital stock of the Corporation which are beneficially owned by the stockholder. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation. No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth herein. The officer of the Corporation presiding at an annual meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the foregoing procedure, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

3.4 Meetings. The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware. The first meeting of each newly elected Board of Directors shall be held immediately after and at the same place as the meeting of the stockholders at which it is elected and no notice of such meeting shall be necessary to the newly elected directors in order to legally constitute the meeting, provided a quorum shall be present. Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board of Directors. Special meetings of the Board of Directors may be called by the President (including upon the written request of at least two directors then in office) or a majority of the entire Board of Directors. Notice thereof stating the place, date and hour of the meeting shall be given to each director either by mail not less than seventy-two (72) hours before the date of the meeting, by telephone, facsimile, telegram or e-mail on forty-eight (48) hours notice,.

3.5 Quorum. Except as may be otherwise specifically provided by law, the Certificate of Incorporation or these Bylaws, at all meetings of the Board of Directors or any committee thereof, a majority of the entire Board of

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Directors or such committee, as the case may be, and at least one director nominated by each of the HGM Group (or its affiliate or assignee) (so long as it has the right to nominate a director in accordance with the applicable Nomination Agreement) and Apollo (so long as it has the right to nominate a director in accordance with the applicable Nomination Agreement) shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. Notwithstanding the foregoing, if either a director nominated by Apollo (or its affiliate or assignee) or a director nominated by the HGM Group (or its affiliate or assignee) has informed the Corporation in writing that it will not attend a specific meeting and that it consents to a quorum without its presence, the presence of such person shall not be required to constitute a quorum at such meeting; provided, however, if a quorum shall not be present at the adjourned meeting because either no director nominated by Apollo (or its affiliate or assignee) or a member of the HGM Group (or its affiliate or assignee) is present, in person or by proxy and the directors nominated by Apollo (or its affiliate or assignee) and the HGM Group (or its affiliate or assignee) have received written notice of the time and place of the adjourned meeting in accordance with Section 3.4, such person's presence shall not be required at the adjourned meeting to constitute a quorum at such adjourned meeting. If a quorum shall not be present at any meeting of the Board of Directors or of any committee thereof, a majority of the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

3.6 Organization of Meetings. The Board of Directors shall elect one of its members to be Chairman of the Board of Directors. The Chairman of the Board of Directors shall lead the Board of Directors in fulfilling its responsibilities as set forth in these By-Laws, including its responsibility to oversee the performance of the Corporation, and shall determine the agenda and perform all other duties and exercise all other powers which are or from time to time may be delegated to him or her by the Board of Directors.

Meetings of the Board of Directors shall be presided over by the Chairman of the Board of Directors, or in his or her absence, by the President, or in the absence of the Chairman of the Board of Directors and the President by such other person as the Board of Directors may designate or the members present may select.

3.7 Actions of Board of Directors Without Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the

Board of Directors or of such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filled with the minutes of proceedings of the Board of Directors or committee.

3.8 Removal of Directors by Stockholders. The entire Board of Directors or any individual Director may be removed from office with or without cause by a majority vote of the holders of the outstanding shares then entitled to vote at an election of directors. Notwithstanding the foregoing, if the Corporation's board is classified stockholders may effect such removal only for cause. Subject to the terms and conditions of the Nomination Agreements, in case the Board of Directors or any one or more Directors be so removed, new Directors may be elected at the same time for the unexpired portion of the full term of the Director or Directors so removed.

3.9 Resignations. Any Director may resign at any time by submitting his written resignation to the Board of Directors or Secretary of the Corporation. Such resignation shall take effect at the time of its receipt by the Corporation unless another time be fixed in the resignation, in which case it shall become effective at the time so fixed. The acceptance of a resignation shall not be required to make it effective.

3.10 Committees. Subject to the terms and conditions of the Nomination Agreements, the Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Subject to the terms and conditions of the Nomination Agreements, in the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided by law and in the resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but

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no such committee shall have the power or authority in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease or exchange of all or substantially all of the Corporation's property and assets, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution or amending the Bylaws of the Corporation; and, unless the resolution expressly so provides, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock or to adopt a certificate of ownership and merger. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

3.11 Compensation. The directors may be paid their reasonable, documented out-of-pocket expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed amount (in cash or other form of consideration) for attendance at each meeting of the Board of Directors or a stated salary as director and any other meetings or events attended on behalf of the Corporation at the Corporation's request. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

3.12 Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose, if (i) the material facts as to his or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to his or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

3.13 Meetings by Means of Conference Telephone. Members of the Board of Directors or any committee designed by the Board of Directors may participate in a meeting of the Board of Directors or of a committee of the Board of Directors by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

#### ARTICLE IV OFFICERS

4.1 General. The officers of the Corporation shall be elected by the Board of Directors and may consist of: a Chairman of the Board, Vice Chairman of the Board, Chief Executive Officer, President, Chief Financial Officer, Secretary and Treasurer. The Board of Directors, in its discretion, may also elect one or more Vice Presidents (including Executive Vice Presidents and Senior Vice Presidents), Assistant Secretaries, Assistant Treasurers, a Controller and such other officers as in the judgment of the Board of Directors may be necessary or desirable. Any number of offices may be held by the same person and more than one person may hold the same office, unless otherwise prohibited by law, the Certificate of Incorporation or these Bylaws. The officers of the Corporation need not be stockholders of the Corporation, nor need such officers be directors of the Corporation.

4.2 Election. The Board of Directors at its first meeting held after each annual meeting of stockholders shall elect the officers of the Corporation who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors; and all officers of the Corporation shall hold office until their successors are chosen and qualified, or until their earlier resignation or removal. Except as otherwise provided in this Article IV, any officer elected by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any

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office of the Corporation shall be filled by the Board of Directors. The salaries of all officers who are directors of the Corporation shall be fixed by the Board of Directors.

4.3 Voting Securities Owned by the Corporation. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the President or any Vice President, and any such officer may, in the name and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and powers incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

4.4 Chief Executive Officer. Subject to the provisions of these Bylaws and to the direction of the Board of Directors, the Chief Executive Officer shall have ultimate authority for decisions relating to the general management and control of the affairs and business of the Corporation and shall perform such other duties and exercise such other powers which are or from time to time may be delegated to him or her by the Board of Directors or these Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board of Directors.

4.5 President. At the request of the Chief Executive Officer, or in the absence of the Chief Executive Officer, or in the event of his or her inability or refusal to act, the President shall perform the duties of the Chief Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon such office. The President shall perform such other duties and have such other powers as the Board of Directors from time to time may prescribe.

4.6 Chief Financial Officer. The Chief Financial Officer shall have general supervision, direction and control of the financial affairs of the Corporation and shall perform such other duties and exercise such other powers which are or from time to time may be delegated to him or her by the Board of Directors or these Bylaws, all in accordance with basic policies as established by and subject to the oversight of the Board of Directors. In the absence of a named Treasurer, the Chief Financial Officer shall also have the powers and duties of the Treasurer as hereinafter set forth and shall be authorized and empowered to sign as Treasurer in any case where such officer's signature is required.

4.7 Vice Presidents. At the request of the President or in the absence of the President, or in the event of his or her inability or refusal to act, the Vice President or the Vice Presidents if there is more than one (in the order designated by the Board of Directors) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon such office. Each Vice President shall perform such other duties and have such other powers as the Board of Directors from time to time may prescribe. If there be no Vice President, the Board of Directors shall designate the officer of the Corporation who, in the absence of the President or in the event of the inability or refusal of such officer to act, shall perform the duties of such office, and when so acting, shall have all the powers of and be subject to all the restrictions upon such office.

4.8 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of stockholders and record all the proceedings thereat in a book or books to be kept for that purpose; the Secretary shall also perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision the Secretary shall be. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the stockholders and special meetings of the Board of Directors, then any Assistant Secretary shall perform such actions. If there be no Assistant Secretary, then the Board of Directors or the President may choose another officer to cause such notice to be given. The Secretary shall have custody of the seal of the Corporation and the Secretary or any Assistant Secretary, if there be one, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation

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and to attest the affixing by his signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

4.9 Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

4.10 Assistant Secretaries. Except as may be otherwise provided in these Bylaws, Assistant Secretaries, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice President, if there be one, or the Secretary, and in the absence of the Secretary or in the event of his disability or refusal to act, shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

4.11 Assistant Treasurers. Assistant Treasurers, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice President, if there be one, or the Treasurer, and in the absence of the Treasurer or in the event of his disability or refusal to act, shall perform the duties of the Treasurer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Treasurer. If required by the Board of Directors, an Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

4.12 Controller. The Controller shall establish and maintain the accounting records of the Corporation in accordance with generally accepted accounting principles applied on a consistent basis, maintain proper internal control of the assets of the Corporation and shall perform such other duties as the Board of Directors, the President or any Vice President of the Corporation may prescribe.

4.13 Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors. The Board of Directors may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

4.14 Vacancies. The Board of Directors shall have the power to fill any vacancies in any office occurring from whatever reason.

4.15 Resignations. Any officer may resign at any time by submitting his written resignation to the Corporation. Such resignation shall take effect at the time of its receipt by the Corporation, unless another time be fixed in the resignation, in which case it shall become effective at the time so fixed. The acceptance of a resignation shall not be required to make it effective.

4.16 Removal. Subject to the provisions of any employment agreement approved by the Board of Directors, any officer of the Corporation may be removed at any time, with or without cause, by the Board of Directors.

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## ARTICLE V CAPITAL STOCK

5.1 Form of Certificates. The shares of stock in the Corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation's stock shall be in uncertificated form. Stock certificates shall be in such forms as the Board of Directors may prescribe and signed by the Chairman of the Board, President or a Vice President and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation.

5.2 Signatures. Any or all of the signatures on a stock certificate may be a facsimile, including, but not limited to, signatures of officers of the Corporation and countersignatures of a transfer agent or registrar. In case an officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

5.3 Lost Certificates. The Board of Directors may direct a new stock certificate or certificates to be issued in place of any stock certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new stock certificate, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or his legal representative, to advertise the same in such manner as the Board of Directors shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

5.4 Transfers. Stock of the Corporation shall be transferable in the manner prescribed by law and in these Bylaws. Transfers of certificated stock shall be made on the books of the Corporation only by the person named in the certificate or by such person's attorney lawfully constituted in writing and upon the surrender of the certificate therefor, which shall be canceled before a new certificate shall be issued. Transfers of uncertificated stock shall be made on the books of the Corporation only by the person then registered on the books of the Corporation as the owner of such shares or by such person's attorney lawfully constituted in writing and written instruction to the Corporation containing such information as the Corporation or its agents may prescribe. No transfer of uncertificated stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred. The Corporation shall have no duty to inquire into adverse claims with respect to any stock transfer unless (a) the Corporation has received a written notification of an adverse claim at a time and in a manner which affords the Corporation a reasonable opportunity to act on it prior to the issuance of a new, reissued or re-registered share certificate, in the case of certificated stock, or entry in the stock record books of the Corporation, in the case of uncertificated stock, and the notification identifies the claimant, the registered owner and the issue of which the share or shares is a part and provides an address for communications directed to the claimant; or (b) the Corporation has required and obtained, with respect to a fiduciary, a copy of a will, trust, indenture, articles of co-partnership, Bylaws or other controlling instruments, for a purpose other than to obtain appropriate evidence of the appointment or incumbency of the fiduciary, and such documents indicate, upon reasonable inspection, the existence of an adverse claim. The Corporation may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or, if there be no such address, at his residence or regular place of business that the security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notification, either (a) an appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or (b) an indemnity bond, sufficient in the Corporation's judgment to protect the Corporation and any transfer agent, registrar or other agent of the Corporation involved from any loss which it or they may suffer by complying with the adverse claim, is filed with the Corporation.

5.5 Fixing Record Date. In order that the Corporation may determine the stockholders entitled to notice or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record is adopted by the Board of Directors, and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than ten (10) days after

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the date upon which the resolution fixing the record date of action with a meeting is adopted by the Board of Directors, nor more than sixty (60) days prior to any other action. If no record date is fixed:

(a) The record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.



(b) The record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the first date on which a signed written consent is delivered to the Corporation.

(c) The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

5.6 Registered Stockholders. Prior to due presentment for transfer of any share or shares, the Corporation shall treat the registered owner thereof as the person exclusively entitled to vote, to receive notifications and to all other benefits of ownership with respect to such share or shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State Delaware.

## ARTICLE VI NOTICES

6.1 Form of Notice. Notices to directors and stockholders other than notices to directors of special meetings of the board of Directors which may be given by any means stated in Article III, Section 4, shall be in writing and delivered personally or mailed to the directors or stockholders at their addresses appearing on the books of the corporation. Notice by mail shall be deemed to be given at the time when the same shall be mailed. Subject to the rules of any applicable stock exchange, notice to stockholders and directors may also be given by telegram or email. If delivered by email, such notice shall be deemed to be given when the email is sent by the originator. The time stamp on the sent email shall act as proof of service.

6.2 Waiver of Notice. Whenever any notice is required to be given under the provisions of law or the Certificate of Incorporation or by these Bylaws of the Corporation, a written waiver, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular, or special meeting of the stockholders, Directors, or members of a committee of Directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation.

## ARTICLE VII INDEMNIFICATION OF DIRECTORS AND OFFICERS

7.1 The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation or any subsidiary thereof, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its

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equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

7.2 To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

7.3 The Corporation hereby acknowledges that an indemnitee may have certain rights to other indemnification, advancement of expenses and/or insurance (collectively, the "Other Indemnitors"). The Corporation hereby agrees that with respect to any and all losses arising by reason of the fact that such indemnitee is or was a director, officer, employee or agent of the Corporation or any subsidiary thereof, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, (i) that the Corporation is the indemnitor of first resort (i.e., its obligations to an indemnitee are primary and any obligation of the Other Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such indemnitee are secondary), (ii) that the Corporation shall be required to advance the full amount of expenses incurred by an indemnitee in accordance with this Article VII and shall be liable for the full amount of all losses to the extent legally permitted and as required by the terms of the Certificate of Incorporation and the Bylaws (or any other agreement between the Corporation and an indemnitee), without regard to any rights an indemnitee may have against the Other Indemnitors, and, (iii) that the Corporation irrevocably waives, relinquishes and releases the Other Indemnitors from any and all claims against the Other Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Corporation further agrees that no advancement or payment by the Other Indemnitors on behalf of an indemnitee with respect to any claim for which such indemnitee has sought indemnification from the Corporation shall affect the foregoing and the Other Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such indemnitee against the Corporation. The Corporation and each indemnitee agree that the Other Indemnitors are express third party beneficiaries of the terms of this Article VII.

7.4 Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Section. Such expenses (including attorneys' fees) incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

7.5 Any repeal or amendment of this Article VII by the stockholders of the Corporation or by changes in law, or the adoption of any other provision of the Amended and Restated Certificate and the Bylaws inconsistent with this Article VII, shall, unless otherwise required by law, be prospective only (except to the extent such amendment or change in law permits the Corporation to provide broader indemnification rights on a retroactive basis than

permitted prior thereto), and shall not in any way diminish or adversely affect any right or protection existing at the time of such repeal or amendment or adoption of such inconsistent provision in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of or related to any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

7.6 The indemnification and advancement of expenses provided by, or granted pursuant to the other sections of this Article shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

7.7 The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another Corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his

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status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article.

7.8 For purposes of this Article, references to “the Corporation” shall include, in addition to the resulting Corporation, any constituent Corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer employee or agent of such constituent Corporation, or is or was serving at the request of such constituent Corporation as a director, officer, employee or agent of another Corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article with respect to the resulting or surviving Corporation as he would have with respect to such constituent Corporation of its separate existence had continued.

7.9 For purposes of this Article, references to “other enterprises” shall include employee benefit plans; references to “fines” shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to “serving at the request of the Corporation” shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Corporation” as referred to in this Article.

7.10 The indemnification and advancement of expenses provided by, or granted pursuant to, this Article shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

7.11 No director or officer of the Corporation shall be personally liable to the Corporation or to any stockholder of the Corporation for monetary damages for breach of fiduciary duty as a director or officer to the fullest extent permitted by law.

## ARTICLE VIII GENERAL PROVISIONS

8.1 Reliance on Books and Records. Each Director, each member of any committee designated by the Board of Directors, and each officer of the Corporation, shall, in the performance of his duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation, including reports made to the Corporation by any of its officers, by an independent certified public accountant, or by an appraiser selected with reasonable care.

8.2 Maintenance and Inspection of Records. The Corporation shall, either at its principal executive office or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these by-laws, as may be amended to date, minute books, accounting books and other records.

Any such records maintained by the Corporation may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to the provisions of the Delaware General Corporation Law. When records are kept in such manner, a clearly legible paper form produced from or by means of the information storage device or method shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original paper form accurately portrays the record.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the Corporation’s stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under

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oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the Corporation at its registered office in Delaware or at its principal executive office.

8.3 Inspection by Directors. Any director shall have the right to examine the Corporation’s stock ledger, a list of its stockholders, and its other books and records for a purpose reasonably related to his or her position as a director.

8.4 Dividends. Subject to the provisions of the Certificate of Incorporation, if any, dividends upon the capital stock of the Corporation may be declared by the Board of Directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet

contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the Directors shall think conducive to the interest of the Corporation, and the Directors may modify or abolish any such reserve in the manner in which it was created.

8.5 Checks. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other persons as the Board of Directors may from time to time designate.

8.6 Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors. If the Board of Directors shall fail to do so, the President shall fix the fiscal year.

8.7 Seal. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced.

8.8 Amendments. Subject to the terms and conditions of the Nomination Agreements, the original or other Bylaws may be adopted, amended or repealed by the stockholders entitled to vote thereon at any regular or special meeting or, if the Certificate of Incorporation so provides, by the Board of Directors. The fact that such power has been so conferred upon the Board of Directors shall not divest the stockholders of the power nor limit their power to adopt, amend or repeal Bylaws.

8.9 Interpretation of Bylaws. All words, terms and provisions of these Bylaws shall be interpreted and defined by and in accordance with the General Corporation Law of the State of Delaware, as amended, and as amended from time to time hereafter. In the event that the provisions of these Bylaws and the Nomination Agreements conflict, the provisions of the Nomination Agreements shall take precedence over these Bylaws.

**CERTIFICATE OF DESIGNATIONS,  
 PREFERENCES, RIGHTS AND LIMITATIONS  
 OF  
 SERIES A PERPETUAL CONVERTIBLE PREFERRED STOCK  
 OF  
 EXELA TECHNOLOGIES, INC.  
 (formerly known as Quinpario Acquisition Corp. 2)**

Pursuant to Section 151 of the General Corporation Law of the State of Delaware

EXELA TECHNOLOGIES, INC. (formerly known as Quinpario Acquisition Corp. 2), a Delaware corporation (the “**Company**”), certifies that pursuant to the authority contained in Article Fourth of its Second Amended and Restated Certificate of Incorporation, as amended (the “**Second Amended and Restated Certificate of Incorporation**”), and in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware (the “**DGCL**”), the Board of the Company has adopted the following resolution on July 12, 2017, creating a series of preferred stock, par value \$0.0001 per share, of the Company designated as Series A Perpetual Convertible Preferred Stock, which resolution remains in full force and effect on the date hereof:

RESOLVED, that a series of preferred stock, par value \$0.0001 per share, of the Company be, and hereby is, created, and that the designation and number of shares thereof and the voting powers, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof are as follows:

**(1) Designation and Amount; Ranking.**

(a) There shall be created from the 20,000,000 shares of preferred stock, par value \$0.0001 per share, of the Company authorized to be issued pursuant to the Second Amended and Restated Certificate of Incorporation, a series of preferred stock, designated as “Series A Perpetual Convertible Preferred Stock”, par value \$0.0001 per share (the “**Preferred Stock**”), and the authorized number of shares of Preferred Stock shall be 11,500,000 shares of Preferred Stock that are purchased or otherwise acquired by the Company, or that are converted into shares of Common Stock, shall be cancelled and shall revert to authorized but unissued shares of Preferred Stock.

(b) The Preferred Stock, with respect to dividend rights and rights upon the liquidation, winding-up or dissolution of the Company, ranks: (i) senior to all Junior Stock; (ii) on a parity with all Parity Stock; and (iii) junior to all Senior Stock, in each case as provided more fully herein.

**(2) Definitions.** As used herein, the following terms shall have the following meanings:

(a) “**Affiliate**” shall have the meaning ascribed to it, on the date hereof, under Rule 144 of the Securities Act and, for the avoidance of doubt, includes, without limitation, the HGM Group and Apollo.

(b) “**Agent Members**” shall have the meaning specified in Section 15(a).

(c) “**Apollo**” means Apollo Novitex Holdings, L.P., a Delaware limited partnership.

(d) “**Applicable Conversion Rate**” shall have the meaning specified in Section 8(a).

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(e) “**Approved Stock Plan**” shall mean any employee benefit plan which has been approved by the Board and the Company’s stockholders, pursuant to which the Company’s securities may be issued to any employee, officer, consultant or director for services provided to the Company.

(f) “**Bloomberg**” shall mean Bloomberg Financial Markets.

(g) “**Board**” shall mean the Board of Directors of the Company or, with respect to any action to be taken by the Board of Directors, any committee of the Board of Directors duly authorized to take such action, except that for purposes of the definition of “Fundamental Change,” the Board shall refer to the full Board of Directors.

(h) “**Business Day**” shall mean any day other than a Saturday, Sunday or other day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

(i) “**Capital Stock**” shall mean, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

(j) “**Certificated Notice of Conversion**” shall have the meaning specified in Section 8(b)(ii)(A).

(k) “**close of business**” shall mean 5:00 p.m. (New York City time).

(l) **“Closing Sale Price”** of the Common Stock on any date shall mean the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) of the Common Stock on such date as reported on The Nasdaq Stock Market or, if the Common Stock is not listed on The Nasdaq Stock Market, on the principal other national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a national or regional securities exchange, on the principal other market on which the Common Stock is then listed, quoted or admitted for trading. In the absence of such a quotation, the Closing Sale Price shall be the average of the mid-point of the last bid and ask prices for the Common Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

(m) **“Common Stock”** shall mean the common stock, par value \$0.0001 per share, of the Company, subject to Section 8(i).

(n) **“Conversion Agent”** shall have the meaning set forth in Section 14(a).

(o) **“Conversion Date”** shall have the meaning specified in Section 8(b).

(p) **“Conversion Instruction”** shall have the meaning specified in Section 8(b)(i).

(q) **“Conversion Price”** means, as to any Conversion Date, \$8.00 divided by the Conversion Rate on such Conversion Date.

(r) **“Conversion Rate”** shall mean 0.9090909 shares of Common Stock, as adjusted from time to time as specified in Section 8(e).

(s) **“Convertible Securities”** shall mean any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock, including the Company’s warrants.

(t) **“Depository”** shall have the meaning specified in Section 15(a).

(u) **“Dividend Payment Date”** shall mean March 15, June 15, September 15 and December 15 of each year, commencing on the first such date after the date of the first issuance of the Preferred Stock.

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(v) **“Dividend Rate”** shall mean the rate per annum of 10% of the Liquidation Preference per share of Preferred Stock.

(w) **“Dividend Record Date”** shall mean, with respect to any Dividend Payment Date, the February 15, May 15, August 15 or November 15, as the case may be, immediately preceding such Dividend Payment Date.

(x) **“Dividends”** shall have the meaning specified in Section 3(a).

(y) **“DTC”** means The Depository Trust Corporation.

(z) **“Effective Date”** shall mean the date on which a Fundamental Change event occurs or becomes effective, except that, as used in Section 8(e), Effective Date shall mean the first date on which the shares of the Common Stock trade on the applicable exchange or market, regular way, reflecting the relevant share split or share combination, as applicable.

(aa) **“Exchange Act”** shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(bb) **“Excluded Securities”** shall mean any Common Stock issued or issuable (i) in connection with any Approved Stock Plan; (ii) upon conversion or redemption of the Preferred Stock; (iii) upon exercise of any Options or Convertible Securities which are outstanding on the Issue Date or which are exercised after an adjustment in accordance with Section 8 was previously made in respect of such Options or Convertible Securities; (iv) pursuant to any merger, joint venture, partnership, share exchange, business combination or similar transaction or any other direct or indirect acquisition by the Company with parties that are not Affiliates, whereby the Common Stock comprises, in whole or in part, the consideration paid by the Company in such transaction, provided such transaction was approved by the Board; or (v) upon the issuance of any shares of Common Stock or warrants to acquire only shares of Common Stock issued to non-Affiliate banks, equipment lessors or other lending institutions, or to real property lessors, in each case, in connection with a debt financing, equipment leasing or real property leasing transaction, provided such transaction was approved by the Board and that such Common Stock issued under this clause (v) does not exceed 7% of the then current issued and outstanding Common Stock.

(cc) **“Ex-Date,”** when used with respect to any issuance, dividend or distribution on the Common Stock, shall mean the first date on which the Common Stock trades on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution from the Company or, if applicable, from the seller of the Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

(dd) **“Fundamental Change”** shall be deemed to have occurred at any time after the Preferred Stock is originally issued if any of the following occurs:

(i) a “person” or “group” within the meaning of Section 13(d) of the Exchange Act, other than any of the Company or any of its Affiliates or Subsidiaries, and the employee benefit plans of the Company and its Subsidiaries, files a Schedule 13D or any other schedule, form or report under the Exchange Act disclosing that such “person” or “group” has become the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of more than 50% of the voting power in the aggregate of all classes of Capital Stock then outstanding entitled to vote generally in elections of the Board; provided, however, that (x) any such beneficial ownership by Apollo (together with its Affiliates) and the HGM Group shall not be a Fundamental Change pursuant to this clause (i) and (y) the right to acquire Capital Stock (so long as such person does not have the right to direct the voting of the Capital Stock subject to such right) or any veto power in connection with the acquisition or disposition of Capital Stock will not cause a party to be a “beneficial owner”;

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(ii) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, including pursuant to a merger transaction, to any Person (other than one of the Company's Subsidiaries); or

(iii) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company; or

(iv) the Common Stock ceases to be listed or quoted on listed or quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors).

provided, however, that a transaction or transactions described in clause (i) or (ii) above shall not constitute a Fundamental Change, if at least 90% of the consideration received or to be received by the common stockholders of the Company, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights, in connection with such transaction or transactions consists of shares of common stock that are listed or quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) or will be so listed or quoted immediately following such transaction or transactions, and, as a result of such transaction or transactions, the Preferred Stock becomes convertible into such consideration pursuant to the terms hereof.

(ee) "**Fundamental Change Notice**" shall have the meaning specified in Section 7(a).

(ff) "**Global Preferred Share**" shall have the meaning specified in Section 15(a).

(gg) "**Global Shares Legend**" shall have the meaning specified in Section 15(a).

(hh) "**HGM Group**" means HOVS LLC, HOVS Capital III LLC, Stern Capital LLC, Sunraj LLC, Pidgin Associates LLC, HandsOn Fund 4 I, LLC, Sonino LLC and Ex-Sigma, LLC, and their respective Affiliates from time to time.

(ii) "**Holder**" or "**holder**" shall mean a holder of record of the Preferred Stock.

(jj) "**Holder Stock Price**" shall have the meaning specified in Section 7(b).

(kk) "**Issue Date**" shall mean July 12, 2017, the original date of issuance of the Preferred Stock.

(ll) "**Junior Stock**" shall mean Common Stock and any class of Capital Stock or series of preferred stock established after the Issue Date, the terms of which expressly provide that such class or series will rank junior to the Preferred Stock as to dividend rights and rights upon the liquidation, winding-up or dissolution of the Company.

(mm) "**Liquidation Preference**" shall mean \$8.00 per share of Preferred Stock plus any Dividends on the Preferred Stock accrued pursuant to Sections 4 and 5 prior to and as of the most recent Dividend Payment Date plus all accrued and unpaid dividends on the Preferred Stock since the latest Dividend Payment Date.

(nn) "**Majority of the Holders**" shall mean Holders of a majority of the shares of Preferred Stock Outstanding at the time (excluding any shares of Preferred Stock owned by Affiliates of the Company)

(oo) "**Mandatory Conversion Date**" shall have the meaning specified in Section 9(b).

(pp) "**Mandatory Conversion Price**" shall have the meaning specified in Section 9(a).

(qq) "**Notice of Conversion**" shall mean, as applicable, a Conversion Instruction or a Certificated Notice of Conversion.

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(rr) "**Officer**" shall mean the Chief Executive Officer, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Company.

(ss) "**open of business**" shall mean 9:00 a.m. (New York City time).

(tt) "**Options**" shall mean any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(uu) "**Outstanding**" shall mean, when used with respect to Preferred Stock, as of any date of determination, all Preferred Stock theretofore authenticated and delivered under this Certificate of Designation, except shares of Preferred Stock as to which any property deliverable upon conversion thereof has been delivered and required to be cancelled pursuant to Sections 7, 8 or 9.

(vv) "**Parity Stock**" shall mean any class of Capital Stock or series of preferred stock established after the Issue Date, the terms of which expressly provide that such class or series will rank on a parity with the Preferred Stock as to dividend rights, and/or rights upon the liquidation, winding-up or dissolution of the Company and/or voting rights.

(ww) "**Paying Agent**" shall have the meaning set forth in Section 14(a).

(xx) "**Person**" shall mean any individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or government or any agency or political subdivision thereof.

(yy) "**Record Date**" shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock or the Preferred Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock or

the Preferred Stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock or the Preferred Stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board, statute, contract or otherwise).

(zz) “**Redemption Date**” shall mean a date that is fixed for redemption of the Preferred Stock by the Company in accordance with Section 10.

(aaa) “**Redemption Notice**” shall have the meaning specified in Section 10(b)(ii).

(bbb) “**Redemption Price**” shall have the meaning specified in Section 10(a).

(ccc) “**Reference Property**” shall have the meaning specified in Section 8(i)(v).

(ddd) “**Registrar**” shall have the meaning set forth in Section 12.

(eee) “**Reorganization Event**” shall have the meaning specified in Section 8(i)(v).

(fff) “**Resale Restriction Termination Date**” shall have the meaning specified in Section 13(a).

(ggg) “**Restricted Securities**” shall have the meaning specified in Section 13(a).

(hhh) “**Rule 144**” shall mean Rule 144 as promulgated under the Securities Act.

(iii) “**SEC**” or “**Commission**” shall mean the Securities and Exchange Commission.

(jjj) “**Securities Act**” shall mean the Securities Act of 1933, as amended.

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(kkk) “**Senior Stock**” shall mean any class of the Company’s Capital Stock or series of preferred stock established after the Issue Date, the terms of which expressly provide that such class or series will rank senior to the Preferred Stock as to dividend rights and/or rights upon the liquidation, winding-up or dissolution of the Company.

(lll) “**Subsidiary**” shall mean, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

(mmm) “**Third Anniversary Expected Liquidation Preference**” shall mean \$10.75911.

(nnn) “**Trading Day**” shall mean a day during which trading in the Common Stock generally occurs on The Nasdaq Stock Market or, if the Common Stock is not listed on The Nasdaq Stock Market, on the principal other national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a national or regional securities exchange, on the principal other market on which the Common Stock is then listed or admitted for trading. If the Common Stock is not so listed or traded, Trading Day means a Business Day.

(ooo) “**Transfer Agent**” shall have the meaning set forth in Section 12.

(ppp) “**Weighted Average Price**” shall mean for any security as of any Trading Day, the per share volume-weighted average price for such security as displayed under the heading “Bloomberg VWAP” on Bloomberg page Ticker <XELA> VWAP (or its equivalent successor if such page is not available) in respect of the period from 9:30:01 a.m. to 4:00:00 p.m., New York City time, on such Trading Day or, if no weighted average price is reported for such security by Bloomberg for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the OTC Link or “pink sheets” by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Weighted Average Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Weighted Average Price of such security on such date shall be the fair market value as mutually determined by the Company and a Majority of the Holders. All such determinations are to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction, or Ex-Date in respect thereof, occurring during the applicable calculation period.

### (3) **Dividends.**

(a) Holders of shares of Preferred Stock shall be entitled to receive cumulative dividends at the Dividend Rate (“**Dividends**”). Dividends on the Preferred Stock shall be paid or accrue quarterly in arrears at the Dividend Rate. From the Issue Date until the third anniversary of the Issue Date, the amount of all accrued but unpaid Dividends on the Preferred Stock will be added to the Liquidation Preference on each Dividend Payment Date without any action by the Board. After the third anniversary of the Issue Date, Dividends on the Preferred Stock will be accrued by adding to the Liquidation Preference or paid in cash (when, as and if declared by the Board out of funds of the Company legally available for payment) or a combination thereof pursuant to Section 4. For the avoidance of doubt, unless prohibited by applicable law, notwithstanding anything contained herein to the contrary, dividends on the Preferred Stock shall accrue for all fiscal periods during which the Preferred Stock is outstanding, regardless of whether the Company has earnings in any such period, whether there are funds legally available for the payment of such Dividends and whether or not such Dividends are authorized or declared. Dividends on the Preferred Stock shall be payable in arrears on each Dividend Payment Date to the holders of record of Preferred Stock as they appear on the Company’s stock register at the close of business on the relevant Dividend Record Date. Dividends on the Preferred Stock payable for any period less than a full quarterly Dividend period (based upon the number of days elapsed during the period) shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

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(b) Holders of shares of Preferred Stock shall participate in any dividend or distribution paid in cash or other property in respect of the Common Stock (other than a dividend or distribution giving rise to an adjustment of the Conversion Rate under Section 8(e)), pro-rata with the holders of the Company's Common Stock as if all shares of Preferred Stock then Outstanding had been converted into Common Stock pursuant to Section 8 immediately prior to the date on which holders of Common Stock became entitled to such dividend or distribution.

(c) If any Dividend Payment Date with respect to the Preferred Stock falls on a day that is not a Business Day, the required payment will be on the next succeeding Business Day and no interest or dividends on such payment will accrue or accumulate as the case may be, in respect of the delay.

(d) The holders of shares of Preferred Stock at the close of business on a Dividend Record Date shall be entitled to receive the dividend payment on those shares on the corresponding Dividend Payment Date notwithstanding the Company's default in payment of the dividend due on such Dividend Payment Date. In the case of conversion of shares of Preferred Stock pursuant to Sections 7, 8 and 9 following the close of business on a Dividend Record Date but prior to the corresponding Dividend Payment Date, the holders of such shares shall not be entitled to receive the corresponding dividend payment on the Preferred Stock following conversion (it being understood that the value thereof is included in the conversion terms set forth in Sections 7, 8 and 9).

(e) Except as provided in Section 8 and as otherwise set forth herein, the Company shall make no payment or allowance for unpaid dividends, whether or not in arrears, on converted shares of Preferred Stock or for dividends on the shares of Common Stock issued upon conversion.

**(4) Method of Payment of Dividends.**

(a) Subject to the restrictions set forth herein, from the Issue Date until the third anniversary of the Issue Date, the amount of all accrued but unpaid Dividends on the Preferred Stock shall be added to the Liquidation Preference on each Dividend Payment Date. Subject to the restrictions set forth herein, after the third anniversary of the Issue Date, the Company may elect to: (i) pay any Dividend on the Preferred Stock in cash (when, as and if declared by the Board out of funds of the Company legally available for payment); (ii) accrue any Dividend on the Preferred Stock by adding the amount of all accrued but unpaid Dividends on the Preferred Stock to the Liquidation Preference; or (iii) through any combination of clauses (i) and (ii) in accordance with Section 4(b).

(b) After the third anniversary of the Issue Date, the Company shall make each Dividend payment on the Preferred Stock by adding the amount of all accrued but unpaid Dividends on the Preferred Stock as set forth above on the Dividend Payment Date, except to the extent the Company elects to make all or any portion of such payment in cash on or prior to the applicable Dividend Payment Date, in which case, the amount the accrued but unpaid Dividends on the Preferred Stock that is added to the Liquidation Preference shall be reduced on a dollar-for-dollar basis by the amount of any such cash payment.

**(5) Voting.** The shares of Preferred Stock shall have no voting rights except as set forth in this Section 5 or otherwise required by Delaware law. So long as any shares of Preferred Stock remain Outstanding, unless a greater percentage shall then be required by law, the Company shall not, without the affirmative vote or consent of a Majority of the Holders, voting together as a single class with all series of Parity Stock upon which similar voting rights have been conferred and are exercisable, given in person or by proxy, either in writing or at a meeting, amend, alter or repeal the provisions of the Second Amended and Restated Certificate of Incorporation, whether by merger, consolidation or otherwise, so as to materially and adversely affect any right, preference, privilege or voting powers of the shares of Preferred Stock; provided, that any increase in the amount of authorized preferred stock (including, without limitation, additional Preferred Stock) or the creation or issuance of any additional shares of Preferred Stock or other series of preferred stock, or any increase in the amount of authorized shares of such series, of Parity and Senior Stock but not Junior Stock, shall be deemed to materially and adversely affect the rights, preferences, privileges or voting powers of Holders of shares of Preferred Stock specified herein.

**(6) Liquidation Rights.**

(a) In the event of any liquidation, winding-up or dissolution of the Company, whether voluntary or involuntary, each Holder of shares of Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders an amount per share for each share of Preferred Stock held by them equal to the greater of (i), the Liquidation Preference to the date fixed for liquidation, winding-up or dissolution or (ii) such amount per share as would have been payable in respect of such share of Preferred Stock as converted had all shares of Preferred Stock then Outstanding been converted into Common Stock pursuant to Section 8 immediately prior to (and on the date fixed for) liquidation, winding-up or dissolution of the Corporation, in preference to the holders of, and before any payment or distribution is made on, any Junior Stock, including, without limitation, the Common Stock.

(b) Neither the sale (for cash, shares of stock, securities or other consideration) of all or substantially all the assets or business of the Company (other than in connection with the liquidation, winding-up or dissolution of the Company) nor the merger or consolidation of the Company into or with any other Person shall be deemed to be a liquidation, winding-up or dissolution, voluntary or involuntary, for the purposes of this Section 6.

(c) After the payment to the Holders of the shares of Preferred Stock of full preferential amounts provided for in this Section 6, the Holders of Preferred Stock as such shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the Holders of shares of Preferred Stock and holders of shares of Parity Stock upon any liquidation, winding-up or dissolution of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to this Section 6, no such distribution shall be made on account of any shares of Parity Stock upon such liquidation, dissolution or winding-up unless proportionate distributable amounts shall be paid on account of the shares of Preferred Stock, equally and ratably, in proportion to the full distributable amounts for which holders of all Preferred Stock and of any Parity Stock are entitled upon such liquidation, winding-up or dissolution.

**(7) Conversion Upon a Fundamental Change.**



(a) The Company must give notice (a “**Fundamental Change Notice**”) of each Fundamental Change to all Holders of the Preferred Stock no later than 10 Business Days prior to the anticipated Effective Date (determined in good faith by the Board) of the Fundamental Change or, if not practicable because the Company is unaware of the Fundamental Change, as soon as reasonably practicable but in any event no later than 1 Business Day after the Company becomes aware of such Fundamental Change.

(b) Within 15 days following the Effective Date of such Fundamental Change, each Outstanding share of the Preferred Stock shall, at the election of the Holder thereof pursuant to the delivery of a Notice of Conversion, be converted into a number of shares of Common Stock equal to the Applicable Conversion Rate on the Effective Date of such Fundamental Change; provided that if the Company has not delivered a notice of redemption in accordance with Section 10(b)(i), prior to the 5<sup>th</sup> day after the Effective Date of the Fundamental Change, then, from and after such 5<sup>th</sup> day after the Effective Date until the 15<sup>th</sup> day following the Effective Date, each Outstanding share of the Preferred Stock shall, at the election of the Holder thereof pursuant to the delivery of a Notice of Conversion, be converted into a number of shares of Common Stock equal to the greater of (A) the Applicable Conversion Rate on the Effective Date of such Fundamental Change and (B) the quotient of (x) the Liquidation Preference, *divided by* (y) the greater of (1) the applicable Holder Stock Price and (2) \$0.10; provided, that, if such conversion takes place after the fifth anniversary of the Issue Date, the aggregate number of shares issuable upon such conversion of all shares of Preferred Stock then Outstanding will not exceed the lesser of (i) the difference between (A) the aggregate number of authorized shares at the time minus (B) the sum of the number of shares of Common Stock outstanding at such time plus the number of shares of Common Stock issuable upon conversion or exchange of debt, warrants or rights which are convertible into or exchangeable for shares of Common Stock (other than the shares of Preferred Stock) and (ii) 85% of the total number of outstanding shares of Common Stock. Notwithstanding the foregoing, if the shares of Common Stock are converted into or exchanged for cash, securities or other property in connection with a Fundamental Change, then the shares of Preferred Stock shall be convertible into the cash, securities or other property that the holder would have received had it converted its shares of Preferred Stock in accordance with this Section 7 immediately prior to the Record Date for such Fundamental Change. As used herein, “**Holder Stock Price**” means (i) in the case of a Fundamental Change in which the Holders of Common

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Stock will receive only cash consideration, the price to be paid (or deemed paid) per share of Common Stock in such transaction and (ii) in all other cases, the average Closing Sale Price of the Common Stock on the 20 consecutive Trading Days immediately preceding the Effective Date of the Fundamental Change (or, such lesser number of Trading Days as shall follow the public announcement of such transaction).

(c) The Fundamental Change Notice shall be given by first-class mail to each record holder of shares of Preferred Stock, at such Holder’s address as the same appears on the books of the Company. Each such notice shall state (i) the anticipated Effective Date and (ii) that dividends on the Preferred Stock to be converted will cease to accrue on the date immediately preceding the Effective Date of the Fundamental Change.

(d) Whenever any provision of this Certificate of Designations requires the Company to calculate the Weighted Average Price or Closing Sale Price for purposes of a Fundamental Change over a span of multiple days, the Board shall make appropriate adjustments to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Date of the event occurs, at any time during the period when such Weighted Average Prices or Closing Sale Prices are to be calculated.

**(8) Conversion.**

(a) Each Holder of Preferred Stock shall have the right at any time after the six month anniversary of the Issue Date, at its option, to convert, subject to the terms and provisions of this Section 8, any or all of such Holder’s shares of Preferred Stock into Common Stock at a conversion rate equal to the quotient of (i) prior to the third anniversary of the Issue Date, the Third Anniversary Expected Liquidation Preference and, from and after the third anniversary of the Issue Date, the Liquidation Preference; *divided by* (ii) the Conversion Price on the applicable Conversion Date (as to any Conversion Date, the “**Applicable Conversion Rate**”) per share of Preferred Stock (subject to the limitations set forth in Section 11). Upon conversion of any share of Preferred Stock, the Company shall deliver to the converting Holder, in respect of the number of shares of Preferred Stock being converted, a number of shares of Common Stock equal to the Applicable Conversion Rate multiplied by the number of shares of Preferred Stock being converted, together with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 11, on the third Business Day immediately following the relevant Conversion Date.

(b) Before any Holder shall be entitled to convert a share of Preferred Stock as set forth above, such Holder who:

(i) holds a beneficial interest in a Global Preferred Share must deliver to DTC the appropriate instruction form for conversion pursuant to DTC’s conversion program (a “**Conversion Instruction**”) and, if required, pay all transfer or similar taxes or duties, if any; or

(ii) holds Preferred Stock in definitive, certificated form must:

(A) manually sign and deliver an irrevocable notice to the office of the Conversion Agent as set forth in the Form of Certificated Notice of Conversion (or a facsimile thereof) in the form included in Exhibit A hereto (a “**Certificated Notice of Conversion**”) and state in writing therein the number of shares of Preferred Stock to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock, if any, to be delivered and registered;

(B) surrender such shares of Preferred Stock, at the office of the Conversion Agent;

(C) if required, furnish appropriate endorsements and transfer documents; and

(D) if required, pay all transfer or similar taxes or duties, if any.

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The Conversion Agent shall notify the Company of any pending conversion pursuant to this Section 8 on the Conversion Date for such conversion. The date on which a Holder complies with the procedures in this clause (b) is the “**Conversion Date**.” If more than one share of Preferred Stock shall be surrendered

for conversion at one time by the same Holder, the number of shares of Common Stock to be delivered upon conversion of such shares of Preferred Stock shall be computed on the basis of the aggregate number of shares of Preferred Stock so surrendered.

(c) With respect to any conversion of shares of Preferred Stock:

(i) if there shall have been surrendered certificate or certificates, as the case may be, representing a greater number of shares of Preferred Stock than the number of shares of Preferred Stock to be converted, the Company shall execute and the Registrar shall countersign and deliver to such Holder or such Holder's designee, at the expense of the Company, new certificate or certificates, as the case may be, representing the number of shares of Preferred Stock that shall not have been converted; and

(ii) if the shares of Preferred Stock converted are held in book-entry form through the facilities of the Depository, promptly following the relevant Conversion Date, the Company shall cause the Transfer Agent and Registrar to reduce the number of shares of Preferred Stock represented by the global certificate by making a notation on Schedule I attached to the relevant Global Preferred Share.

(d) Immediately prior to the close of business on the Conversion Date with respect to a conversion, a converting Holder of Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such Holder's Preferred Stock notwithstanding that the share register of the Company shall then be closed or that certificates representing such Common Stock, if any, shall not then be actually delivered to such Holder. On the date of any conversion, all rights with respect to the shares of Preferred Stock so converted, including the rights, if any, to receive notices, will terminate, excepting only the rights of holders thereof to (i) receive certificates for the number of whole shares of Common Stock, if any, into which such shares of Preferred Stock have been converted (with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 11) and (ii) exercise the rights to which they are thereafter entitled as holders of Common Stock, if any.

(e) The Conversion Rate shall be adjusted, without duplication, upon the occurrence of any of the following events:

(i) If the Company exclusively issues shares of Common Stock as a dividend or distribution on all or substantially all shares of its Common Stock, or if the Company effects a share split, subdivision, combination, reverse split or reclassification of the outstanding shares of Common Stock into a greater or smaller number of shares, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on Ex-Date for such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split, subdivision, combination, reverse split or reclassification, as the case may be;

CR<sub>1</sub> = the Conversion Rate in effect immediately after the open of business on the Ex-Date for such dividend or distribution, or immediately after the open of business on the Effective Date of such share split, subdivision, combination, reverse split or reclassification, as the case may be;

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Date for such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split, subdivision, combination, reverse split or reclassification, as the case may be; and

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OS<sub>1</sub> = the number of shares of Common Stock outstanding immediately after giving effect to such dividend or distribution, or such share split, subdivision, combination, reverse split or reclassification, as the case may be.

Any adjustment made under this Section 8(e)(i) shall become effective immediately after the open of business on the Ex-Date for such dividend or distribution, or immediately after the open of business on the Effective Date for such share split, subdivision, combination, reverse split or reclassification, as the case may be. If any dividend or distribution or share split, subdivision, combination, reverse split or reclassification of the type described in this Section 8(e)(i) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board determines not to pay such dividend or distribution or make such share split, subdivision, combination, reverse split or reclassification, to the Conversion Rate that would then be in effect if such dividend or distribution or share split, subdivision, combination, reverse split or reclassification had not been declared or announced, as the case may be.

(ii) If the Company distributes to all or substantially all holders of its Common Stock any rights, options or warrants entitling them, for a period expiring not more than 60 days immediately following the announcement date of such distribution, to purchase or subscribe for shares of its Common Stock at a price per share that is less than the average of the Closing Sale Prices of the Common Stock over the 20 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date of such distribution, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on the Ex-Date for such distribution;

CR<sub>1</sub> = the Conversion Rate in effect immediately after the open of business on the Ex-Date for such distribution;

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the open of business on the Ex-Date for such distribution;

- X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and
- Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, divided by the average of the Closing Sale Prices of the Common Stock over the 20 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date of such distribution.

Any adjustment made under this Section 8(e)(ii) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the Ex-Date for such distribution. To the extent that shares of Common Stock are not delivered after the expiration, redemption, termination or repurchase of such rights, options or warrants, the Conversion Rate shall be readjusted, effective as of the date of such expiration, redemption, termination or repurchase, to the Conversion Rate that would then be in effect had the increase with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Rate shall be adjusted, effective as of the date the Board determines not to make such distribution, to be the Conversion Rate that would then be in effect if such Record Date for such distribution had not occurred. If such rights, options or warrants are (i) not exercisable, (ii) deemed to be transferred with such shares of Common Stock

or (iii) are issued in respect of future issuances of Common Stock until the occurrence of certain triggering events, then the Conversion Rate shall not be adjusted until the triggering events occur.

For purposes of this Section 8(e)(ii), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such average of the Closing Sale Prices of the Common Stock for the 20 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date of such distribution, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board.

(iii) If the Company distributes shares of its Capital Stock or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of Common Stock, excluding dividends, distributions or issuances as to which an adjustment was effected pursuant to Section 8(e)(i) or Section 8(e)(ii) and excluding shares of Common Stock or rights or warrants to subscribe for or other equity securities in respect of Common Stock (any of such shares of Capital Stock, or rights, options or warrants to acquire Capital Stock or other securities, the "**Distributed Securities**"), then the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

- CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the open of business on the Ex-Date for such distribution;
- CR<sub>1</sub> = the Conversion Rate in effect immediately after the open of business on the Ex-Date for such distribution;
- SP<sub>0</sub> = the average of the Closing Sale Prices of the Common Stock over the 20 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date for such distribution; and
- FMV = the fair market value as of immediately prior to the open of business on the Ex-Date for such distribution (as determined by the Board) of the Distributed Securities (including the amount of cash per share) divided by the number of outstanding shares of the Common Stock as of immediately prior to the open of business on the Ex-Date assuming the exercise or conversion of all Options and Convertible Securities.

Any adjustment made under the portion of this Section 8(e)(iii) above shall become effective immediately after the open of business on the Ex-Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be adjusted, effective as of the date the Board determines not to pay the distribution, to be the Conversion Rate that would then be in effect if such distribution had not been declared.

(iv) If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Common Stock and the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the average of the Closing Sale Price of the Common Stock over the 20 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where,

- CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the close of business on the last Trading Day of the 20 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

- CR<sub>1</sub> = the Conversion Rate in effect immediately after the close of business on the last Trading Day of the 20 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires;
- AC = the aggregate value of all cash and any other consideration (as determined by the Board) paid or payable for shares of Common Stock purchased in such tender or exchange offer;
- OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer (prior to giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);
- OS<sub>1</sub> = the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer (after giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and
- SP<sub>1</sub> = the average of the Closing Sale Prices of the Common Stock over the 20 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires.

The increase to the Conversion Rate under this Section 8(e)(iv) shall occur at the close of business on the 20th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires; provided that, for purposes of determining the Conversion Rate, in respect of any conversion during the 20 Trading Days immediately following, and including, the Trading Day next succeeding the date that any such tender or exchange offer expires, references within this Section 8(e)(iv) to 20 consecutive Trading Days shall be deemed to be replaced with such lesser number of consecutive Trading Days as have elapsed between the date such tender or exchange offer expires and the relevant Conversion Date.

In the event that the Company or one of its Subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Rate shall be readjusted to be such Conversion Rate that would then be in effect if such tender offer or exchange offer had not been made. For the purposes of this subsection (iv), the term “tender offer” is used as such term is used in the Exchange Act and the term “exchange offer” means an exchange offer that constitutes a tender offer.

(v) All calculations and other determinations under this Section 8(e) shall be made by the Company and shall be made to the nearest one-ten thousandth (1/10,000th) of a share. Notwithstanding anything herein to the contrary, no adjustment under this Section 8(e) shall be made to the Conversion Rate unless such adjustment would result in a change of at least 1% in the Conversion Rate then in effect. Any lesser adjustment shall be carried forward and shall be made at the time of and together with the next subsequent adjustment, if any, which, together with any adjustment or adjustments so carried forward, shall amount to a change of at least 1% in such Conversion Rate.

(vi) For purposes of this Section 8(e), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the

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Company, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(f) Notwithstanding anything to the contrary in Section 8(e), no adjustment to the Conversion Rate shall be made with respect to any transaction described in Section 8(e)(i) through Section 8(e)(iv) if the Company makes provision for each Holder of the Preferred Stock to participate in such transaction, at the same time as holders of the Common Stock, without conversion, as if such Holder held a number of shares of Common Stock equal to the Conversion Rate in effect on the Record Date or Effective Date, as the case may be, for such transaction, multiplied by the number of shares of Preferred Stock held by such Holder.

(g) Notwithstanding anything to the contrary herein, no adjustment to the Conversion Rate shall be made pursuant to this Section 8 in respect of the issuance of any Excluded Securities.

(h) Upon any adjustment in the Conversion Rate, the Company shall deliver to each Holder, as promptly as practicable, a certificate signed by an authorized officer of the Company, setting forth in reasonable detail the event requiring the adjustment and the method by which such adjustment was calculated and specifying the increased Conversion Rate then in effect following such adjustment.

(i) In the case of:

- (i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination),
- (ii) any consolidation, merger or combination involving the Company,
- (iii) any sale, lease or other transfer to a third party of the consolidated assets of the Company and the Company’s Subsidiaries substantially as an entirety, or
- (iv) any statutory share exchange,

as a result of the events specified in (i), (ii), (iii) or (iv) in which the Common Stock is converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such transaction or event, a “**Reorganization Event**”), then, at and after the effective time of such Reorganization Event, the right to convert each share of Preferred Stock shall be changed into a right to convert such share into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock equal to the Conversion Rate immediately prior to such Reorganization Event would have owned or been entitled to receive upon such Reorganization Event (such stock, securities or other property or assets, the “**Reference Property**”). If the Reorganization Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration

(determined based in part upon any form of stockholder election), then the Reference Property into which the Preferred Stock will be convertible shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election. The Company shall notify Holders of such weighted average as soon as practicable after such determination is made. None of the foregoing provisions shall affect the right of a Holder of Preferred Stock to convert its Preferred Stock into shares of Common Stock as set forth in Section 8(a) prior to the effective time of such Reorganization Event. Notwithstanding Section 8(e), no adjustment to the Conversion Rate shall be made for any Reorganization Event to the extent stock, securities or other property or assets become the Reference Property receivable upon conversion of Preferred Stock.

The Company shall provide, by amendment hereto effective upon any such Reorganization Event, for anti-dilution and other adjustments that shall be as nearly equivalent as is possible to the adjustments provided for in this Section 8. The provisions of this Section 8 shall apply to successive Reorganization Events.

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In this Certificate of Designations, if the Common Stock has been replaced by Reference Property as a result of any such Reorganization Event, references to the Common Stock are intended to refer, as nearly equivalent as possible, to such Reference Property.

(j) The Company shall at all times reserve and keep available for issuance upon the conversion of the Preferred Stock a number of its authorized but unissued shares of Common Stock equal to the aggregate Conversion Rate on the Issue Date, and shall take all action required to increase the authorized number of shares of Common Stock if at any time there shall be insufficient unissued shares of Common Stock to permit such reservation or to permit the conversion of all Outstanding shares of Preferred Stock or the payment or partial payment of dividends declared on Preferred Stock that are payable in Common Stock.

(k) For the avoidance of doubt, the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any such certificate in a name other than that of the holder of the shares of the relevant Preferred Stock and the Company shall not be required to issue or deliver such certificate unless or until the Person or Persons requesting the issuance or delivery thereof shall have paid to the Company the amount of such tax or shall have established to the reasonable satisfaction of the Company that such tax has been paid.

(l) Notwithstanding Sections 8(e)(ii) and 8(e)(iii), if the Company has a rights plan (including, without limitation, the distribution of rights pursuant thereto to all holders of the Common Stock) in effect while any shares of Preferred Stock remain Outstanding, Holders of Preferred Stock will receive, upon conversion of Preferred Stock, in addition to the Common Stock to which a Holder is entitled, a corresponding number of rights in accordance with the rights plan. If, prior to any conversion, such rights have separated from the shares of Common Stock in accordance with the provisions of the applicable rights plan so that Holders of Preferred Stock would not be entitled to receive any rights in respect of the Common Stock delivered upon conversion of Preferred Stock, the Conversion Rate will be adjusted at the time of separation, as if the Company had distributed to all holders of its Common Stock, shares of Capital Stock, evidences of indebtedness, assets, securities, property, rights, options or warrants as described in Section 8(e)(iii) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

**(9) Mandatory Conversion.**

(a) From and after the time that the Weighted Average Price of the Common Stock equals or exceeds \$24.00 (the “**Mandatory Conversion Price**”) for at least 5 consecutive Trading Days, the Company shall have the right, at its option and subject to the terms and conditions set forth in this Section 9, to give notice of its election to cause all Outstanding shares of Preferred Stock to be automatically converted into that number of whole shares of Common Stock for each share of Preferred Stock equal to the Applicable Conversion Rate in effect on the Mandatory Conversion Date (subject to the limitations set forth in Section 11), with cash in lieu of any fractional share pursuant to Section 11. For purposes of this Section 9(a), the Mandatory Conversion Price shall be adjusted proportionally in the event of any stock split, stock dividend, issuance of rights, options or warrants or other event that would result (or, but for Section 8(f), would have resulted) in an adjustment to the Conversion Price, upon an adjustment to the Conversion Rate pursuant to Section 8(e).

(b) To exercise any mandatory conversion right described in Sections 9(a), the Company must issue a press release for publication on the Dow Jones News Service or Bloomberg Business News (or if either such service is not available, another broadly disseminated news or press release service selected by the Company) prior to the open of business on the tenth Trading Day following any date on which the condition described in Section 9(a) is met, announcing such a mandatory conversion. The Company shall also give notice by mail or by publication (with subsequent prompt notice by mail) to the Holders of the Preferred Stock (not later than 3 Business Days after the date of the press release) of the mandatory conversion announcing the Company’s intention to convert the Preferred Stock. The conversion date will be a date selected by the Company (the “**Mandatory Conversion Date**”) and will be no fewer than 15 Trading Days, nor more than 20 Trading Days, after the date on which the Company issues the press release described in this Section 9(b). Upon conversion of any Preferred Stock pursuant to this Section 9, the Company shall deliver to the applicable Holder the applicable number of shares of Common Stock, together with any applicable cash payment in lieu of any fractional share of Common Stock, on the 3rd Business Day immediately following the relevant Mandatory Conversion Date.

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(c) In addition to any information required by applicable law or regulation, the press release and notice of a mandatory conversion described in Section 9(b) shall state, as appropriate: (i) the Mandatory Conversion Date; (ii) the number of shares of Common Stock to be issued upon conversion of each share of Preferred Stock; and (iii) that dividends on the Preferred Stock to be converted will cease to accrue on the Mandatory Conversion Date.

(d) On and after the Mandatory Conversion Date, dividends shall cease to accrue on the Preferred Stock called for a mandatory conversion pursuant to Section 9(a) and all rights of Holders of such Preferred Stock shall terminate except for the right to receive the whole shares of Common Stock issuable upon conversion thereof with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 11. The full amount of any dividend payment with respect to the Preferred Stock called for a mandatory conversion pursuant to Section 9(a) on a date during the period beginning at the close of business on any Dividend Record Date and ending on the close of business on the corresponding Dividend Payment Date shall be included in the Liquidation Preference amount used to calculate the Applicable Conversion Rate for such mandatory conversion and shall not be payable on such Dividend

Payment Date to the record holder of such share at the close of business on such Dividend Record Date if such share has been converted after such Dividend Record Date and prior to such Dividend Payment Date.

(10) **Optional Redemption.** Shares of Preferred Stock may be redeemable by the Company in accordance with this Section 10.

(a) The Company may not redeem any shares of Preferred Stock prior to the earlier of (i) a Fundamental Change (without giving effect to the second proviso which is set forth at the end of the definition) and (ii) the fifth anniversary of the Issue Date. On or after the earlier of (i) a Fundamental Change (without giving effect to the second proviso which is set forth at the end of the definition) and (ii) the fifth anniversary of the Issue Date, the Company shall have the option to redeem some or all the shares of Preferred Stock at the Liquidation Preference as of the Redemption Date (the “**Redemption Price**”).

(b) In the event the Company elects to redeem shares of Preferred Stock, the Company shall:

(i) send a written notice to the Registrar and Transfer Agent of the Redemption Date, stating the number of shares to be redeemed and the Redemption Price, at least 15 Trading Days before the Redemption Date (unless a shorter period shall be satisfactory to the Registrar and Transfer Agent);

(ii) instruct DTC to notify its participants holding Preferred Stock, or, if the Preferred Stock is in certificated form, send a written notice (the “**Redemption Notice**”) by first class mail to each holder of record of the Preferred Stock at such holder’s registered address, not fewer than 10 Trading Days nor more than 90 calendar days prior to the Redemption Date stating:

- (A) the Redemption Date;
- (B) the Redemption Price;
- (C) the name and address of the Paying Agent and Conversion Agent;
- (D) that shares of Preferred Stock called for redemption may be converted at any time before 5:00 p.m., New York City time, on the Business Day immediately preceding the Redemption Date;
- (E) that holders who want to convert shares of Preferred Stock must satisfy the requirements set forth in Section 8;
- (F) that shares of Preferred Stock called for redemption must be surrendered to the Paying Agent to collect the Redemption Price;

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(G) if fewer than all the outstanding shares of Preferred Stock are to be redeemed by the Company, the number of shares to be redeemed;

(H) that, unless the Company defaults in making payment of such Redemption Price, dividends in respect of the shares of Preferred Stock called for redemption will cease to accrue on and after the Redemption Date;

(I) the CUSIP number of the Preferred Stock; and

(J) any other information the Company wishes to present; and

(iii) publish the information set forth in Section 10(b)(ii) once in a daily newspaper printed in the English language and of general circulation in the Borough of Manhattan, The City of New York, issue a press release containing such information and publish such information on the Company’s website.

(c) If the Company gives notice of redemption, then, by 12:00 p.m. (New York City time), on the Redemption Date, to the extent sufficient funds are legally available, the Company shall, with respect to:

(i) shares of Preferred Stock held by DTC or its nominees, deposit or cause to be deposited, irrevocably with DTC cash sufficient to pay the Redemption Price and shall give DTC irrevocable instructions and authority to pay the Redemption Price to holders of such shares of Preferred Stock; and

(ii) shares of the Preferred Stock held in certificated form, deposit or cause to be deposited, irrevocably with the Paying Agent cash sufficient to pay the Redemption Price and shall give the Paying Agent irrevocable instructions and authority to pay the Redemption Price to holders of such shares of Preferred Stock upon surrender to the Paying Agent of their certificates evidencing their shares of Preferred Stock.

(d) If on the Redemption Date, DTC or the Paying Agent, as applicable, holds cash sufficient to pay the Redemption Price for the shares of Preferred Stock delivered for redemption as set forth herein, dividends shall cease to accrue as of the Redemption Date on those shares of the Preferred Stock called for redemption and all rights of holders of such shares shall terminate, except for the right to receive the Redemption Price pursuant to this Section 10.

(e) Payment of the Redemption Price for shares of Preferred Stock is conditioned upon book-entry transfer or physical delivery of certificates representing the Preferred Stock, together with any necessary endorsements, to the Paying Agent, or to the Paying Agent’s account at DTC, at any time after delivery of the Redemption Notice.

(f) Payment of the Redemption Price for shares of Preferred Stock shall be made (i) if book-entry transfer or physical delivery of the Preferred Stock has been made by or on the Redemption Date, on the Redemption Date, or (ii) if book-entry transfer or physical delivery of the Preferred Stock has not been made by or on the Redemption Date, at the time of such transfer or delivery.

(g) If the Redemption Date falls after a Record Date for the payment of dividends declared on the Preferred Stock before the open of business on the Dividend Payment Date corresponding to that Record Date, holders of the shares of Convertible Preferred Stock at the close of business on that Record Date shall be entitled to receive the dividend payable on those shares on the corresponding Dividend Payment Date. The price payable on such Redemption Date will include only the Redemption Price, but will not include any amount in respect of dividends on the Preferred Stock declared and payable on such corresponding Dividend Payment Date.

(h) If fewer than all the outstanding shares of Preferred Stock are to be redeemed, the number of shares to be redeemed shall be determined by the Board and the shares to be redeemed shall be selected on a pro rata

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basis (with any fractional shares being rounded to the nearest whole share), by lot or any other method as may be determined by the Board, in its discretion, to be fair and appropriate.

(i) Upon surrender of a certificate or certificates representing shares of the Preferred Stock that is or are redeemed in part, the Company shall execute, and the Transfer Agent shall authenticate and deliver to the holder, a new certificate or certificates representing shares of the Preferred Stock in an amount equal to the unredeemed portion of the shares of Preferred Stock surrendered for partial redemption.

(11) **No Fractional Shares.** No fractional shares of Common Stock or securities representing fractional shares of Common Stock shall be delivered upon conversion, whether voluntary or mandatory, of the Preferred Stock. Instead, the Company will make a cash payment to each Holder that would otherwise be entitled to a fractional share based on the Closing Sale Price of the Common Stock on the relevant Conversion Date; provided, however, that the Company may round such fractional share up to the next highest whole number of shares in lieu of making such cash payment.

(12) **Transfer Agent and Registrar.** The duly appointed transfer agent (the “**Transfer Agent**”) and Registrar (the “**Registrar**”) for the Preferred Stock shall be Continental Stock Transfer & Trust. The Company may, in its sole discretion, remove the Transfer Agent in accordance with the agreement between the Company and the Transfer Agent; provided that the Company shall appoint a successor transfer agent who shall accept such appointment prior to the effectiveness of such removal. For the avoidance of doubt, the Company shall notify the Registrar in writing upon the Company’s or any of its Affiliates’ purchases or sales of Preferred Stock.

(13) **Certificates; Restrictions on Transfer.**

(a) If physical certificates are issued, then the Company shall, upon written request of a Holder, issue certificates in definitive form representing the shares of Preferred Stock held by such Holder. Every share of Preferred Stock that bears or is required under this Section 13(a) to bear the legend set forth in Section 13(b) (together with any Common Stock issued upon conversion of the Preferred Stock that is required to bear the legend set forth in Section 13(b), collectively “**Restricted Securities**”) shall be subject to the restrictions on transfer set forth in Section 13(b) and this Section 13(a) (including the legend set forth below), unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and the Holder of each such Restricted Security, by such Holder’s acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 13(a) and in Section 13(b), the term “transfer” encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Until the later of (i) the date on which such shares of Preferred Stock may be transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company in writing with written notice thereof to the Transfer Agent), and (ii) such later date, if any, as may be required by applicable law (the “**Resale Restriction Termination Date**”), any certificate evidencing such Preferred Stock (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon conversion thereof, which shall bear the legend set forth in Section 13(b), if applicable) shall bear a legend in substantially the following form:

THESE SHARES OF PREFERRED STOCK AND THE COMMON STOCK ISSUABLE UPON CONVERSION OF THESE SHARES OF PREFERRED STOCK HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS. NEITHER THESE SHARES OF PREFERRED STOCK NOR THE COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SHARE OF PREFERRED STOCK NOR ANY INTEREST OR PARTICIPATION HEREIN OR THEREIN MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING:

BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

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1. REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) OR AN “ACCREDITED INVESTOR” (WITHIN THE MEANING OF RULE 501(A) UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND
  2. AGREES FOR THE BENEFIT OF EXELA TECHNOLOGIES, INC. (FORMERLY KNOWN AS QUINPARIO ACQUISITION CORP. 2) (THE “COMPANY”) THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO OR AS MAY OTHERWISE BE REQUIRED BY APPLICABLE LAW, EXCEPT:
    - (A) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, OR
    - (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, OR

- (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR
- (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRANSFER AGENT RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

No transfer of any Preferred Stock prior to the Resale Restriction Termination Date will be registered by the Registrar (and shall not be effective) unless the applicable box on the Form of Assignment and Transfer attached hereto as Exhibit B has been checked (it being understood that the checking of such box shall not substitute for satisfaction of any other applicable transfer restrictions).

Subject to the delivery of such legal opinions, certifications or other evidence as may reasonably be required by the Company, any share of Preferred Stock (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Preferred Stock for exchange to the Registrar, be exchanged for a new share or shares of Preferred Stock, of like aggregate number of shares of Preferred Stock, which shall not bear the restrictive legend required by this Section 13(a) and shall not be assigned a restricted CUSIP number.

(b) Until the Resale Restriction Termination Date, any stock certificate representing Common Stock issued upon conversion of Preferred Stock shall bear a legend in substantially the following form (unless such Common Stock has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or such Common Stock has been issued upon conversion of shares of Preferred Stock that have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any

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similar provision then in force under the Securities Act, or unless otherwise agreed by the Company with written notice thereof to the Transfer Agent):

THESE SHARES OF COMMON STOCK HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THESE SHARES OF COMMON STOCK NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING:

BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

1. REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) OR AN "ACCREDITED INVESTOR" (WITHIN THE MEANING OF RULE 501(A) UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND
2. AGREES FOR THE BENEFIT OF EXELA TECHNOLOGIES, INC. (FORMERLY KNOWN AS QUINPARIO ACQUISITION CORP. 2) (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO OR AS MAY OTHERWISE BE REQUIRED BY APPLICABLE LAW, EXCEPT:
  - (A) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, OR
  - (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, OR
  - (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR
  - (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRANSFER AGENT RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

Subject to the delivery of such legal opinions, certifications or other evidence as may reasonably be required by the Company, any such Common Stock as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the Transfer Agent, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock, which shall not bear the restrictive legend required by this Section 13(b). After the Resale Restriction Termination Date, any Common Stock issued upon conversion of the Preferred Stock shall be issued without the restrictions contained in this Section. Until the Resale Restriction Termination Date, no transfer of any Common Stock issued upon conversion of Preferred Stock will be registered by the Registrar (and shall not be effective) unless the applicable box on the Form of Assignment and Transfer



attached hereto as Exhibit B has been checked (it being understood that the checking of such box shall not substitute for satisfaction of any other applicable transfer restrictions).

(c) The Preferred Stock shall initially be issued with a restricted CUSIP number.

**(14) *Paying Agent and Conversion Agent.***

(a) The Company shall maintain in the United States (i) an office or agency where Preferred Stock may be presented for payment (the “**Paying Agent**”) and (ii) an office or agency where, in accordance with the terms hereof, Preferred Stock may be presented for conversion (the “**Conversion Agent**”). The Transfer Agent may act as Paying Agent and Conversion Agent, unless another Paying Agent or Conversion Agent is appointed by the Company. The Company may appoint the Registrar, the Paying Agent and the Conversion Agent and may appoint one or more additional paying agents and one or more additional conversion agents in such other locations as it shall determine. The term “Paying Agent” includes any additional paying agent and the term “Conversion Agent” includes any additional conversion agent. The Company may change any Paying Agent or Conversion Agent without prior notice to any Holder. The Company shall notify the Registrar of the name and address of any Paying Agent or Conversion Agent appointed by the Company. If the Company fails to appoint or maintain another entity as Paying Agent or Conversion Agent, the Registrar shall act as such or the Company or any of its Affiliates shall act as Paying Agent, Registrar or Conversion Agent.

(b) Payments due on the Preferred Stock shall be payable at the office or agency of the Company maintained for such purpose in The City of New York and at any other office or agency maintained by the Company for such purpose. Payments of cash shall be payable by United States dollar check drawn on, or wire transfer (provided, that appropriate wire instructions have been received by the Registrar at least 15 days prior to the applicable date of payment) to a U.S. dollar account maintained by the Holder with, a bank located in New York City; provided that at the option of the Company, payment of cash dividends may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Preferred Stock register.

**(15) *Form.***

(a) The Preferred Stock shall be issued in the form of one or more permanent global shares of Preferred Stock in definitive, fully registered form eligible for book-entry settlement with the global legend (the “**Global Shares Legend**”) as set forth on the form of Preferred Stock certificate attached hereto as Exhibit C (each, a “**Global Preferred Share**”), which is hereby incorporated in and expressly made part of this Certificate of Designations. The Global Preferred Shares may have notations, legends or endorsements required by law, stock exchange rules, agreements to which the Company is subject, if any, or usage (provided, that any such notation, legend or endorsement is in a form acceptable to the Company). The Global Preferred Shares shall be deposited on behalf of the Holders represented thereby with the Registrar, at its New York office as custodian for DTC (the “**Depository**”), and registered in the name of the Depository or a nominee of the Depository, duly executed by the Company and countersigned and registered by the Registrar as hereinafter provided. The aggregate number of shares represented by each Global Preferred Share may from time to time be increased or decreased by adjustments made on the records of the Registrar and the Depository or its nominee as hereinafter provided.

This Section 15(a) shall apply only to a Global Preferred Share deposited with or on behalf of the Depository. The Company shall execute and the Registrar shall, in accordance with this Section 15(a), countersign and deliver any Global Preferred Shares that (i) shall be registered in the name of Cede & Co. or other nominee of the Depository and (ii) shall be delivered by the Registrar to Cede & Co. or pursuant to instructions received from Cede & Co. or held by the Registrar as custodian for the Depository pursuant to an agreement between the Depository and the Registrar. Members of, or participants in, the Depository (“**Agent Members**”) shall have no rights under this Certificate of Designations with respect to any Global Preferred Share held on their behalf by the Depository or by the Registrar as the custodian of the Depository, or under such Global Preferred Share, and the Depository may be treated by the Company, the Registrar and any agent of the Company or the Registrar as the absolute owner of such Global Preferred Share for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Registrar or any agent of the Company or the Registrar from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of the Depository governing the exercise of

the rights of a holder of a beneficial interest in any Global Preferred Share. The Holder of the Global Preferred Shares may grant proxies or otherwise authorize any Person to take any action that a Holder is entitled to take pursuant to the Global Preferred Shares, this Certificate of Designations or the Charter.

Owners of beneficial interests in Global Preferred Shares shall not be entitled to receive physical delivery of certificated shares of Preferred Stock, unless (x) the Depository notifies the Company that it is unwilling or unable to continue as Depository for the Global Preferred Shares and the Company does not appoint a qualified replacement for the Depository within 90 days or (y) the Depository ceases to be a “clearing agency” registered under the Exchange Act and the Company does not appoint a qualified replacement for the Depository within 90 days. In any such case, the Global Preferred Shares shall be exchanged in whole for definitive stock certificates that are not issued in global form, with the same terms and of an equal aggregate Liquidation Preference, and such definitive stock certificates shall be registered in the name or names of the Person or Persons specified by the Depository in a written instrument to the Registrar.

(b) *Signature.* Two Officers permitted by applicable law shall sign each Global Preferred Share for the Company, in accordance with the Company’s Bylaws and applicable law, by manual or facsimile signature. If an Officer whose signature is on a Global Preferred Share no longer holds that office at the time the Registrar countersigned such Global Preferred Share, such Global Preferred Share shall be valid nevertheless. A Global Preferred Share shall not be valid until an authorized signatory of the Registrar manually countersigns such Global Preferred Share. Each Global Preferred Share shall be dated the date of its countersignature. The foregoing paragraph shall likewise apply to any certificate representing shares of Preferred Stock.”

**(16) *Other Provisions.***

(a) With respect to any notice to a Holder of shares of Preferred Stock required to be provided hereunder, neither failure to mail such notice, nor any defect therein or in the mailing thereof, to any particular Holder shall affect the sufficiency of the notice or the validity of the proceedings referred to

in such notice with respect to the other Holders or affect the legality or validity of any distribution, rights, warrant, reclassification, consolidation, merger, conveyance, transfer, dissolution, liquidation or winding-up, or the vote upon any such action. Any notice which was mailed in the manner herein provided shall be conclusively presumed to have been duly given whether or not the Holder receives the notice.

(b) Shares of Preferred Stock that have been issued and reacquired in any manner, including shares of Preferred Stock that are purchased or exchanged or converted, shall (upon compliance with any applicable provisions of the laws of Delaware) have the status of authorized but unissued shares of preferred stock of the Company undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Company; provided that any issuance of such shares as Preferred Stock must be in compliance with the terms hereof.

(c) The shares of Preferred Stock shall be issuable only in whole shares.

(d) If any applicable law requires the deduction or withholding of any tax from any payment or deemed dividend to a Holder on its Preferred Stock, the Company or an applicable withholding agent may withhold such tax on cash dividends, shares of Preferred Stock, Common Stock or sale proceeds paid, subsequently paid or credited with respect to such Holder or his successors and assigns.

(e) All notice periods referred to herein shall commence on the date of the mailing of the applicable notice that initiates such notice period. Notice to any Holder shall be given to the registered address set forth in the Company's records for such Holder.

(f) To the extent lawful to do so, the Company shall provide the Holders prior written notice of (i) any dividend or distribution to be made to the holders of Common Stock and any other event as a result of which the Conversion Rate would be adjusted pursuant to Section 8(e) and (ii) any Reorganization Event, with such notice to be made no later than the notice thereof provided to all holders of Common Stock of the Company or, if earlier, 10 Business Days prior to the Ex-Date therefor.

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(g) Any payment required to be made hereunder on any day that is not a Business Day shall be made on the next succeeding Business Day and no interest or dividends on such payment will accrue or accumulate, as the case may be, in respect of such delay.

(h) Holders of Preferred Stock shall not be entitled to any preemptive rights to acquire additional capital stock of the Company.

[Signature page follows]

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IN WITNESS WHEREOF, the undersigned has executed this Certificate of Designations as of July 12, 2017.

**EXELA TECHNOLOGIES, INC.**

By: /s/ James G. Reynolds  
Name: James Reynolds  
Title: Chief Financial Officer

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**EXHIBIT A**

[FORM OF NOTICE OF CONVERSION]

(To be executed by the registered holder in order to convert the Preferred Stock)

The undersigned hereby irrevocably elects to convert (the "**Conversion**") shares of Series A Perpetual Convertible Preferred Stock (the "**Preferred Stock**") of Exela Technologies, Inc. (the "**Company**"), represented by stock certificate

No(s). \_\_\_\_\_

(the "**Preferred Stock Certificate(s)**"), into shares of common stock (the "**Common Stock**") of the Company according to the conditions of the Certificate of Designation, Preferences and Rights of the Preferred Stock (the "**Certificate of Designation**"). A copy of each Preferred Stock Certificate(s) are attached hereto (or evidence of loss, theft or destruction thereof).

Capitalized terms used but not defined herein shall have the meanings ascribed thereto in or pursuant to the Certificate of Designation.

Number of shares of Preferred Stock to be converted: \_\_\_\_\_

Number of shares of Common Stock beneficially owned prior to Conversion (excluding shares issuable upon conversion of the Preferred Stock): \_\_\_\_\_

Name or Names (with addresses) in which the certificate or certificate for any shares of Common Stock to be issued are \_\_\_\_\_

to be registered(1): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Name of registered holder: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

(1) The Company is not required to issue shares of Common Stock until you, if required, furnish appropriate endorsements and transfer documents.

**EXHIBIT B**

[FORM OF ASSIGNMENT AND TRANSFER]

FOR VALUE RECEIVED, the undersigned assigns and transfers the shares of Preferred Stock/Common Stock evidenced hereby to:

\_\_\_\_\_

\_\_\_\_\_  
(Insert assignee's social security or tax identification number)

\_\_\_\_\_  
(Insert address and zip code of assignee)

and irrevocably appoints:

\_\_\_\_\_

\_\_\_\_\_

agent to transfer the shares of Preferred Stock/Common Stock evidenced hereby on the books of the Transfer Agent. The agent may substitute another to act for him or her.

In connection with any transfer of the within share of Preferred Stock/Common Stock occurring prior to the Resale Restriction Termination Date, as defined in the Certificate of Designation, the undersigned confirms that such Preferred Stock/Common Stock is being transferred:

- o To Exela Technologies, Inc. or a Subsidiary thereof; or
- o Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or
- o Pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended; or
- o Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended, or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this Preferred Stock/Common Stock)

Signature Guarantee: \_\_\_\_\_ (2)

(2) Signature must be guaranteed by an "eligible guarantor institution" that is a bank, stockbroker, savings and loan association or credit union meeting the requirements of the Transfer Agent, which requirements include membership or participation in the Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Transfer Agent in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.)

**EXHIBIT C**

FACE OF SECURITY

[THIS GLOBAL CERTIFICATE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE CERTIFICATE OF DESIGNATIONS GOVERNING THIS CERTIFICATE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (1) THIS GLOBAL CERTIFICATE MAY BE DELIVERED TO THE TRANSFER AGENT FOR CANCELLATION PURSUANT TO SECTION 13 OF THE CERTIFICATE OF DESIGNATIONS AND (2) THIS GLOBAL CERTIFICATE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY IN ACCORDANCE WITH THE CERTIFICATE OF DESIGNATIONS.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SERIES A PERPETUAL CONVERTIBLE PREFERRED STOCK IN CERTIFICATED FORM, THIS CERTIFICATE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE CORPORATION OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.](1)

THIS SHARE OF PREFERRED STOCK AND THE COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SHARE OF PREFERRED STOCK HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS SHARE OF PREFERRED STOCK NOR THE COMMON STOCK ISSUABLE UPON CONVERSION OF THIS SHARE OF PREFERRED STOCK NOR ANY INTEREST OR PARTICIPATION HEREIN OR THEREIN MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING:

BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

1. REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) OR AN "ACCREDITED INVESTOR" (WITHIN THE MEANING OF RULE 501(A) UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND
2. AGREES FOR THE BENEFIT OF EXELA TECHNOLOGIES, INC. (FORMERLY KNOWN AS QUINPARIO ACQUISITION CORP. 2) (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR

(1) Insert if a global security.

PROVISION THERETO OR AS MAY OTHERWISE BE REQUIRED BY APPLICABLE LAW, EXCEPT:

- (A) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, OR
- (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, OR
- (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR
- (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRANSFER AGENT RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

Certificate Number [ ]

Number of Shares of  
Series A Preferred Stock [ ]

CUSIP No.: [ ]

ISIN No. [ ]

Series A Perpetual Convertible Preferred Stock  
(par value \$0.0001 per share)  
(initial liquidation preference \$8 per share)  
OF  
EXELA TECHNOLOGIES, INC.

(formerly known as Quinpario Acquisition Corp. 2)

EXELA TECHNOLOGIES, INC. (formerly known as Quinpario Acquisition Corp. 2), a Delaware corporation (the "Corporation"), hereby certifies that [Cede & Co.] or registered assigns (the "Holder") is the registered owner of fully paid and non-assessable shares of preferred stock of the Corporation designated the "Series A Perpetual Convertible Preferred Stock," par value \$0.0001 per share and liquidation preference \$8.00 per share of Preferred Stock (plus any Dividends on the Preferred Stock accrued pursuant to Sections 4 and 5 of the Certificate of Designations (as defined below) prior to and as of the most recent Dividend Payment Date (as defined in the Certificate of Designations) plus all accrued and unpaid dividends on the Preferred Stock since the latest Dividend Payment Date per share) (the "Series A Preferred Stock"). The shares of Series A Preferred Stock are transferable on the books and records of the Registrar, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Series A Preferred Stock represented hereby are issued and shall in all respects be subject to the provisions of the Certificate of Designations of the Corporation, dated July 12, 2017, as the same may be amended from time to time in accordance with its terms (the "Certificate of Designations"). Capitalized terms used herein but not defined shall have the respective meanings given them in the Certificate of Designations. The Corporation will provide a copy of the Certificate of Designations to a Holder without charge upon written request to the Corporation at its principal place of business.

Reference is hereby made to select provisions of the Series A Preferred Stock set forth on the reverse hereof, and to the Certificate of Designations, which select provisions and the Certificate of Designations shall for all purposes have the same effect as if set forth at this place.

Upon receipt of this certificate, the Holder is bound by the Certificate of Designations and is entitled to the benefits thereunder.

Unless the Transfer Agent's Certificate of Authentication hereon has been properly executed, the shares of Series A Preferred Stock evidenced hereby shall not be entitled to any benefit under the Certificate of Designations or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, Exela Technologies, Inc. has executed this Certificate of Designations as of the date set forth below.

EXELA TECHNOLOGIES, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

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**TRANSFER AGENT'S CERTIFICATE OF AUTHENTICATION**

This is one of the certificates representing shares of Preferred Stock referred to in the within mentioned Certificate of Designations.

Continental Stock Transfer & Trust Company,  
as Transfer Agent

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

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REVERSE OF SECURITY

EXELA TECHNOLOGIES, INC.

(formerly known as Quinpario Acquisition Corp. 2)

Series A Perpetual Convertible Preferred Stock

Dividends on each share of Series A Perpetual Convertible Preferred Stock shall be payable at a rate per annum set forth on the face hereof or as provided in the Certificate of Designations.

The shares of Series A Perpetual Convertible Preferred Stock shall be redeemable as provided in the Certificate of Designations. The Series A Perpetual Convertible Preferred Stock shall be convertible into the Corporation's Common Stock in the manner and according to the terms set forth in the

Certificate of Designations.

As required under Delaware law, the Corporation shall furnish to any Holder upon request and without charge, a full summary statement of the designations, voting rights preferences, limitations and special rights of the shares of each class or series authorized to be issued by the Corporation so far as they have been fixed and determined.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers the shares of Series A Perpetual Convertible Preferred Stock evidenced hereby to:

(Insert assignee's social security or tax identification number)

(Insert address and zip code of assignee)

and irrevocably appoints:

agent to transfer the shares of Series A Perpetual Convertible Preferred Stock evidenced hereby on the books of the Transfer Agent and Registrar. The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this certificate for Series A Perpetual Convertible Preferred Stock)

Signature Guarantee: \_\_\_\_\_ (1)

(1) Signature must be guaranteed by an "eligible guarantor institution" (i.e., a bank, stockbroker, savings and loan association or credit union) meeting the requirements of the Registrar, which requirements include membership or participation in the Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

NOTICE OF CONVERSION

(To be Executed by the Registered Holder  
in Order to Convert the Series A Perpetual Convertible Preferred Stock)

The undersigned hereby irrevocably elects to convert (the "Conversion") \_\_\_\_\_ shares of Series A Perpetual Convertible Preferred Stock (the "Series A Preferred Stock"), represented by stock certificate No(s) \_\_\_\_\_ the "Series A Preferred Stock Certificates"), into shares of common stock, par value \$0.0001 per share ("Common Stock"), of Exela Technologies, Inc. (the "Corporation") according to the conditions of the Certificate of Designations establishing the terms of the Series A Preferred Stock (the "Certificate of Designations"), as of the date written below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates (unless it can be established that no such taxes are payable). No fee will be charged to the holder for any conversion, except for transfer taxes, if any. A copy of each Series A Preferred Stock Certificate is attached hereto (or evidence of loss, theft or destruction thereof).

The Corporation is not required to issue shares of Common Stock (i) unless the conditions for conversion of the Series A Preferred Stock set forth in Section 8 of the Certificate of Designations have been satisfied and (ii) until the original Series A Preferred Stock Certificate(s) (or evidence of loss, theft or destruction thereof) to be converted are received by the Corporation or its Transfer Agent. If the foregoing conditions have been satisfied, the Corporation shall issue and deliver shares of Common Stock to an overnight courier not later than two Business Days following receipt of the original Series A Preferred Stock Certificate(s) to be converted.

Capitalized terms used but not defined herein shall have the meanings ascribed thereto in or pursuant to the Certificate of Designations.

Date of Conversion:

Applicable Conversion Rate:

Number of Shares of Series A Perpetual Convertible Preferred Stock to be Converted:

Number of Shares of Common Stock to be Issued:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address (2): \_\_\_\_\_

Fax No.: \_\_\_\_\_

(2) Address where shares of Common Stock and any other payments or certificates shall be sent by the Corporation.

SCHEDULE A

SCHEDULE OF EXCHANGES FOR GLOBAL SECURITY

The initial number of shares of Series A Perpetual Convertible Preferred Stock represented by this Global Preferred Share shall be \_\_\_\_\_. The following exchanges of a part of this Global Preferred Share have been made:

<b>Date of Exchange</b>	<b>Amount of decrease in number of shares represented by this Global Preferred Share</b>	<b>Amount of increase in number of shares represented by this Global Preferred Share</b>	<b>Number of shares represented by this Global Preferred Share following such decrease or increase</b>	<b>Signature of authorized officer of Registrar</b>

**EXELA INTERMEDIATE LLC**

as Issuer

**EXELA FINANCE INC.**

as Co-Issuer

and the Subsidiary Guarantors party hereto from time to time

10.000% First-Priority Senior Secured Notes due 2023

**INDENTURE**

Dated as of July 12, 2017

Wilmington Trust, National Association  
as Trustee**TABLE OF CONTENTS**

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INDENTURE, dated as of July 12, 2017, among EXELA INTERMEDIATE LLC., a Delaware limited liability company (the “Company”), EXELA FINANCE INC., a Delaware corporation (“Co-Issuer” and, together with Company, the “Issuers”), the Subsidiary Guarantors party hereto from time to time (as defined below), Wilmington Trust, National Association, as trustee (the “Trustee”).

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the holders of (i) \$1,000,000,000 aggregate principal amount of the Issuers’ 10.000% First-Priority Senior Secured Notes due 2023 issued on the date hereof (the “Initial Notes”) and (ii) Additional Notes issued from time to time (together with the Initial Notes, the “Notes”):

**ARTICLE I**

**DEFINITIONS AND INCORPORATION BY REFERENCE**

SECTION 1.01 Definitions.

“Acquired Indebtedness” means, with respect to any specified Person:

- (1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

Acquired Indebtedness will be deemed to have been Incurred, with respect to clause (1) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (2) of the preceding sentence, on the date of consummation of such acquisition of such assets.

“Acquisition Documents” means the business combination agreement dated as of February 21, 2017 among Parent, Quinpario Merger Sub I, Inc., a Delaware corporation, Quinpario Merger Sub II, Inc., a Delaware corporation, Novitex Holdings, Inc., a Delaware corporation, Novitex Parent, L.P., HOVS LLC, HandsOn Fund 4 I, LLC, SourceHOV Holdings, Inc., a Delaware corporation, and any other agreements or instruments contemplated thereby, in each case, as amended, restated, supplemented or otherwise modified from time to time.

“Additional First-Priority Secured Party” means the holders of any Other First-Priority Obligations that are Incurred after the Issue Date.

“Additional Notes” means the Notes issued under the terms of this Indenture subsequent to the Issue Date.

“Additional Refinancing Amount” means, in connection with the Incurrence of any Refinancing Indebtedness, the aggregate principal amount of additional Indebtedness,

Disqualified Stock or Preferred Stock Incurred to pay accrued and unpaid interest, premiums (including tender premiums), expenses, defeasance costs and fees in respect thereof.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“After-Acquired Property” means any property or assets (other than Excluded Property) of the Company or any Subsidiary Guarantor that secures or is required to secure any First-Priority Obligations (including any Secured Bank Indebtedness) that is not already subject to the Lien under the Security Documents.

“Applicable Premium” means, with respect to any Note on any applicable redemption date, as determined by the Issuers, the greater of:

(1) 1% of the then outstanding principal amount of the Note; and

(2) the excess of:

(a) the present value at such redemption date of (i) the redemption price of the Note, at July 15, 2020 (such redemption price being set forth in Paragraph 5 of the Note) *plus* (ii) all required interest payments due on the Note through July 15, 2020 (excluding accrued but unpaid interest), computed using a discount rate equal to the Treasury Rate as of such redemption date *plus* 50 basis points; over

(b) the then outstanding principal amount of the Note.

“Asset Sale” means:

(1) the sale, conveyance, transfer or other disposition (whether in a single transaction or a series of related transactions) of property or assets (including by way of Sale/Leaseback Transactions) outside the ordinary course of business of the Company or any Restricted Subsidiary (each referred to in this definition as a “disposition”); or

(2) the issuance or sale of Equity Interests (other than directors’ qualifying shares and shares issued to foreign nationals or other third parties to the extent required by applicable law) of any Restricted Subsidiary (other than to the Company or another Restricted Subsidiary) (whether in a single transaction or a series of related transactions),

in each case other than:

(a) (i) a disposition of Cash Equivalents or Investment Grade Securities or obsolete, damaged or worn out property or equipment in the ordinary course of business and (ii) any dispositions of Investments in joint ventures to the extent

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required by, or made pursuant to buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(b) the disposition of all or substantially all of the assets of the Company in a manner permitted pursuant to Section 5.01 or any disposition that constitutes a Change of Control;

(c) any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 4.04;

(d) any disposition of assets of the Company or any Restricted Subsidiary or issuance or sale of Equity Interests of the Company or any Restricted Subsidiary, which assets or Equity Interests so disposed or issued have an aggregate Fair Market Value (as determined in good faith by the Company) of less than \$75 million;

(e) any disposition of property or assets, or the issuance of securities, by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary;

(f) any exchange of assets (including a combination of assets and Cash Equivalents) for assets related to a Similar Business of comparable or greater market value or usefulness to the business of the Company and the Restricted Subsidiaries as a whole, as determined in good faith by the Company;

(g) foreclosure or any similar action with respect to any property or other asset of the Company or any of the Restricted Subsidiaries;

(h) any disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(i) the lease, assignment or sublease of any real or personal property in the ordinary course of business;

(j) any sale of inventory or other assets in the ordinary course of business;

(k) any grant in the ordinary course of business of any license or sublicense of patents, trademarks, know-how or any other intellectual property;

(l) any disposition (including by capital contribution), pledge, factoring, transfer or sale of (i) Securitization Assets to any Special Purpose Securitization Subsidiary or otherwise any pledge, factoring, transfer or sale in connection with any Permitted Securitization Financing, and (ii) any other Securitization Assets subject to Liens securing Permitted Securitization Financings;

(m) any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Issue Date, including any Sale/Leaseback Transaction or Permitted Securitization Financing;

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(n) dispositions in connection with Permitted Liens;

(o) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(p) the sale of any property in a Sale/Leaseback Transaction within twelve months of the acquisition of such property;

(q) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(r) any surrender, expiration or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(s) any disposition made pursuant to the Acquisition Documents (as in effect on the Issue Date) or in connection with the Transactions and described in the Offering Memorandum, including assignments by the Company and any Restricted Subsidiary in connection with insurance arrangements of their rights and remedies under, and with respect to, the Acquisition Documents;

(t) to the extent constituting an Asset Sale, any termination, settlement or extinguishment of Hedging Obligations; and

(u) any sale, transfer or disposition of Claims Administration Investments; provided that the Net Proceeds thereof received by the Company or any Restricted Subsidiary are used to make additional Claims Administration Investments or to repay any outstanding Claims Administration Indebtedness prior to being used for any other purpose.

“Authorized Representative” means (i) in the case of the Notes, the Trustee, (ii) in the case of the Credit Agreement, the administrative agent under the Credit Agreement, and (iii) in the case of any Series of Other First-Priority Obligation that become subject to the First Lien Intercreditor Agreement, the authorized representative (and any successor thereto) named for such Series in the applicable joinder agreement.

“Bank Indebtedness” means any and all amounts payable under or in respect of (a) the Credit Agreement and the other Credit Agreement Documents, as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time (including after termination of the Credit Agreement), including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or indenture or indentures or any successor or replacement agreement or agreements or indenture or indentures or

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increasing the amount loaned or issued thereunder or altering the maturity thereof, including principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Issuers whether or not a claim for post-filing interest is allowed in such proceedings), fees, charges, expenses, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect thereof (except to the extent any such refinancing, replacement or restructuring is designated by the Company to not be included in the definition of “Bank Indebtedness”) and (b) whether or not the Indebtedness referred to in clause (a) remains outstanding, if designated by the Company to be included in this definition, one or more (A) debt facilities or commercial paper facilities, providing for revolving credit loans, term loans, reserve-based loans, securitization or receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (B) debt securities, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers’ acceptances), or (C) instruments or agreements evidencing any other Indebtedness, in each case, with the same or different borrowers or issuers and, in each case, as amended, supplemented, modified, extended, restructured, renewed, refinanced, restated, replaced or refunded in whole or in part from time to time.

“Bankruptcy Code” means Title 11 of the United States Code.

“Board of Directors” means, as to any Person, the board of directors or managers or other governing body, as applicable, of such Person or any direct or indirect parent of such Person (or, if such Person is a partnership, the board of directors or other governing body of the general partner of such Person) or any duly authorized committee thereof.

“Business Day” means a day other than a Saturday, Sunday or other day on which banking institutions are authorized or required by law to close in New York City or the place of payment.

“Capital Stock” means:

(1) in the case of a corporation, corporate stock or shares;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP; *provided that* obligations of the Company or its Restricted

Subsidiaries, or of a special purpose or other entity not consolidated with the Company and its Restricted Subsidiaries, either existing on the Issue Date or created thereafter that (a) initially were not included on the consolidated balance sheet of the Company as capital lease obligations and were subsequently recharacterized as capital lease obligations or, in the case of such a special purpose or other entity becoming consolidated with the Company and its Restricted Subsidiaries were required to be characterized as capital lease obligations upon such consolidation, in either case, due to a change in accounting treatment or otherwise, or (b) did not exist on the Issue Date and were required to be characterized as capital lease obligations but would not have been required to be treated as capital lease obligations on the Issue Date had they existed at that time, shall for all purposes not be treated as Capitalized Lease Obligations or Indebtedness.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of such Person and such Restricted Subsidiaries.

“Cash Equivalents” means:

(1) U.S. dollars, pounds sterling, euros, the national currency of any member state in the European Union or such local currencies held by an entity from time to time in the ordinary course of business;

(2) securities issued or directly and fully guaranteed or insured by the U.S. government or any country that is a member of the European Union or any agency or instrumentality thereof in each case maturing not more than two years from the date of acquisition;

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances, in each case with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of \$250 million and whose long-term debt is rated “A” or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency);

(4) repurchase obligations for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper issued by a corporation (other than an Affiliate of the Company) rated at least “A-1” or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) and in each case maturing within one year after the date of acquisition;

(6) readily marketable direct obligations issued by any state of the United States of America or any political subdivision thereof having one of the two highest

rating categories obtainable from either Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

(7) Indebtedness issued by Persons (other than the Investors or any of the Investor Affiliates) with a rating of “A” or higher from S&P or “A-2” or higher from Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

(8) investment funds investing at least 95% of their assets in securities of the types described in clauses (1) through (7) above; and

(9) instruments equivalent to those referred to in clauses (1) through (8) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States of America to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction.

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

“cash management services” means cash management services for collections, treasury management services (including controlled disbursement, overdraft, automated clearing house fund transfer services, return items and interstate depository network services), any demand deposit,

payroll, trust or operating account relationships, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

“CFC” means a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“Change of Control” means the occurrence of either of the following:

- (1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Company and its Subsidiaries, taken as a whole, to a Person other than any of the Permitted Holders; or
- (2) the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any Person or group (within the meaning of Section 13(d)(3) or

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Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than any of the Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the Voting Stock of the Company.

For purposes of this definition, (i) no person or “group” will be deemed to have beneficial ownership of any securities that such person or “group” has the right to acquire or vote only upon the happening of any future event or contingency (including the passage of time) that has not yet occurred and (ii) the provisions of Rule 13d-3(b) shall be disregarded for all purposes of determining beneficial ownership.

“Claims Administration Arrangements” means any and all arrangements entered into by the Company or any of its Restricted Subsidiaries and any Claims Administration Bank whereby short-term loans (which loans shall be secured solely by Claim Administration Liens) are made by such Claims Administration Bank to the Company or any of its Restricted Subsidiaries; provided that the proceeds of such loans are deposited in one or more segregated deposit or securities accounts and are solely used to purchase Claims Administration Investments (which shall be held in such segregated accounts) and pay transaction costs in connection therewith.

“Claims Administration Bank” means any third-party financial institution meeting the qualifications specified in clause (3) of the definition of “Cash Equivalents” that is designated by the Company or any of its Restricted Subsidiaries to hold and distribute certain legal settlement funds administered by the Company or its Restricted Subsidiaries in connection with the Company’s claims administration business.

“Claims Administration Indebtedness” means Indebtedness for borrowed money of the Company or any of its Restricted Subsidiaries in favor of the Claims Administration Bank in respect of loans made pursuant to Claims Administration Arrangements.

“Claims Administration Investments” means Cash Equivalents invested with proceeds of Claims Administration Indebtedness.

“Claims Administration Liens” means Liens in favor of the Claims Administration Bank on Claims Administration Investments and related segregated deposit and securities accounts securing Claims Administration Indebtedness solely to the extent the amount of such Claims Administration Investment equals or exceeds the amount of such Claims Administration Indebtedness.

“Closing Equity Contribution” means the contribution of \$275,000,000 by Parent, directly or indirectly, to the equity of the Company on the Issue Date.

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

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“Collateral” means all property subject or purported to be subject, from time to time, to a Lien under any Security Documents.

“Collateral Agreement” means the Collateral Agreement (First Lien) among the Issuers, each Subsidiary Guarantor and the First-Priority Collateral Agent, entered into on the Issue Date, as may be amended, restated, supplemented or otherwise modified from time to time in accordance with its terms and in accordance with this Indenture.

“Common Collateral” means, at any time, Collateral in which the holders of two or more Series of First-Priority Obligations (or their respective Authorized Representatives) hold a valid and perfected security interest at such time. If more than two Series of First-Priority Obligations are outstanding at any time and the holders of less than all Series of First-Priority Obligations hold a valid and perfected security interest in any Collateral at such time, then such Collateral shall constitute Common Collateral for those Series of First-Priority Obligations that hold a valid security interest in such Collateral at such time and shall not constitute Common Collateral for any Series which does not have a valid and perfected security interest in such Collateral at such time.

“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including, without limitation, the amortization of intangible assets, deferred financing fees, capitalized contract incentives, Capitalized Software Expenditures and amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated Interest Expense” means, with respect to any Person for any period, the sum, without duplication, of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including the interest component of Capitalized Lease Obligations and net payments and receipts (if any) pursuant to interest rate Hedging Obligations and excluding amortization of deferred financing fees and original issue discount, debt issuance costs, commissions, fees and expenses, expensing of any bridge, commitment or other financing fees and non-cash interest expense attributable to movement in mark to market valuation of Hedging Obligations or other derivatives (in each case permitted hereunder) under GAAP); *plus*

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; *minus*

(3) interest income for such period;

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

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“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis; *provided, however*, that:

(1) any net after-tax extraordinary, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses or charges, any severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any New Project or any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facility closing costs, facility rebranding costs, acquisition integration costs, facility opening costs, project and contract start-up costs, business optimization costs, recruiting costs, signing, retention or completion bonuses, expenses or charges related to any issuance of Equity Interests, Investment, acquisition, disposition, recapitalization or Incurrence, issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and any fees, expenses, charges or change in control payments related to the Transactions (including any costs relating to auditing prior periods, any transition-related expenses, and transaction expenses incurred before, on or after the Issue Date), in each case, shall be excluded;

(2) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Subsidiaries and including, without limitation, the effects of adjustments to (A) deferred rent, (B) Capitalized Lease Obligations or other obligations or deferrals attributable to capital spending funds with suppliers or (C) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded;

(3) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;

(4) any net after-tax income or loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets shall be excluded;

(5) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Company) shall be excluded;

(6) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Hedging Obligations or other derivative instruments shall be excluded;

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(7) (a) the Net Income for such period of any Person that is not a Subsidiary of such Person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period and (b) the Net Income for such period shall include any dividend, distribution or other payment in cash (or to the extent converted into cash) received by the referent Person or a Subsidiary thereof (other than an Unrestricted Subsidiary of such referent Person) from any Person in excess of, but without duplication of, the amounts included in subclause (a);

(8) solely for the purpose of determining the amount available for Restricted Payments under clause (1) of the definition of “Cumulative Credit,” the Net Income for such period of any Restricted Subsidiary (other than any Subsidiary Guarantor) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; *provided* that the Consolidated Net Income of such Person shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or converted into cash) by any such Restricted Subsidiary to such Person, to the extent not already included therein;

(9) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with Section 4.04(b)(xii) shall be included as though such amounts had been paid as income taxes directly by such Person for such period;

(10) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments arising pursuant to GAAP shall be excluded;

(11) any non-cash expense realized or resulting from stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded;



(12) any (a) non-cash compensation charges, (b) costs and expenses after the Issue Date related to employment of terminated employees, or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Issue Date of officers, directors and employees, in each case of such Person or any Restricted Subsidiary, shall be excluded;

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(13) accruals and reserves that are established or adjusted within 12 months after the Issue Date and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded;

(14) (a)(i) the non-cash portion of “straight-line” rent expense shall be excluded, (ii) the cash portion of “straight-line” rent expense which exceeds the amount expensed in respect of such rent expense shall be included, (iii) the non-cash amortization of tenant allowances shall be excluded, (iv) cash received from landlords for tenant allowances shall be included and (v) to the extent not already included in Net Income, the cash portion of sublease rentals received shall be included (for the avoidance of doubt, the net effect of the adjustments in this clause (14)(a) as well as any related adjustments pursuant to clause (2) above shall be to compute rent expense and rental income on a cash basis for purposes of determining Consolidated Net Income) and (b) non cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(15) any currency translation gains and losses related to currency remeasurements of Indebtedness, and any net loss or gain resulting from hedging transactions for currency exchange risk, shall be excluded;

(16) (a) to the extent covered by insurance and actually reimbursed, or, so long as such Person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded and (b) amounts estimated in good faith to be received from insurance in respect of lost revenues or earnings in respect of liability or casualty events or business interruption shall be included (with a deduction for amounts actually received up to such estimated amount to the extent included in Net Income in a future period);

(17) Capitalized Software Expenditures shall be excluded;

(18) non-cash charges for deferred tax asset valuation allowances shall be excluded;

(19) any other costs, expenses or charges resulting from facility closures or sales, including income (or losses) from such facility closures or sales, shall be excluded;

(20) any deductions attributable to minority interests shall be excluded; and

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(21) any gain, loss, income, expense or charge resulting from the application of any LIFO shall be excluded.

Notwithstanding the foregoing, for the purpose of Section 4.04 only, there shall be excluded from Consolidated Net Income any dividends, repayments of loans or advances or other transfers of assets from Unrestricted Subsidiaries or Restricted Subsidiaries to the extent such dividends, repayments or transfers increase the amount of Restricted Payments permitted under Section 4.04 pursuant to clauses (4) and (5) of the definition of “Cumulative Credit.”

“Consolidated Non-Cash Charges” means, with respect to any Person for any period, the non-cash expenses (other than Consolidated Depreciation and Amortization Expense) of such Person and its Restricted Subsidiaries reducing Consolidated Net Income of such Person for such period on a consolidated basis and otherwise determined in accordance with GAAP, *provided* that if any such non-cash expenses represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from EBITDA in such future period to the extent paid, but excluding from this proviso, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period.

“Consolidated Taxes” means, with respect to any Person for any period, the provision for taxes based on income, profits or capital, including, without limitation, state, franchise, property and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations) and any Tax Distributions taken into account in calculating Consolidated Net Income.

“Consolidated Total Indebtedness” means, as of any date of determination, an amount equal to the sum (without duplication) of (1) the aggregate principal amount of all outstanding Indebtedness of the Company and the Restricted Subsidiaries (excluding letters of credit or bank guarantees, to the extent undrawn, cash collateralized or backstopped) consisting of Capitalized Lease Obligations and Indebtedness for borrowed money, plus (2) the aggregate amount of all outstanding Disqualified Stock of the Company and the Restricted Subsidiaries and all Preferred Stock of the Restricted Subsidiaries, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences, in each case determined on a consolidated basis in accordance with GAAP.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Corporate Trust Office” means the designated office of the Trustee in the United States of America at which at any time its corporate trust business shall be administered, or such other address as the Trustee may designate from time to time by notice to the holders and the Issuers, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the holders and the Issuers).

“Credit Agreement” means (i) the credit agreement entered into on the Issue Date, among the Company, the guarantors named therein, the financial institutions named therein and the Royal Bank of Canada, as administrative agent and collateral agent, as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or indenture or indentures or any successor or replacement agreement or agreements or indenture or indentures or increasing the amount loaned or issued thereunder or altering the maturity thereof (except to the extent any such refinancing, replacement or restructuring is designated by the Company to not be included in the definition of “Credit Agreement”) and (ii) whether or not the credit agreement referred to in clause (i) remains outstanding, if designated by the Company to be included in the definition of “Credit Agreement,” one or more (A) debt facilities or commercial paper facilities, providing for revolving credit loans, term loans, securitization or receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (B) debt securities, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers’ acceptances), or (C) instruments or agreements evidencing any other Indebtedness, in each case, with the same or different borrowers or issuers and, in each case, as amended, supplemented, modified, extended, restructured, renewed, refinanced, restated, replaced or refunded in whole or in part from time to time.

“Credit Agreement Documents” means the collective reference to any Credit Agreement, any notes issued pursuant thereto and the guarantees thereof, and the collateral documents relating thereto, as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified, in whole or in part, from time to time.

“Cumulative Credit” means the sum of (without duplication):

(1) (i) \$50 million plus (ii) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from April 1, 2017 to the end of the Company’s most recently ended fiscal quarter for which financial statements have

been delivered to the Trustee at the time of such Restricted Payment (or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit), *plus*

(2) 100% of the aggregate net proceeds, including cash and the Fair Market Value (as determined in good faith by the Company) of property other than cash, received by the Company after the Issue Date (other than net proceeds to the extent such net proceeds have been used to incur Indebtedness, Disqualified Stock, or Preferred Stock pursuant to Section 4.03(b)(xiii)) from the issue or sale of Equity Interests of the Company or any direct or indirect parent entity of the Company (excluding the Closing Equity Contribution, Refunding Capital Stock (as defined below), Designated Preferred Stock, Excluded Contributions, and Disqualified Stock), including Equity Interests issued upon exercise of warrants or options (other than an issuance or sale to the Company or a Restricted Subsidiary), *plus*

(3) 100% of the aggregate amount of contributions to the capital of the Company received in cash and the Fair Market Value (as determined in good faith by the Company) of property other than cash after the Issue Date (other than the Closing Equity Contribution, Excluded Contributions, Refunding Capital Stock, Designated Preferred Stock, and Disqualified Stock and other than contributions to the extent such contributions have been used to Incur Indebtedness, Disqualified Stock, or Preferred Stock pursuant to Section 4.03(b)(xiii)), *plus*

(4) 100% of the principal amount of any Indebtedness, or the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock of the Company or any Restricted Subsidiary issued after the Issue Date (other than Indebtedness or Disqualified Stock issued to a Restricted Subsidiary) which has been converted into or exchanged for Equity Interests in the Company (other than Disqualified Stock) or any direct or indirect parent of the Company (*provided*, in the case of any such parent, such Indebtedness or Disqualified Stock is retired or extinguished), *plus*

(5) 100% of the aggregate amount received by the Company or any Restricted Subsidiary in cash and the Fair Market Value (as determined in good faith by the Company) of property other than cash received by the Company or any Restricted Subsidiary from:

(A) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of Restricted Investments made by the Company and the Restricted Subsidiaries and from repurchases and redemptions of such Restricted Investments from the Company and the Restricted Subsidiaries by any Person (other than the Company or any Restricted Subsidiary) and from repayments of loans or advances, and releases of guarantees, which constituted Restricted Investments (other than in each case to the extent that the Restricted Investment was made pursuant to Section 4.04(b)(vii)),

(B) the sale (other than to the Company or a Restricted Subsidiary) of the Capital Stock of an Unrestricted Subsidiary, or

(C) a distribution or dividend from an Unrestricted Subsidiary, *plus*

(6) in the event any Unrestricted Subsidiary has been redesignated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Company or a Restricted Subsidiary, the Fair Market Value (as determined in good faith by the Company) of the Investment of the Company or the Restricted Subsidiaries in such Unrestricted Subsidiary (which, if the Fair Market Value of such Investment shall exceed \$40 million, shall be determined by the Board of Directors of the Company) at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) (other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary was made pursuant to Section 4.04(b)(vii) or constituted a Permitted Investment).

“Default” means any event which is, or after notice or passage of time or both would be, an Event of Default.

“Designated Non-cash Consideration” means the Fair Market Value (as determined in good faith by the Company) of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth such valuation, less the amount of Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Company or any direct or indirect parent of the Company (other than Disqualified Stock), that is issued for cash (other than to the Company or any of its Subsidiaries or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate, on the issuance date thereof.

“Discharge of First-Priority Obligations” means, except to the extent otherwise provided in the First Lien Intercreditor Agreement with respect to the reinstatement or continuation of any First-Priority Obligation under certain circumstances, payment in full in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all First-Priority Obligations and, with respect to any letters of credit or letter of credit guaranties outstanding under a document evidencing a First-Priority Obligation, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with such document, in each case after or concurrently with the termination of all commitments to extend credit thereunder, and the termination of all commitments of the First-Priority Secured Parties under such document evidencing such Obligation; *provided* that the Discharge of First-Priority Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other First-Priority Obligations that constitute an exchange or replacement for or a refinancing of such Obligations or First-Priority Obligations. In the event the First-Priority Obligations are modified and the Obligations are paid over time or otherwise modified, in each case pursuant to Section 1129 of the Bankruptcy Code, the First-Priority Obligations shall be deemed to be discharged when the final payment is made, in cash, in respect of such

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indebtedness and any obligations pursuant to such modified indebtedness shall have been satisfied.

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms (or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable), or upon the happening of any event:

- (1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than as a result of a change of control or asset sale),
- (2) is convertible or exchangeable for Indebtedness or Disqualified Stock of such Person or any of its Restricted Subsidiaries, or
- (3) is redeemable at the option of the holder thereof, in whole or in part (other than solely as a result of a change of control or asset sale),

in each case prior to 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; *provided, however*, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided, further, however*, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Company or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by such Person in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; *provided, further*, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock.

“Domestic Subsidiary” means a Restricted Subsidiary that is not a Foreign Subsidiary.

“EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period *plus*, without duplication, to the extent the same was deducted in calculating Consolidated Net Income:

- (1) Consolidated Taxes; *plus*
- (2) Fixed Charges and costs of surety bonds in connection with financing activities; *plus*
- (3) Consolidated Depreciation and Amortization Expense; *plus*
- (4) Consolidated Non-Cash Charges; *plus*
- (5) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any issuance of Equity Interests, Investment, acquisition, New Project, disposition, loan origination, recapitalization or the

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incurrence, modification or repayment of Indebtedness permitted to be incurred by this Indenture (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the Transactions, the Notes or any Bank Indebtedness, (ii) any amendment or other modification of the Notes or other Indebtedness and (iii) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Permitted Securitization Financing; *plus*

(6) business optimization expenses and other restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges) and Pre-Opening Expenses; *plus*

(7) the amount of loss or discount on sale of assets to a Special Purpose Securitization Subsidiary in connection with a Permitted Securitization Financing, including amortization of loan origination costs and amortization of portfolio discounts; *plus*

(8) any costs or expense incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of an Issuer or a Subsidiary Guarantor or net cash proceeds of an issuance of Equity Interests of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation of the Cumulative Credit; *plus*

(9) the amount of any loss attributable to a New Project, until the date that is 12 months after the date of completing the construction, acquisition, assembling or creation of such New Project, as the case may be; provided that (a) such losses are reasonably identifiable and factually supportable and certified by a responsible financial or accounting officer of the Company and (b) losses attributable to such New Project after 12 months from the date of completing such construction, acquisition, assembling or creation, as the case may be, shall not be included in this clause (9); *plus*

(10) the amount of any management, monitoring, consulting, transaction, advisory and similar fees and related expenses paid to the Investors or any Investor Affiliate (or any accruals relating to such fees and related expenses) during such period to the extent otherwise permitted by Section 4.07; *plus*

(11) with respect to any joint venture that is not a Subsidiary and solely to the extent relating to any net income referred to in clause (7) of the definition of "Consolidated Net Income," an amount equal to the proportion of those items described in clauses (1) and (2) above relating to such joint venture corresponding

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to the Company's and the Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Subsidiary); *plus*

(12) any payment for termination fees in respect of the termination of the HandsOn Management Agreements and payments in connection therewith, including any net present value of future payments; *plus*

(13) all adjustments of the nature used in connection with the calculation of "Further Adjusted EBITDA" as set forth in "Summary Unaudited Pro Forma Financial and Other Information of Exela" under "Summary" in the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such period; and

less, without duplication, to the extent the same increased Consolidated Net Income,

(14) non-cash items increasing Consolidated Net Income for such period (excluding the recognition of deferred revenue or any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced EBITDA in any prior period and any items for which cash was received in a prior period).

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Equity Offering" means any public or private sale after the Issue Date of common Capital Stock or Preferred Stock of the Company or any direct or indirect parent of the Company, as applicable (other than Disqualified Stock), other than:

- (1) public offerings with respect to the Company's or such direct or indirect parent's common stock registered on Form S-4 or Form S-8;
- (2) issuances to any Subsidiary of the Company; and
- (3) any such public or private sale that constitutes an Excluded Contribution.

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

"Excluded Contributions" means the Cash Equivalents or other assets (valued at their Fair Market Value as determined in good faith by senior management or the Board of Directors of the Company) received by the Company after the Issue Date from:

- (1) contributions to its common equity capital, and
- (2) the sale (other than to a Subsidiary of the Company or to any Subsidiary management equity plan or stock option plan or any other management or employee

benefit plan or agreement) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Company,

in each case designated as Excluded Contributions pursuant to an Officer's Certificate; *provided*, that the Closing Equity Contribution shall not be permitted to be designated as an Excluded Contribution.

"Excluded Property" means the property and other assets of the Issuers and the Subsidiary Guarantors that is excluded from the grant of security interests in favor of the First-Priority Collateral Agent, on behalf of the First-Priority Secured Parties, pursuant to the terms of this Indenture and the Security Documents.

"Excluded Subsidiary" means (a) each Unrestricted Subsidiary, (b) each Domestic Subsidiary that is not a Wholly Owned Subsidiary (for so long as such Subsidiary remains a non-Wholly Owned Subsidiary), (c) each Domestic Subsidiary that is prohibited from guaranteeing the Notes by any requirement of law or that would require consent, approval, license or authorization of a governmental (including regulatory) authority to guarantee the Notes (unless such consent, approval, license or authorization has been received); provided that, for the avoidance of doubt, such Domestic Subsidiary shall have no obligation to seek such consent, approval, license or authorization, (d) each Domestic Subsidiary that is prohibited by any applicable contractual requirement from guaranteeing the Notes on the Issue Date or at the time such Subsidiary becomes a Subsidiary (in each case for so long as such restriction or any replacement or renewal thereof is in effect), (e) any Foreign Subsidiary that is a CFC or FSHCO, (f) any Domestic Subsidiary (i) that is a FSHCO or (ii) that is a direct or indirect subsidiary of a CFC, (g) any Special Purpose Securitization Subsidiary, (h) any Subsidiary (other than a Significant Subsidiary) that (i) did not, as of the last day of the fiscal quarter of the Company most recently ended, have assets with a value in excess of 5.0% of the Total Assets or revenues representing in excess of 5.0% of total revenues of the Company and the Restricted Subsidiaries on a consolidated basis as of such date and (ii) taken together with all other such Subsidiaries being excluded pursuant to this clause (h), as of the last day of the fiscal quarter of the Company most recently ended, did not have assets with a value in excess of 10.0% of the Total Assets or revenues representing in excess of 10.0% of total revenues of the Company and the Restricted Subsidiaries on a consolidated basis as of such date, and (i) any Subsidiary for which providing a Subsidiary Guarantee or granting Liens required by the Security Documents to secure Indebtedness could reasonably be expected to result in material tax consequences as determined in good faith by the Company in consultation with the administrative agent under the Credit Agreement.

"Fair Market Value" means, with respect to any asset or property, the price which could be negotiated in an arm's-length transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction.

"FSHCO" means any Subsidiary that owns no material assets other than the Equity Interests of one or more Foreign Subsidiaries that are CFCs and/or of one or more FSHCOs.

"First Lien Intercreditor Agreement" means (i) the Pari First Lien Intercreditor Agreement among the Royal Bank of Canada, as First-Priority Collateral Agent, Royal Bank of Canada as an Authorized Representative, the Trustee and the other parties from time to time party thereto, to be entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with this Indenture or (ii) any replacement or other intercreditor agreement that contains terms not materially less favorable to holders of the Notes than the intercreditor agreement referred to in clause (i).

"First-Priority Collateral Agent" means the Royal Bank of Canada, in its capacity as collateral agent for the First-Priority Secured Parties, together with its successors and permitted assigns (or if such Person is no longer the First-Priority Collateral Agent, such agent or trustee as is designated as "First-Priority Collateral Agent" under the First-Priority Obligations Documents).

"First-Priority Obligations" means (i) all Secured Bank Indebtedness, (ii) all Notes Obligations, (iii) Other First-Priority Obligations and (iv) if Hedging Obligations or obligations in respect of cash management services have been secured in the collateral that secures the First-Priority Obligations, all other obligations of the Company or any of its Restricted Subsidiaries in respect of Hedging Obligations or obligations in respect of cash management services in each case owing to a Person that is a holder of Secured Bank Indebtedness or an Affiliate of such holder on the Issue Date or at the time of entry into such Hedging Obligations or obligations in respect of cash management services.

"First-Priority Obligations Documents" means the Credit Agreement Documents, the Notes Documents and any other documents or instrument evidencing or governing any other First-Priority Obligations.

"First-Priority Secured Parties" means the Persons holding any First-Priority Obligations, including the First-Priority Collateral Agent.

"First-Priority Security Documents" means the Security Documents and any other agreement, document or instrument pursuant to which a Lien is granted or purported to be granted securing First-Priority Obligations or under which rights or remedies with respect to such Liens are governed.

"Fixed Charge Calculation Date" has the meaning assigned in the "Fixed Charge Coverage Ratio" definition.

"Fixed Charge Coverage Ratio" means, with respect to any Person for any period, the ratio of EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the Company or any of its Restricted Subsidiaries Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Fixed Charge Calculation Date"), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of

Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations that the Company or any Restricted Subsidiary has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Calculation Date (each, for purposes of this definition, a “pro forma event”) shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project or initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from any relevant pro forma event (including, to the extent applicable, the Transactions) and (2) all adjustments of the type used in connection with the calculation of “Further Adjusted EBITDA” as set forth in the “Summary Unaudited Pro Forma Financial and Other Information of Exela” portion of the “Summary” section of the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period; provided that for all purposes of determining EBITDA hereunder (i) adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)) and (ii) actions resulting in operating expense reductions and other

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operating improvements, synergies or cost savings are, in each case, required to be taken or commenced or expected to be taken or commenced (in the good faith determination of the Company) within 24 months after the date any such transaction is consummated; provided that the limitations set forth in clauses (i) and (ii) shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions or otherwise pursuant to clause (2) above, and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

For purposes of making the computation referred to above, in giving effect to each New Project which commences operations and records not less than one full fiscal quarter’s operations during such period, the operating results of such New Project shall be annualized on a straight line basis during such period, taking into account any seasonality adjustments determined by the Company in good faith.

For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

“Fixed Charges” means, with respect to any Person for any period, the sum, without duplication, of: (1) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, and (2) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Restricted Subsidiaries.

“Foreign Subsidiary” means a Subsidiary not organized or existing under the laws of the United States of America or any state thereof or the District of Columbia.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been

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approved by a significant segment of the accounting profession, which are in effect on the Issue Date. For the purposes of this Indenture, the term “consolidated” with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted

Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

“guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations payable by another Person. The amount of any guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith.

“HandsOn Management Agreement” means the SourceHOV Consulting Agreement and any other management agreement existing on the date of the execution of the Acquisition Documents among investment funds managed by Affiliates of HandsOn Global Management, LLC, on the one hand, and Source HOV Holdings, Inc. and/or any of its Subsidiaries, on the other.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under:

- (1) currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements; and
- (2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange, interest rates or commodity prices.

“holder” or “noteholder” means the Person in whose name a Note is registered on the Registrar’s books.

“Holdings” means Exela Intermediate Holdings LLC, a Delaware limited liability company.

“Impairment” means, with respect to any Series of First-Priority Obligations, (i) any determination by a court of competent jurisdiction that (x) any of the First-Priority Obligations of such Series are unenforceable under applicable law or are subordinated to any other obligations (other than another Series of First-Priority Obligations), (y) any of the First-Priority Obligations of such Series do not have an enforceable security interest in any of the Collateral securing any other Series of First-Priority Obligations and/or (z) any intervening security interest exists securing any other obligations (other than another Series of First-Priority Obligations) on a basis ranking prior to the security interest of such Series of First-Priority Obligations but junior to the security interest of any other Series of First-Priority Obligations or (ii) the existence of any Collateral for any other Series of First-Priority Obligations that is not Common Collateral.

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“Incur” means issue, assume, guarantee, incur or otherwise become liable for; *provided, however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary. “Incurred” and “Incurrence” shall have correlative meanings.

“Indebtedness” means, with respect to any Person:

- (1) the principal of any indebtedness of such Person, whether or not contingent, (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof), (c) representing the deferred and unpaid purchase price of any property (except any such balance that constitutes (i) a trade payable or similar obligation to a trade creditor Incurred in the ordinary course of business, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (iii) liabilities accrued in the ordinary course of business), which purchase price is due more than twelve months after the date of placing the property in service or taking delivery and title thereto, (d) in respect of Capitalized Lease Obligations, or (e) representing any Hedging Obligations, if and to the extent that any of the foregoing indebtedness would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;
- (2) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the obligations referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and
- (3) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); *provided, however*, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value (as determined in good faith by the Company) of such asset at such date of determination, and (b) the principal amount of such Indebtedness of such other Person;

*provided, however*, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (1) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) Obligations under or in respect of Permitted Securitization Financings; (5) trade and other ordinary course payables, accrued expenses and intercompany liabilities arising in the ordinary course of business; (6) obligations under the Acquisition Documents; (7) obligations in respect of Third Party Funds; (8) in the case of the Company and the Restricted Subsidiaries (x) all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Company and the Restricted Subsidiaries; (9) obligations under or in respect of the

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Acquisition Documents; (10) any obligations under Hedging Obligations; and (11) any Claims Administration Indebtedness of such person (except to the extent that any such Claims Administration Indebtedness exceeds the Claims Administration Investments of such Person); provided that such agreements are entered into for bona fide hedging purposes of the Company or its Restricted Subsidiaries (as determined in good faith by the Board of Directors or senior

management of the Company, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Company or its Restricted Subsidiaries entered into in the ordinary course of business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of the Company or its Restricted Subsidiaries Incurred without violation of this Indenture.

Notwithstanding anything in this Indenture to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted Indebtedness under this Indenture but for the application of this sentence shall not be deemed an Incurrence of Indebtedness under this Indenture.

“Indenture” means this Indenture as amended or supplemented from time to time.

“Independent Financial Advisor” means an accounting, appraisal or investment banking firm or consultant, in each case of nationally recognized standing, that is, in the good faith determination of the Issuer, qualified to perform the task for which it has been engaged.

“Interest Payment Date” has the meaning set forth in Paragraph 1 of the Note.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

“Investment Grade Securities” means:

- (1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),
- (2) securities that have a rating equal to or higher than Baa3 (or equivalent) by Moody’s and BBB- (or equivalent) by S&P, but excluding any debt securities or loans or advances between and among the Company and its Subsidiaries,

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(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment and/or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees of loans), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers and commission, travel and similar advances to officers, employees and consultants made in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet of such Person in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 4.04:

(1) “Investments” shall include the portion (proportionate to the Company’s equity interest in such Subsidiary) of the Fair Market Value (as determined in good faith by the Company) of the net assets of a Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary equal to an amount (if positive) equal to:

- (a) the Company’s “Investment” in such Subsidiary at the time of such redesignation; less
- (b) the portion (proportionate to the Company’s equity interest in such Subsidiary) of the Fair Market Value (as determined in good faith by the Company) of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by the Company) at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Issuer.

“Investor” means, collectively, investment funds managed by Affiliates of Apollo Global Management, LLC, investment funds managed by Affiliates of HandsOn Global Management, LLC, and other co-investors in the Equity Interests of Parent as of the Issue Date.

“Investor Affiliates” mean each Affiliate of the Investors that is neither a “portfolio company” (which means a company actively engaged in providing goods or services

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to unaffiliated customers), whether or not controlled, nor a company controlled by a “portfolio company”.

“Issue Date” means the date on which the Initial Notes are originally issued.



“Junior Lien Obligations” means the Obligations with respect to other Indebtedness permitted to be incurred under this Indenture, which is by its terms intended to be secured by the Collateral on a basis junior to the Notes; *provided* such Lien is permitted to be incurred under this Indenture.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or similar encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement or any lease in the nature thereof); provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

“Management Group” means the group consisting of the directors, executive officers and other management personnel of the Company or any direct or indirect parent of the Company, as the case may be, on the Issue Date together with (1) any new directors whose election by such boards of directors or whose nomination for election by the equityholders of the Company or any direct or indirect parent of the Company, as applicable, was approved by a vote of a majority of the directors of the Company or any direct or indirect parent of the Company, as applicable, then still in office who were either directors on the Issue Date or whose election or nomination was previously so approved and (2) executive officers and other management personnel of the Company or any direct or indirect parent of the Company, as applicable, hired at a time when the directors on the Issue Date together with the directors so approved constituted a majority of the directors of the Company or any direct or indirect parent of the Company, as applicable.

“Mergers” means the mergers as described under “Summary—The Transactions” in the Offering Memorandum.

“Moody’s” means Moody’s Investors Service, Inc. or any successor to the rating agency business thereof.

“Net Income” means, with respect to any Person, the net income (loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Proceeds” means the aggregate cash proceeds received by the Company or any Restricted Subsidiary in respect of any Asset Sale (including, without limitation, any cash received in respect of or upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale and any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding the assumption by the acquiring Person of Indebtedness relating to the disposed assets or other consideration received in any other non-cash form), net of the direct costs relating to such Asset Sale and the sale or disposition of such Designated Non-cash Consideration (including, without limitation, legal, accounting and investment banking fees, and

brokerage and sales commissions), and any relocation expenses Incurred as a result thereof, taxes paid or payable as a result thereof (including, without duplication, Tax Distributions and after taking into account any available tax credits or deductions and any tax sharing arrangements related solely to such disposition), amounts required to be applied to the repayment of principal, premium (if any) and interest on Indebtedness required (other than pursuant to Section 4.06(b)) to be paid as a result of such transaction, and any deduction of appropriate amounts to be provided by the Company as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Company after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, and payments made to holders of minority interests in Restricted Subsidiaries that are joint ventures as a result of such Asset Sale.

“New Project” means (x) each contract or project with respect to new customers and any expansions of contracts or projects with respect to existing customers and (y) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market.

“Notes Documents” means this Indenture, the Notes, the Subsidiary Guarantees, the Security Documents and the First Lien Intercreditor Agreement.

“Notes Obligations” means Obligations in respect of the Notes, this Indenture, the Subsidiary Guarantees and the Security Documents.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and bankers’ acceptances), damages and other liabilities payable under the documentation governing any Indebtedness (including interest, fees, expenses, indemnity claims and other monetary obligations accrued during the pendency of an insolvency proceeding, whether or not constituting an allowed claim in such proceeding); *provided* that Obligations with respect to the Notes shall not include fees or indemnifications in favor of third parties other than the Trustee.

“Offering Memorandum” means the offering memorandum, dated June 28, 2017, relating to the issuance of the Initial Notes.

“Officer” means the Chairman of the Board of Directors, Chief Executive Officer, Chief Financial Officer, President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of each Issuer.

“Officer’s Certificate” means a certificate signed on behalf of an Issuer by an Officer of such Issuer who is the Chief Executive Officer, the Chief Financial Officer, the President, the Treasurer, or the Chief Accounting Officer of such Issuer, which meets the requirements set forth in this Indenture.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Company.

“Other First-Priority Obligations” means other Indebtedness or Obligations of the Company and its Restricted Subsidiaries that are equally and ratably secured by the Common Collateral and is designated by the Company as an Other First-Priority Obligation pursuant to the First Lien Intercreditor Agreement.

“Outside Date” means July 24, 2017.

“Parent” means Quinpario Acquisition Corp. 2 (to be renamed Exela Technologies Inc. upon consummation of the Mergers), a Delaware corporation.

“Pari Passu Indebtedness” means: (a) with respect to an Issuer, the Notes and any Indebtedness which ranks pari passu in right of payment to the Notes; and (b) with respect to any Subsidiary Guarantor, its Subsidiary Guarantee and any Indebtedness which ranks pari passu in right of payment to such Subsidiary Guarantor’s Subsidiary Guarantee.

“Permitted Holder Group” has the meaning assigned in the “Permitted Holders” definition.

“Permitted Holders” means, at any time, each of (i) the Investors and the Investor Affiliates (excluding any of their portfolio companies), (ii) the Management Group, (iii) any Person that has no material assets other than the Equity Interests of the Company or any direct or indirect parent of the Company and that, directly or indirectly, holds or acquires beneficial ownership of 100% on a fully diluted basis of the total voting power of the Voting Stock of the Company, and of which no other Person or “group” (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act as in effect on the Issue Date), other than any of the other Permitted Holders specified in clauses (i), (ii) and (iii), beneficially owns more than 50% on a fully diluted basis of the total voting power of the Voting Stock thereof and (iv) any “group” (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act as in effect on the Issue Date) the members of which include any of the other Permitted Holders specified in clauses (i), (ii) and (iii) above and that, directly or indirectly, hold or acquire beneficial ownership of the Voting Stock of the Company (a “Permitted Holder Group”), so long as (1) each member of the Permitted Holder Group has voting rights proportional to the percentage of ownership interests held or acquired by such member and (2) no Person or other “group” (other than the other Permitted Holders specified in clauses (i), (ii) and (iii) above) beneficially owns more than 50% on a fully diluted basis of the Voting Stock held by the Permitted Holder Group. Any Person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which a Change of Control Offer is made in accordance with the requirements of this Indenture will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

“Permitted Investments” means:

- (1) any Investment in the Company or any Restricted Subsidiary;
- (2) any Investment in Cash Equivalents or Investment Grade Securities;
- (3) any Investment by the Company or any Restricted Subsidiary in a Person if as a result of such Investment (a) such Person becomes a Restricted Subsidiary, or

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(b) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary;

(4) any Investment in securities or other assets not constituting Cash Equivalents and received in connection with an Asset Sale made pursuant to Section 4.06 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on, or made pursuant to binding commitments existing on, the Issue Date or an Investment consisting of any extension, modification or renewal of any Investment existing on the Issue Date; *provided* that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the Issue Date or (y) as otherwise permitted under this Indenture;

(6) (i) loans and advances to officers, directors, employees or consultants of the Company or any Restricted Subsidiary in the ordinary course of business not to exceed \$20 in the aggregate at any time outstanding (valued in good faith by the Company at the time of the making thereof, and without giving effect to any subsequent change in value), (ii) advances of payroll payments, business related travel expenses, moving expenses and other similar expenses and expenses to employees in the ordinary course of business and (iii) in connection with such Person’s purchase of Equity Interests of the Company or any direct or indirect parent of the Company solely to the extent that the amount of such loans and advances shall be contributed to the Company in cash as common equity;

(7) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by the Company or a Restricted Subsidiary as a result of a foreclosure by the Company or any of the Restricted Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;

(8) Hedging Obligations permitted under Section 4.03(b)(x);

(9) any Investment by the Company or any Restricted Subsidiary in a Similar Business having an aggregate Fair Market Value (as determined in good faith by the Company at the time of the making thereof, and without giving effect to any subsequent changes in value), taken together with all other Investments made pursuant to this clause (9) that are at that time outstanding, not to exceed the sum of (x) the greater of (i) \$65 million and (ii) 0.19 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided, however*, that

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if any Investment pursuant to this clause (9) is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (9) for so long as such Person continues to be the Company or a Restricted Subsidiary;

(10) additional Investments by the Company or any Restricted Subsidiary having an aggregate Fair Market Value (as determined in good faith by the Company at the time of the making thereof, and without giving effect to any subsequent changes in value), taken together with all other Investments made pursuant to this clause (10) that are at that time outstanding, not to exceed the sum of (x) the greater of (i) \$100 million and (ii) 0.29 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided, however*, that if any Investment pursuant to this clause (10) is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (10) for so long as such Person continues to be the Company or a Restricted Subsidiary;

(11) Investments the payment for which consists of Equity Interests of the Company (other than Disqualified Stock) or any direct or indirect parent of the Company, as applicable; *provided, however*, that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of the definition of "Cumulative Credit";

(12) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 4.07(b) (except transactions described in clauses (ii), (iv), (vi), (ix)(B) and (xvi) of Section 4.07(b));

(13) guarantees issued in accordance with Section 4.03 and Section 4.11 including, without limitation, any guarantee or other obligation issued or incurred under any Credit Agreement in connection with any letter of credit issued for the account of the Company or any of its Restricted Subsidiaries (including with respect to the issuance of, or payments in respect of drawings under, such letters of credit);

(14) (i) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons; (ii) Investments consisting of purchases and acquisitions of inventory, supplies,

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materials and equipment or purchases of contract rights or licenses or leases of intellectual property in each case in the ordinary course of business;

(15) Investments consisting of Securitization Assets or arising as a result of Permitted Securitization Financings;

(16) additional Investments in joint ventures (as determined in good faith by the Company at the time of the making thereof, and without giving effect to any subsequent changes in value) not to exceed, at any one time in the aggregate outstanding under this clause (16), the sum of (x) the greater of (i) \$40 million and (ii) 0.12 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time such Investment is made and without giving effect to subsequent changes in value); *provided, however*, that the Company or any Restricted Subsidiary may make additional Investments in joint ventures if the Total Indebtedness Leverage Ratio for the most recently ended four fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such Investment is not greater than 2.72 to 1.00 on a pro forma basis after giving effect to such Investment as if it had occurred at the beginning of such four fiscal quarters; *provided, further, however*, that if any Investment pursuant to this clause (16) is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (16) for so long as such Person continues to be the Company or a Restricted Subsidiary;

(17) Investments of a Restricted Subsidiary acquired after the Issue Date or of an entity merged into, amalgamated with, or consolidated with the Company or a Restricted Subsidiary in a transaction that is not prohibited by Section 5.01 after the Issue Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(18) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers;

(19) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Company or its Restricted Subsidiaries;

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(20) any Investment consisting of intercompany current liabilities in connection with the cash management, tax and accounting operations of the Company and Restricted Subsidiaries;

(21) Investments made pursuant to the Acquisition Documents or in connection with the Transactions and described in the Offering Memorandum; and

(22) other Investments so long as, immediately after giving effect to such Investment, the Total Indebtedness Leverage Ratio for the most recently ended four fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such Investment is not greater than 2.72 to 1.00 on a *pro forma* basis after giving effect to such Investment as if it had occurred at the beginning of such four fiscal quarters;

(23) Investments resulting from pledges and deposits referred to in clauses (1), (4), (21), (34) and (35) of the definition of “Permitted Liens”;

(24) (i) accounts receivable, security deposits and prepayments arising, and trade credit granted, in the ordinary course of business and (ii) any securities received in satisfaction or partial satisfaction of defaulted accounts receivable from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss; and

(25) Guarantees by the Company or any Restricted Subsidiary of operating leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case, entered into by the Company or any Restricted Subsidiary in the ordinary course of business.

“Permitted Liens” means, with respect to any Person:

(1) pledges and deposits and other Liens made in the ordinary course of business in compliance with the Federal Employers Liability Act or any other workers’ compensation, unemployment insurance and other social security laws or regulations and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in respect of such obligations and (ii) pledges and deposits and other Liens securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Company or any Restricted Subsidiary;

(2) Liens imposed by law, such as landlord’s, carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, supplier’s, construction or other like Liens securing obligations that are not overdue by more than 30 days or that are being contested in good faith by appropriate proceedings and in respect of which, if applicable, the Company or any Restricted Subsidiary shall have set aside on its books reserves in accordance with GAAP;

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(3) Liens for taxes, assessments or other governmental charges or levies not yet overdue by more than 30 days or that are being contested in good faith by appropriate proceedings;

(4) deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capitalized Lease Obligations), statutory obligations, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with public utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof) incurred by the Company or any Restricted Subsidiary in the ordinary course of business, including those incurred to secure health, safety, insurance and environmental obligations in the ordinary course of business;

(5) zoning restrictions, building codes and laws, survey exceptions, easements, trackage rights, leases (other than Capitalized Lease Obligations), licenses, special assessments, rights-of-way, covenants, conditions, restrictions and declarations on or with respect to the use of real property, servicing agreements, development agreements, site plan agreements and other similar encumbrances, in each case, incurred in the ordinary course of business and title defects or irregularities that are of a minor nature and that, in the aggregate, do not interfere in any material respect with the ordinary conduct of the business of the Company or any Restricted Subsidiary;

(6) (A) Liens on assets of a Subsidiary that is not an Issuer or a Subsidiary Guarantor securing Indebtedness of a Subsidiary that is not an Issuer or a Subsidiary Guarantor not prohibited by Section 4.03;

(B) Liens securing Obligations in respect of (x) Indebtedness Incurred pursuant to Section 4.03(b)(i) and (y) any other Indebtedness permitted to be Incurred under this Indenture if, as of the date such Indebtedness was Incurred, and after giving pro forma effect thereto and the application of the net proceeds therefrom, the Senior Secured Leverage Ratio of the Company does not exceed 3.75 to 1.00; and

(C) Liens securing Obligations in respect of Indebtedness permitted to be Incurred pursuant to clause (iv), (xii) (or (xiv) to the extent it guarantees any such Indebtedness), (xvi), (xx) or (xxiii) of Section 4.03(b) (*provided* that (i) in the case of clause (xx), such Lien does not extend to the property or assets of the Company or any Subsidiary of the Company other than a Restricted Subsidiary that is not an Issuer or a Subsidiary Guarantor, (ii) in the case of clause (iv), such Liens do not extend to any property or assets that are not being acquired, leased, constructed, repaired, replaced or improved with the proceeds of such Indebtedness being incurred pursuant to clause (iv) (or the indebtedness refinanced thereby) or sold in the applicable sale and lease back transaction and accessions and additions thereto, proceeds and products thereof, customary security deposits and related property; *provided*, that individual financings

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provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates) (it being understood that with respect to any Liens on the Collateral being incurred under this clause (C)(ii) to secure Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being refinanced (if any) constituted Junior Lien Obligations, then any Liens on such Collateral being incurred under this clause (C)(ii) to secure Refinancing Indebtedness shall also constitute Junior Lien Obligations), (iii) in the case of clause (xvi), such Liens securing Indebtedness Incurred pursuant to clause (xvi) shall only be permitted under this clause (C) if such Liens secure Indebtedness not created or Incurred in connection with, or in contemplation of, the acquisition and only extend to the property or assets acquired in such acquisition (and accessions and additions thereto and proceeds and products thereof), and (iv) in the case of clause (xxiii), it being understood that with respect to any Liens on the Collateral being incurred under this clause (C)(iv) to secure

Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being refinanced (if any) constituted Junior Lien Obligations, then any Liens on such Collateral being incurred under this clause (C)(iv) to secure Refinancing Indebtedness shall also constitute Junior Lien Obligations;

(7) Liens existing on the Issue Date (other than Liens in favor of the lenders under the Credit Agreement and in favor of holders of the Notes and Subsidiary Guarantees);

(8) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary; *provided, however*, that such Liens are not created or Incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary; *provided, further, however*, that such Liens may not extend to any other property owned by the Company or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(9) Liens on assets or property at the time the Company or a Restricted Subsidiary acquired the assets or property, including any acquisition by means of a merger, amalgamation or consolidation with or into the Company or any Restricted Subsidiary; *provided, however*, that such Liens are not created or Incurred in connection with, or in contemplation of, such acquisition; *provided, further, however*, that the Liens may not extend to any other property owned by the Company or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(10) Liens securing Indebtedness or other obligations of the Company or a Restricted Subsidiary owing to the Company or another Restricted Subsidiary permitted to be Incurred in accordance with Section 4.03;

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(11) Liens (i) on not more than \$5,000,000 of deposits securing Hedging Obligations entered into for non-speculative purposes and (ii) on cash or cash equivalents securing Hedging Obligations in the ordinary course of business submitted for clearing in accordance with applicable requirements of law);

(12) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a documentary letter of credit, bank guarantee or bankers' acceptance issued or created for the account of the Company or any Restricted Subsidiary in the ordinary course of business; provided that such Lien secures only the obligations of the Company or such Restricted Subsidiaries in respect of such letter of credit, bank guarantee or banker's acceptance to the extent permitted under this Indenture;

(13) leases and subleases not constituting Capitalized Lease Obligations of real property not material to the conduct of any business line of the Company and its Restricted Subsidiaries granted to others in the ordinary course of business that do not materially interfere with the ordinary conduct of the business of the Company or any of its Restricted Subsidiaries;

(14) Liens arising from precautionary Uniform Commercial Code financing statements or consignments entered into in connection with any transaction otherwise permitted under this Indenture;

(15) Liens in favor of an Issuer or any Subsidiary Guarantor;

(16) Liens in respect of Permitted Securitization Financings that extend only to the assets subject thereto and Equity Interests of Special Purpose Securitization Subsidiaries;

(17) Liens (i) on Equity Interests in joint ventures (A) securing obligations of such joint venture or (B) pursuant to the relevant joint venture agreement or arrangement and (ii) on Equity Interests in Unrestricted Subsidiaries;

(18) licenses of intellectual property and software that are not material to the conduct of any of the business lines of the Company and its Restricted Subsidiaries and the value of which does not constitute a material portion of the assets of the Company and its Restricted Subsidiaries, taken as a whole, and such license does not materially interfere with the ordinary course of conduct of the business of the Company or any of its Restricted Subsidiaries;

(19) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (7), (8), (9), (10), (11), (15), (24) and (32) of this definition; *provided, however*, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to

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such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Indebtedness being refinanced, refunded, extended, renewed or replaced, and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under clauses (6), (7), (8), (9), (10), (11), (15), (24) and (32) at the time the original Lien became a Permitted Lien under this Indenture, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided further, however, that in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(B) or (6)(C), the principal amount of any Indebtedness Incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (6)(B) or (6)(C) and not this clause (19) for purposes of determining the principal amount of Indebtedness outstanding under clause (6)(B) or (6)(C); *provided, further, however*, that

any Lien securing any refinancing of any Indebtedness secured by a Lien referred to in clause (32) shall be a junior Lien subject to a customary intercreditor agreement;

(20) non-consensual Liens (not incurred in connection with borrowed money) on equipment of the Company or any of its Restricted Subsidiaries granted in the ordinary course of business to the Company's or such Restricted Subsidiary's client at which such equipment is located;

(21) judgment and attachment Liens not giving rise to an Event of Default;

(22) Liens arising out of consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(23) Liens that (i) are contractual rights of set-off (and related pledges) (a) relating to the establishment of depository relations with banks and other financial institutions not given in connection with the issuance of Indebtedness or (b) relating to pooled deposits, sweep accounts, reserve accounts or similar accounts of the Company or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company or any Restricted Subsidiary, including with respect to credit card charge-backs and similar obligations, or (ii) relate to purchase orders and other agreements entered into with customers, suppliers or service providers of the Company or any Restricted Subsidiary (a) in the ordinary course of business or (b) in connection with implementation of business optimization programs;

(24) other Liens securing obligations the outstanding principal amount of which does not, taken together with the principal amount of all other obligations secured by Liens incurred under this clause (24) (together with the principal amount of any other obligations secured by Liens refinanced pursuant to clause (19) above) that are at that time outstanding, exceed the greater of \$100 million and 0.29 multiplied by the Pro Forma EBITDA of the Company for the

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most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters;

(25) Liens on any amounts held by a trustee or agent under any indenture or other debt agreement issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture or other debt agreement pursuant to customary discharge, redemption or defeasance provisions;

(26) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code in effect in the State of New York or similar provisions in similar codes, statutes or laws in other jurisdictions on items in the course of collection, (ii) attaching to commodity trading accounts, other commodity brokerage accounts or securities incurred in the ordinary course of business, (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry, (iv) encumbering customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts incurred in the ordinary course of business and not for speculative purposes, (v) in respect of Third Party Funds or (vi) in favor of credit card companies pursuant to agreements therewith;

(27) Liens disclosed by the title insurance policies delivered on (with respect to all mortgages delivered on the Issue Date) or subsequent to the Issue Date and pursuant to the Credit Agreement and any replacement, extension or renewal of any such Lien; *provided* that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; *provided, further*, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted under this Indenture;

(28) any interest or title of a lessor or sublessor under any leases or subleases entered into by the Company or any Restricted Subsidiary in the ordinary course of business;

(29) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(30) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents under clause (4) of the definition thereof;

(31) Liens securing insurance premium financing arrangements; *provided* that such Liens are limited to the applicable unearned insurance premiums;

(32) Liens on the Collateral securing Junior Lien Obligations (subject to a customary intercreditor agreement) if, as of the date such Junior Lien

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Obligations were Incurred, and after giving *pro forma* effect thereto and the application of the net proceeds therefrom, the Secured Leverage Ratio of the Company does not exceed 4.00 to 1.00; *provided* that the Notes are secured on a senior priority basis to the obligations so secured until such time as such obligations are no longer secured by a Lien;

(33) Liens on non-Collateral assets, so long as such Liens secure obligations permitted to be Incurred pursuant to Section 4.03(b);

(34) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(35) Liens solely on any cash earnest money deposits made by the Company or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted under this Indenture;

(36) Liens to secure cash management services in the ordinary course of business; provided that such Liens are not incurred in connection with, and do not secure, any borrowings or Indebtedness;

(37) [Reserved];

(38) Claims Administration Liens;

(39) Liens on cash and Cash Equivalents on deposit with lenders and affiliates of lenders securing obligations owing to such Persons under any treasury, depository, overdraft or other cash management services agreements or arrangements with the Company or any of its Restricted Subsidiaries; and

(40) in the case of real property that constitutes a leasehold interest, any Lien to which the fee simple interest (or any superior leasehold interest) is subject.

“Permitted Securitization Financing” shall mean one or more transactions pursuant to which (a) Securitization Assets or interests therein are sold or transferred to or financed by one or more Special Purpose Securitization Subsidiaries, and (b) such Special Purpose Securitization Subsidiaries finance (or refinance) their acquisition of such Securitization Assets or interests therein, or the financing thereof, by selling or borrowing against Securitization Assets, and any Hedging Obligations entered into in connection with such Securitization Assets; *provided*, that, recourse to the Company or any Restricted Subsidiary (other than the Special Purpose Securitization Subsidiaries) in connection with such transactions shall be limited to the extent customary (as determined by the Company in good faith) for similar transactions in the applicable jurisdictions (including, to the extent applicable, in a manner consistent with the delivery of a “true sale”/“absolute transfer” opinion with respect to any transfer by the Company or any Restricted Subsidiary (other than a Special Purpose Securitization Subsidiary)).

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“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“PIPE Investment” means the PIPE investment described under “The Transactions—PIPE Investment” in the Offering Memorandum.

“Preferred Stock” means any Equity Interest with preferential right of payment of dividends or upon liquidation, dissolution, or winding up.

“Pre-Opening Expenses” means, with respect to any fiscal period, the amount of expenses (other than interest expense) incurred with respect to facilities which are classified as “pre-opening expenses” (or any similar or equivalent caption) on the applicable financial statements of the Company and its Subsidiaries for such period, prepared in accordance with GAAP.

“Pro Forma EBITDA” means, with respect to any Person, at any date, the EBITDA of such Person for the full four fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date, subject to the following adjustments. In the event that the Company or any Restricted Subsidiary incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which Pro Forma EBITDA is being calculated but prior to the event for which the calculation of Pro Forma EBITDA is made (the “Pro Forma EBITDA Calculation Date”), then Pro Forma EBITDA shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations that the Company or any Restricted Subsidiary has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Pro Forma EBITDA Calculation Date (each, for purposes of this definition, a “pro forma event”) shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then Pro Forma EBITDA shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition,

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disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project or initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then Pro Forma EBITDA shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from any relevant pro forma event (including, to the extent applicable, the Transactions) and (2) all adjustments of the type used in connection with the calculation of “Further Adjusted EBITDA” as set forth in the “Summary Unaudited Pro Forma Financial and Other Information of Exela” portion of the “Summary” section of the Offering Memorandum to the extent such

adjustments, without duplication, continue to be applicable to such four-quarter period; provided that for all purposes of determining EBITDA hereunder (i) adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)) and (ii) actions resulting in operating expense reductions and other operating improvements, synergies or cost savings are, in each case, required to be taken or commenced or expected to be taken or commenced (in the good faith determination of the Company) within 24 months after the date any such transaction is consummated; provided that the limitations set forth in clauses (i) and (ii) shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions or otherwise pursuant to clause (2) above, and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Pro Forma EBITDA Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

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For purposes of making the computation referred to above, in giving effect to each New Project which commences operations and records not less than one full fiscal quarter's operations during such period, the operating results of such New Project shall be annualized on a straight line basis during such period, taking into account any seasonality adjustments determined by the Company in good faith.

"Pro Forma EBITDA Calculation Date" has the meaning assigned in the "Pro Forma EBITDA" definition.

"Rating Agency" means (1) each of Moody's and S&P (and their respective successors and assigns) and (2) if Moody's or S&P ceases to rate the Notes for reasons outside of the Company's control, a "nationally recognized statistical rating organization" within the meaning of Rule 15cs-1(c)(2)(vi)(F) under the Exchange Act selected by the Company or any direct or indirect parent of the Company as a replacement agency for Moody's or S&P, as the case may be.

"Receivables Assets" shall mean accounts receivable (including any bills of exchange) and related assets and property from time to time originated, acquired or otherwise owned by the Company or any Subsidiary.

"Record Date" has the meaning set forth in Paragraph 2 of the Note.

"Restricted Cash" means (i) cash and Cash Equivalents held by Restricted Subsidiaries that would appear as "restricted" on a consolidated balance sheet of the Company or any of its Restricted Subsidiaries and (ii) cash and Cash Equivalents not available to be distributed to the Company or a Restricted Subsidiary (other than a Special Purpose Securitization Subsidiary) from issuers of Permitted Securitization Financings.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated in this Indenture, all references to Restricted Subsidiaries shall mean Restricted Subsidiaries of the Company.

"S&P" means Standard & Poor's Ratings Group or any successor to the rating agency business thereof.

"Sale/Leaseback Transaction" means an arrangement relating to property now owned or hereafter acquired by the Company or a Restricted Subsidiary whereby the Company or such Restricted Subsidiary transfers such property to a Person and the Company or such Restricted Subsidiary leases it from such Person, other than leases between the Company and a Restricted Subsidiary or between Restricted Subsidiaries.

"SEC" means the Securities and Exchange Commission.

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"Secured Bank Indebtedness" means any Bank Indebtedness that is secured by a Permitted Lien incurred or deemed incurred pursuant to clause (6) of the definition of "Permitted Liens", as designated by the Company to be included in this definition.

"Secured Indebtedness" means any Consolidated Total Indebtedness secured by a Lien.

"Secured Leverage Calculation Date" has the meaning assigned in the "Secured Leverage Ratio" definition.

"Secured Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Restricted Subsidiaries and held by such Person and its Restricted Subsidiaries as of such date of determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred. In the event that the Company or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which the Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Secured Leverage Ratio is made (the "Secured Leverage Calculation Date"), then the Secured Leverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness,



or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations that the Company or any Restricted Subsidiary has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Secured Leverage Calculation Date (each, for purposes of this definition, a “pro forma event”) shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Secured Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation,

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operational change, business realignment project or initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Secured Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from any relevant pro forma event (including, to the extent applicable, the Transactions) and (2) all adjustments of the type used in connection with the calculation of “Further Adjusted EBITDA” as set forth in the “Summary Unaudited Pro Forma Financial and Other Information of Exela” portion of the “Summary” section of the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period; provided that for all purposes of determining EBITDA hereunder (i) adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)) and (ii) actions resulting in operating expense reductions and other operating improvements, synergies or cost savings are, in each case, required to be taken or commenced or expected to be taken or commenced (in the good faith determination of the Company) within 24 months after the date any such transaction is consummated; provided that the limitations set forth in clauses (i) and (ii) shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions or otherwise pursuant to clause (2) above, and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Secured Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

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For purposes of making the computation referred to above, in giving effect to each New Project which commences operations and records not less than one full fiscal quarter’s operations during such period, the operating results of such New Project shall be annualized on a straight line basis during such period, taking into account any seasonality adjustments determined by the Company in good faith.

For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Securitization Assets” means any of the following assets (or interests therein) from time to time originated, acquired or otherwise owned by the Company or any Subsidiary or in which the Company or any Subsidiary has any rights or interests, in each case, without regard to where such assets or interests are located: (1) Receivables Assets, (2) franchise fees, royalties and other similar payments made related to the use of trade names and other intellectual property, business support, training and other services, (3) revenues related to distribution and merchandising of the products of the Company and its Subsidiaries, (4) intellectual property rights relating to the generation of any of the types of assets listed in this definition, (5) parcels of or interests in real property, together with all easements, hereditaments and appurtenances thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof, (6) any Equity Interests of any Permitted Securitization Subsidiary or any Subsidiary of a Permitted Securitization Subsidiary and any rights under any limited liability company agreement, trust agreement, shareholders agreement, organizational or formation documents or other agreement entered into in furtherance of the organization of such entity, and (7) any other assets and property to the extent customarily included in securitization transactions of the relevant type in the applicable jurisdictions (as determined by the Company in good faith).

“Security Documents” means the security agreements, pledge agreements, collateral assignments and mortgages, as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified from time to time, creating the security interests in the Collateral in favor of the First-Priority Collateral Agent for the benefit of the Trustee and the holders of the Notes and other First-Priority Obligations as contemplated by this Indenture.

“Senior Secured Leverage Calculation Date” has the meaning assigned in the “Senior Secured Leverage Ratio” definition.

“Senior Secured Leverage Ratio” means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Restricted Subsidiaries constituting First-Priority Obligations as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Restricted Subsidiaries and held by such Person and its Restricted Subsidiaries as of such date of

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determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred. In the event that the Company or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which the Senior Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Senior Secured Leverage Ratio is made (the “Senior Secured Leverage Calculation Date”), then the Senior Secured Leverage Ratio shall be calculated giving pro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations that the Company or any Restricted Subsidiary has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Senior Secured Leverage Calculation Date (each, for purposes of this definition, a “*pro forma event*”) shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Senior Secured Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project or initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Senior Secured Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from any relevant pro forma event (including, to the extent applicable, the Transactions) and (2) all adjustments of the type used in connection with the calculation of “Further Adjusted EBITDA” as set forth in the

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“Summary Unaudited Pro Forma Financial and Other Information of Exela” portion of the “Summary” section of the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period; provided that for all purposes of determining EBITDA hereunder (i) adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)) and (ii) actions resulting in operating expense reductions and other operating improvements, synergies or cost savings are, in each case, required to be taken or commenced or expected to be taken or commenced (in the good faith determination of the Company) within 24 months after the date any such transaction is consummated; provided that the limitations set forth in clauses (i) and (ii) shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions or otherwise pursuant to clause (2) above, and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Senior Secured Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

For purposes of making the computation referred to above, in giving effect to each New Project which commences operations and records not less than one full fiscal quarter’s operations during such period, the operating results of such New Project shall be annualized on a straight line basis during such period, taking into account any seasonality adjustments determined by the Company in good faith.

For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

“Series” means (a) with respect to the First-Priority Secured Parties, each of (i) the “Secured Parties” as defined in the Credit Agreement (or an equivalent provision thereof), (ii) the holders of the Notes and the Trustee (each in their capacity as such) and (iii) the Additional First-Priority Secured Parties that become subject to the First Lien Intercreditor Agreement after the Issue Date that are represented by a common Authorized Representative (in

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its capacity as such for such Additional First-Priority Secured Parties) and (b) with respect to any First-Priority Obligations, each of (i) the Obligations under the Credit Agreement, (ii) the Notes Obligations and (iii) the Other First-Priority Obligations incurred pursuant to any applicable agreement, which pursuant to any joinder agreement, are to be represented under the First Lien Intercreditor Agreement by a common Authorized Representative (in its capacity as such for such Other First-Priority Obligations).

“Significant Subsidiary” means any Restricted Subsidiary that would be a “Significant Subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

“Similar Business” means any business, the majority of whose revenues are derived from (i) the business or activities of the Company and its Subsidiaries as of the Issue Date, (ii) any business that is a natural outgrowth or a 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 Company’s good faith business judgment constitutes a reasonable diversification of business conducted by the Company and its Subsidiaries.

“SourceHOV Consulting Agreement” means, collectively, (i) the Consulting Agreement, dated April 30, 2013, between SourceHOV Holdings, Inc. and Solaris Investment L.P., (ii) Consulting Agreement, dated April 30, 2013, between SourceHOV Holdings, Inc. and a designee of HandsOn3, LLC and (iii) the Consulting Agreement, dated July 27, 2015, between TransCentra, Inc. and HandsOn Global Management, LLC.

“Special Purpose Securitization Subsidiary” shall mean (i) a direct or indirect Restricted Subsidiary of the Company established in connection with a Permitted Securitization Financing for the acquisition of Securitization Assets or interests therein, and which is organized in a manner (as determined by the Company in good faith) intended to reduce the likelihood that it would be substantively consolidated with the Company or any of its Restricted Subsidiaries (other than Special Purpose Securitization Subsidiaries) in the event the Company or any such Restricted Subsidiary becomes subject to a proceeding under the Bankruptcy Code (or other insolvency law) and (ii) any subsidiary of a Special Purpose Securitization Subsidiary.

“Stated Maturity” means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable.

“Subordinated Indebtedness” means (a) with respect to an Issuer, any Indebtedness of such Issuer which is by its terms subordinated in right of payment to the Notes, and (b) with respect to any Subsidiary Guarantor, any Indebtedness of such Subsidiary Guarantor which is by its terms subordinated in right of payment to its Subsidiary Guarantee.

“Subsidiary” means, with respect to any Person, (1) any corporation, association or other business entity (other than a partnership, joint venture or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or

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trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, and (2) any partnership, joint venture or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Subsidiary Guarantee” means any guarantee of the obligations of the Issuers under this Indenture and the Notes by any Subsidiary Guarantor in accordance with the provisions of this Indenture.

“Subsidiary Guarantor” means any Subsidiary that Incurs a Subsidiary Guarantee; provided that upon the release or discharge of such Person from its Subsidiary Guarantee in accordance with this Indenture, such Subsidiary ceases to be a Subsidiary Guarantor.

“Suspension Period” means the period of time between a Covenant Suspension Event and the related Reversion Date.

“Tax Distributions” means any distributions described in Section 4.04(b)(xii).

“Third Party Funds” means any accounts or funds, or any portion thereof, received by the Company or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon the Company or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“TIA” means the Trust Indenture Act of 1939 (15 U.S.C. Sections 77aaa-77bbb) as in effect on the date of this Indenture.

“Total Assets” means the total consolidated assets of the Company and the Restricted Subsidiaries, as shown on the most recent balance sheet of the Company, without giving effect to any impairment or amortization of the amount of intangible assets since March 31, 2017, calculated on a pro forma basis after giving effect to any subsequent acquisition or disposition of a Person or business.

“Total Indebtedness Leverage Calculation Date” has the meaning assigned in the “Total Indebtedness Leverage Ratio” definition.

“Total Indebtedness Leverage Ratio” means, with respect to any Person, at any date, the ratio of (i) Consolidated Total Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Restricted Subsidiaries and held by such Person and its Restricted Subsidiaries as of such date of determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred.

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In the event that the Company or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which the Total Indebtedness Leverage Ratio is being calculated but prior to the event for which the calculation of the Total Indebtedness Leverage Ratio is made (the “Total Indebtedness Leverage Calculation Date”), then the Total Indebtedness Leverage Ratio shall be calculated giving pro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations that the Company or any Restricted Subsidiary has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Total Indebtedness Leverage Calculation Date (each, for purposes of this definition, a “pro forma event”) shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Total Indebtedness Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project or initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Total Indebtedness Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from any relevant pro forma event (including, to the extent applicable, the Transactions) and (2) all adjustments of the type used in connection with the calculation of “Further Adjusted EBITDA” as set forth in the “Summary Unaudited Pro Forma Financial and Other Information of Exela” portion of the

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“Summary” section of the Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period; provided that for all purposes of determining EBITDA hereunder (i) adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)) and (ii) actions resulting in operating expense reductions and other operating improvements, synergies or cost savings are, in each case, required to be taken or commenced or expected to be taken or commenced (in the good faith determination of the Company) within 24 months after the date any such transaction is consummated; provided that the limitations set forth in clauses (i) and (ii) shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions or otherwise pursuant to clause (2) above, and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Total Indebtedness Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

For purposes of making the computation referred to above, in giving effect to each New Project which commences operations and records not less than one full fiscal quarter’s operations during such period, the operating results of such New Project shall be annualized on a straight line basis during such period, taking into account any seasonality adjustments determined by the Company in good faith.

For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

“Transactions” means the transactions described under “Summary—The Transactions” in the Offering Memorandum.

“Treasury Rate” means, as of the applicable redemption date, as determined by the Issuers, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve

Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to such redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such redemption date to July 15, 2020; *provided, however*, that if the period from such redemption date to July 15, 2020, as applicable, is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“Trust Officer” means:

(1) any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject, and

(2) who shall have direct responsibility for the administration of this Indenture.

“Trustee” means the party named as such in this Indenture until a successor replaces it and, thereafter, means the successor.

“Uniform Commercial Code” or “UCC” means the New York Uniform Commercial Code (or other applicable UCC) as in effect from time to time.

“Unrestricted Subsidiary” means:

(1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Company in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary;

The Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless at the time of such designation such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Restricted Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated, in each case at the time of such designation; *provided, however*, that (i) the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any of the Restricted Subsidiaries unless otherwise permitted under Section 4.04 and (ii) the Company may not designate any Subsidiary of the Company to be an Unrestricted Subsidiary during any Suspension Period; *provided, further, however*, that either:

(a) the Subsidiary to be so designated has total consolidated assets of \$1,000 or less; or

(b) if such Subsidiary has consolidated assets greater than \$1,000, then such designation would be permitted under Section 4.04.

The Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided, however*, that immediately after giving effect to such designation:

(x) (1) the Company could Incur \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a) or (2) the Fixed Charge Coverage Ratio of the Issuers and the Restricted Subsidiaries would be no less than such ratio immediately prior to such designation, in each case on a *pro forma* basis taking into account such designation, and

(y) no Event of Default shall have occurred and be continuing.

Any such designation by the Company shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the resolution of the Board of Directors or any committee thereof of the Company giving effect to such designation and an Officer’s Certificate certifying that such designation complied with the foregoing provisions.

“U.S. Government Obligations” means securities that are:

(1) direct obligations of the United States of America denominated in U.S. dollars for the timely payment of which its full faith and credit is pledged, or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in each case, are not callable or redeemable at the option of the Company thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt

from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depository receipt.

“Voting Stock” of any Person as of any date means the Equity Interests of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment, by (2) the sum of all such payments.

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“Wholly Owned Restricted Subsidiary” is any Wholly Owned Subsidiary that is a Restricted Subsidiary.

“Wholly Owned Subsidiary” of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares or shares required pursuant to applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

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SECTION 1.02 Other Definitions.

<b>Term</b>	<b>Section</b>
\$	1.03(j)
Affiliate Transaction	4.07(a)
Agent Members	Appendix A
Asset Sale Offer	4.06(b)
Bankruptcy Law	6.01
Change of Control Offer	4.08(b)
covenant defeasance option	8.01(b)
Covenant Suspension Event	4.15
Custodian	6.01
Deemed Date	4.03(c)(3)
Definitive Note	Appendix A
Depository	Appendix A
Event of Default	6.01
Excess Proceeds	4.06(b)
Global Notes	Appendix A
Global Notes Legend	Appendix A
Guaranteed Obligations	12.01(a)
IAI	Appendix A
Increased Amount	4.12(c)
Initial Notes	Preamble
Issuer	Preamble
legal defeasance option	8.01(b)
Notes	Preamble
Notes Custodian	Appendix A
Notice of Default	6.01
Offer Period	4.06(d)
Paying Agent	2.04(a)
Permitted Jurisdiction	5.01(a)
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QIB	Appendix A
Refinancing Indebtedness	4.03(b)(xv)
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Registrar	2.04(a)
Regulation S	Appendix A
Regulation S Global Notes	Appendix A
Regulation S Notes	Appendix A
Reporting Entity	4.02(b)
Restricted Notes Legend	Appendix A
Restricted Payments	4.04(a)
Restricted Period	Appendix A
Retired Capital Stock	4.04(b)(ii)
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Term	Section
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Second Commitment	4.06(b)
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Transfer Restricted Global Notes	Appendix A
Transfer Restricted Notes	Appendix A
Trustee	Preamble
U.S. dollars	1.03(j)
Unrestricted Definitive Notes	Appendix A
Unrestricted Global Notes	Appendix A

SECTION 1.03 Rules of Construction. Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) “including” means including without limitation;
- (e) words in the singular include the plural and words in the plural include the singular;
- (f) unsecured Indebtedness shall not be deemed to be subordinate or junior to Secured Indebtedness merely by virtue of its nature as unsecured Indebtedness;
- (g) the principal amount of any non-interest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the Company dated such date prepared in accordance with GAAP;
- (h) the principal amount of any Preferred Stock shall be (i) the maximum liquidation value of such Preferred Stock or (ii) the maximum mandatory redemption or mandatory repurchase price with respect to such Preferred Stock, whichever is greater;
- (i) unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP; and

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(j) “\$” and “U.S. dollars” each refer to United States dollars, or such other money of the United States of America that at the time of payment is legal tender for payment of public and private debts.

SECTION 1.04 No Incorporation by Reference of Trust Indenture Act. This Indenture is not qualified under the TIA, and the TIA shall not apply to or in any way govern the terms of this Indenture. As a result, no provisions of the TIA are incorporated into this Indenture unless expressly incorporated pursuant to this Indenture.

## ARTICLE II

### THE NOTES

SECTION 2.01 Amount of Notes. The aggregate principal amount of Notes which may be authenticated and delivered under this Indenture on the Issue Date is \$1,000,000,000.

The Issuers may from time to time after the Issue Date issue Additional Notes under this Indenture in an unlimited principal amount, so long as (i) the Incurrence of the Indebtedness represented by such Additional Notes is at such time permitted by Section 4.03 and the Liens with respect thereto are permitted by Section 4.12 and (ii) such Additional Notes are issued in compliance with the other applicable provisions of this Indenture. With respect to any Additional Notes issued after the Issue Date (except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to Section 2.07, 2.08, 2.09, 3.08, 4.06(e), 4.08(c) or Appendix A), there shall be (a) established in or pursuant to a resolution of the Board of Directors of each Issuer and (b) (i) set forth or determined in the manner provided in an Officer’s Certificate or (ii) established in one or more indentures supplemental hereto, prior to the issuance of such Additional Notes:

- (1) the aggregate principal amount of such Additional Notes which may be authenticated and delivered under this Indenture;
- (2) the issue price and issuance date of such Additional Notes, including the date from which interest on such Additional Notes shall accrue; and
- (3) if applicable, that such Additional Notes shall be issuable in whole or in part in the form of one or more Global Notes and, in such case, the respective depositories for such Global Notes, the form of any legend or legends which shall be borne by such Global Notes in addition to or in lieu of those set forth in Exhibit A hereto and any circumstances in addition to or in lieu of those set forth in Section 2.2 of Appendix A in

which any such Global Note may be exchanged in whole or in part for Additional Notes registered, or any transfer of such Global Note in whole or in part may be registered, in the name or names of Persons other than the depository for such Global Note or a nominee thereof.

If any of the terms of any Additional Notes are established by action taken pursuant to a resolution of the Board of Directors, a copy of an appropriate record of such action

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shall be certified by the Secretary or any Assistant Secretary of each Issuer and delivered to the Trustee at or prior to the delivery of the Officer's Certificate or an indenture supplemental hereto setting forth the terms of the Additional Notes.

The Initial Notes and any Additional Notes may, at the Issuers' option, be treated as a single class for all purposes under this Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase; *provided* that if the Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, the Additional Notes will have a separate CUSIP number, if applicable.

SECTION 2.02 Form and Dating. Provisions relating to the Initial Notes are set forth in Appendix A, which is hereby incorporated in and expressly made a part of this Indenture. The (i) Initial Notes and the Trustee's certificate of authentication and (ii) any Additional Notes and the Trustee's certificate of authentication shall each be substantially in the form of Exhibit A hereto, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Issuers or any Subsidiary Guarantor is subject, if any, or usage (*provided* that any such notation, legend or endorsement is in a form acceptable to the Issuer). Each Note shall be dated the date of its authentication. The Notes shall be issuable only in registered form without interest coupons and in minimum denominations of \$2,000 and any integral multiples of \$1,000 in excess thereof, *provided* that Notes may be issued in denominations of less than \$2,000 solely to accommodate book-entry positions that have been created by participants of the Depository in denominations of less than \$2,000.

SECTION 2.03 Execution and Authentication. The Trustee shall authenticate and make available for delivery upon a written order of the Issuers signed by one Officer of each Issuer (a) Initial Notes for original issue on the date hereof in an aggregate principal amount of \$1,00,000,000 and (b) subject to the terms of this Indenture, Additional Notes in an aggregate principal amount to be determined at the time of issuance and specified therein. Such order shall specify the amount of separate Note certificates to be authenticated, the principal amount of each of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated, whether the Notes are to be Initial Notes or Additional Notes, the registered holder of each of the Notes and delivery instructions. Notwithstanding anything to the contrary in this Indenture or Appendix A, any issuance of Additional Notes after the Issue Date shall be in a principal amount of at least \$2,000 and integral multiples of \$1,000 in excess thereof.

One Officer shall sign the Notes for each of the Issuers by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

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The Trustee may appoint one or more authenticating agents reasonably acceptable to the Company to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by a Trust Officer, a copy of which shall be furnished to the Issuer. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

SECTION 2.04 Registrar and Paying Agent.

(a) The Issuers shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (the "Registrar") and (ii) an office or agency where Notes may be presented for payment (the "Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Issuers may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrars. The term "Paying Agent" includes the Paying Agent and any additional paying agents. The Issuers initially appoints the Trustee as Registrar, Paying Agent and the Notes Custodian with respect to the Global Notes.

(b) The Issuers may enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee in writing of the name and address of any such agent. If the Issuers fail to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Company or any of its domestically organized Subsidiaries may act as Paying Agent or Registrar.

(c) The Issuers may remove any Registrar or Paying Agent upon written notice to such Registrar or Paying Agent and to the Trustee; *provided, however*, that no such removal shall become effective until (i) if applicable, acceptance of an appointment by a successor Registrar or Paying Agent, as the case may be, as evidenced by an appropriate agreement entered into by the Issuers and such successor Registrar or Paying Agent, as the case may be, and delivered to the Trustee or (ii) notification to the Trustee that the Trustee shall serve as Registrar or Paying Agent until the appointment of a successor in accordance with clause (i) above. The Registrar or Paying Agent may resign at any time upon written notice to the Issuers and the Trustee; *provided, however*, that the Trustee may resign as Paying Agent or Registrar only if the Trustee also resigns as Trustee in accordance with Section 7.08.

SECTION 2.05 Paying Agent to Hold Money in Trust. Prior to each due date of the principal of and interest on any Note, the Issuers shall deposit with each Paying Agent (or if the Company or a Subsidiary is acting as Paying Agent, segregate and hold in trust for the benefit of the Persons entitled thereto) a sum sufficient to pay such principal and interest when so becoming due. The Issuers shall require each Paying Agent (other than the Trustee) to agree in writing that a Paying Agent shall hold in trust for the benefit of holders or the Trustee all money held by a Paying Agent for the payment



of principal of and interest on the Notes, and shall notify the Trustee of any default by the Issuers in making any such payment. If the Company or a Subsidiary of the Company acts as Paying Agent, it shall segregate the money held by it as

Paying Agent and hold it in trust for the benefit of the Persons entitled thereto. The Issuers at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.05, a Paying Agent shall have no further liability for the money delivered to the Trustee.

SECTION 2.06 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of holders. If the Trustee is not the Registrar, the Issuers shall furnish, or cause the Registrar to furnish, to the Trustee, in writing at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of holders.

SECTION 2.07 Transfer and Exchange. The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer and in compliance with Appendix A. When a Note is presented to the Registrar with a request to register a transfer, the Registrar shall register the transfer as requested if its requirements therefor are met. When Notes are presented to the Registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall make the exchange as requested if the same requirements are met. To permit registration of transfers and exchanges, the Issuers shall execute and the Trustee shall authenticate Notes at the Registrar's request. The Issuers may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges in connection with any transfer or exchange pursuant to this Section. The Issuers shall not be required to make, and the Registrar need not register, transfers or exchanges of Notes selected for redemption (except, in the case of Notes to be redeemed in part, the portion thereof not to be redeemed) or transfers or exchanges of any Notes for a period of 15 days before a selection of Notes to be redeemed or between a record date and the related payment date.

Prior to the due presentation for registration of transfer of any Note, the Issuers, the Subsidiary Guarantors, the Trustee, the Paying Agent and the Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest, if any, on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuers, the Subsidiary Guarantors, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.

Any holder of a beneficial interest in a Global Note shall, by acceptance of such beneficial interest, agree that transfers of beneficial interests in such Global Note may be effected only through a book-entry system maintained by (a) the holder of such Global Note (or its agent) or (b) any holder of a beneficial interest in such Global Note, and that ownership of a beneficial interest in such Global Note shall be required to be reflected in a book entry.

All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable

law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

None of the Trustee, Registrar or Paying Agent shall have any responsibility for any actions taken or not taken by the Depository.

SECTION 2.08 Replacement Notes. If a mutilated Note is surrendered to the Registrar or if the holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuers shall issue and the Trustee shall, upon receipt of a written order of the Issuers, authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met, such that the holder (a) satisfies the Issuers and the Trustee within a reasonable time after such holder has notice of such loss, destruction or wrongful taking and the Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Issuers and the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code (a "protected purchaser") and (c) satisfies any other reasonable requirements of the Issuers and the Trustee. If required by the Trustee or the Issuers, such holder shall furnish an indemnity bond sufficient in the judgment of the Trustee, with respect to the Trustee, and the Issuers, with respect to the Issuers, to protect the Issuers, the Trustee, the Paying Agent and the Registrar, as applicable, from any loss or liability that any of them may suffer if a Note is replaced and subsequently presented or claimed for payment. The Issuers and the Trustee may charge the holder for their expenses in replacing a Note (including without limitation, attorneys' fees and disbursements in replacing such Note). In the event any such mutilated, lost, destroyed or wrongfully taken Note has become or is about to become due and payable, the Issuers in their discretion may pay such Note instead of issuing a new Note in replacement thereof.

Every replacement Note is an additional obligation of the Issuers.

The provisions of this Section 2.08 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, lost, destroyed or wrongfully taken Notes.

SECTION 2.09 Outstanding Notes. Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. Subject to Section 13.06, a Note does not cease to be outstanding because the Issuers or an Affiliate of the Issuers holds the Note.

If a Note is replaced pursuant to Section 2.08 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee and the Issuers receive proof satisfactory to them that the replaced Note is held by a protected purchaser. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement thereof pursuant to Section 2.08.

If a Paying Agent segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and no Paying Agent is prohibited from paying such money to the holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

**SECTION 2.10**      Cancellation. The Issuers at any time may deliver Notes to the Trustee for cancellation. The Registrar and each Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. Upon receipt of a written order of the Issuers, the Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment or cancellation and shall dispose of canceled Notes in accordance with its customary procedures. The Issuers may not issue new Notes to replace Notes they have redeemed, paid or delivered to the Trustee for cancellation. The Trustee shall not authenticate Notes in place of canceled Notes other than pursuant to the terms of this Indenture.

**SECTION 2.11**      Defaulted Interest. If the Issuers default in a payment of interest on the Notes, the Issuers shall pay the defaulted interest then borne by the Notes (*plus* interest on such defaulted interest to the extent lawful) in any lawful manner. The Issuers may pay the defaulted interest to the Persons who are holders on a subsequent special record date. The Issuers shall fix or cause to be fixed any such special record date and payment date, which specified record date shall not be less than 10 days prior to the payment date for such defaulted interest, and shall promptly mail or cause to be mailed, or delivered electronically if held by the Depository, to each affected holder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid. The Issuers shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on the Notes and the date of the proposed payment, and at the same time the Issuers shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest, or make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when so deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.11.

**SECTION 2.12**      CUSIP Numbers, ISINs, Etc. The Issuers in issuing the Notes may use CUSIP numbers, ISINs and “Common Code” numbers (if then generally in use), and the Trustee shall use any such CUSIP numbers, ISINs and “Common Code” numbers in notices of redemption as a convenience to holders; *provided, however*, that any such notice may state that no representation is made as to the correctness of such numbers, either as printed on the Notes or as contained in any notice of a redemption that reliance may be placed only on the other identification numbers printed on the Notes and that any such redemption shall not be affected by any defect in or omission of such numbers. The Issuers shall advise the Trustee of any change in any such CUSIP numbers, ISINs and “Common Code” numbers.

**SECTION 2.13**      Calculation of Principal Amount of Notes. The aggregate principal amount of the Notes, at any date of determination, shall be the principal amount of the Notes at such date of determination. With respect to any matter requiring consent, waiver, approval or other action of the holders of a specified percentage of the principal amount of all the

Notes, such percentage shall be calculated, on the relevant date of determination, by dividing (a) the principal amount, as of such date of determination, of Notes, the holders of which have so consented, by (b) the aggregate principal amount, as of such date of determination, of the Notes then outstanding, in each case, as determined in accordance with the preceding sentence, Section 2.09 and Section 13.06 of this Indenture. Any calculation of the Applicable Premium made pursuant to this Indenture or the Notes shall be made by the Company and delivered to the Trustee pursuant to an Officer’s Certificate.

### ARTICLE III

#### REDEMPTION

**SECTION 3.01**      Redemption. The Notes may be redeemed, in whole or from time to time in part, subject to the conditions and at the redemption prices set forth in Paragraph 5 of the form of Note set forth in Exhibit A hereto, which is hereby incorporated by reference and made a part of this Indenture, together with accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

**SECTION 3.02**      Applicability of Article. Redemption of Notes at the election of the Issuers or otherwise, as permitted or required by any provision of this Indenture, shall be made in accordance with such provision and this Article III.

**SECTION 3.03**      Notices to Trustee. If the Issuers elect to redeem Notes pursuant to the optional redemption provisions of Paragraph 5 of the Note, the Issuers shall notify the Trustee in an Officer’s Certificate of (i) the Section of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed and (iv) the redemption price. The Issuers shall give notice to the Trustee provided for in this paragraph at least 30 days but not more than 60 days before a redemption date if the redemption is a redemption pursuant to Paragraph 5 of the Note. The Issuers may also include a request in such Officer’s Certificate that the Trustee give the notice of redemption in the Issuers’ name and at its expense and setting forth the information to be stated in such notice as provided in Section 3.05. Any such notice may be canceled if written notice from the Issuers of such cancellation is actually received by the Trustee on the Business Day immediately prior to notice of such redemption being mailed, or delivered electronically if held by the Depository, to any holder or otherwise delivered in accordance with the applicable procedures of the Depository and shall thereby be void and of no effect. The Issuers shall deliver to the Trustee such documentation and records as shall enable the Trustee to select the Notes to be redeemed pursuant to Section 3.04.

**SECTION 3.04**      Selection of Notes to Be Redeemed. In the case of any partial redemption, selection of the Notes for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed (and the Issuers shall notify the Trustee of any such listing), or if the Notes are not so listed, on a pro rata basis to the extent practicable or by lot or by such other

part. The Trustee shall make the selection from outstanding Notes not previously called for redemption. The Trustee may select for redemption portions of the principal of Notes that have denominations larger than \$2,000. Notes and portions of them the Trustee selects shall be in amounts of \$2,000 or integral multiples of \$1,000 in excess thereof. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Issuers promptly of the Notes or portions of Notes to be redeemed.

SECTION 3.05 Notice of Optional Redemption.

(a) At least 30 but not more than 60 days before a redemption date pursuant to Paragraph 5 of the Note, the Issuers shall mail or cause to be mailed by first-class mail at its registered address, or otherwise deliver in accordance with the procedures of the Depository, a notice of redemption to each holder whose Notes are to be redeemed (with a copy to the Trustee), except that redemption notices may be mailed or otherwise delivered more than 60 days prior to the redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Article VIII.

Any such notice shall identify the Notes to be redeemed and shall state:

- (i) the redemption date;
- (ii) the redemption price and the amount of accrued interest to the redemption date;
- (iii) the name and address of the Paying Agent;
- (iv) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price, *plus* accrued and unpaid interest, if any;
- (v) if fewer than all the outstanding Notes are to be redeemed, the certificate numbers and principal amounts of the particular Notes to be redeemed, the aggregate principal amount of Notes to be redeemed and the aggregate principal amount of Notes to be outstanding after such partial redemption;
- (vi) that, unless the Issuers default in making such redemption payment or the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest on Notes (or portion thereof) called for redemption ceases to accrue on and after the redemption date;
- (vii) the CUSIP number, ISIN and/or “Common Code” number, if any, printed on the Notes being redeemed;
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP number or ISIN and/or “Common Code” number, if any, listed in such notice or printed on the Notes;
- (ix) if the redemption is subject to the satisfaction of one or more conditions precedent, the notice thereof shall describe each such condition and, if applicable, shall

state that, in the Issuers’ discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed; and

(x) at the Issuers’ option, that the payment of the redemption price and performance of the Issuers’ obligations with respect to such redemption may be performed by another Person.

Notice of any redemption upon any corporate transaction or other event (including any Equity Offering, incurrence of Indebtedness, Change of Control or other transaction) may be given prior to the completion thereof. In addition, any redemption or notice thereof may, at the Issuers’ discretion, be subject to one or more conditions precedent, including, but not limited to, completion of a corporate transaction or other event.

(b) At the Issuers’ request, the Trustee shall deliver the notice of redemption in the Issuers’ name and at the Issuers’ expense. In such event, the Issuers shall notify the Trustee of such request at least three (3) Business Days (or such shorter period as is acceptable to the Trustee) prior to the date such notice is to be provided to holders.

SECTION 3.06 Effect of Notice of Redemption. Once notice of redemption is mailed or otherwise delivered in accordance with Section 3.05, Notes called for redemption become due and payable on the redemption date and at the redemption price stated in the notice, except as provided in the penultimate paragraph of Paragraph 5 of the Notes or Section 3.05(a). Upon surrender to the Paying Agent, such Notes shall be paid at the redemption price stated in the notice, *plus* accrued and unpaid interest, if any, to, but excluding, the redemption date; *provided, however*, that if the redemption date is after a regular Record Date and on or prior to the next Interest Payment Date, the accrued interest shall be payable to the holder of the redeemed Notes registered on the relevant Record Date. Failure to give notice or any defect in the notice to any holder shall not affect the validity of the notice to any other holder.

SECTION 3.07 Deposit of Redemption Price. With respect to any Notes, prior to 10:00 a.m., New York City time, on the redemption date, the Issuers shall deposit with the Paying Agent (or, if the Company or a Subsidiary of the Company is the Paying Agent, shall segregate and hold in

trust) money sufficient to pay the redemption price of and accrued and unpaid interest, if any, on all Notes or portions thereof to be redeemed on that date other than Notes or portions of Notes called for redemption that have been delivered by the Issuers to the Trustee for cancellation. On and after the redemption date, interest shall cease to accrue on Notes or portions thereof called for redemption so long as the Issuers have deposited with the Paying Agent funds sufficient to pay the principal of, *plus* accrued and unpaid interest, if any, to but excluding the redemption date, on, the Notes or portions thereof to be redeemed, unless the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture.

SECTION 3.08 Notes Redeemed in Part. If any Note is to be redeemed in part only, the notice of redemption relating to such Note shall state the portion of the principal amount thereof to be redeemed. Upon surrender and cancellation of a Note that is redeemed in

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part, the Issuers shall execute and the Trustee shall authenticate for the holder (at the Issuers' expense) a new Note equal in principal amount to the unredeemed portion of the Note surrendered and cancelled (or if the Note is a Global Note, an adjustment shall be made to the "Schedule of Increases or Decreases in Global Note" attached thereto).

## ARTICLE IV

### COVENANTS

SECTION 4.01 Payment of Notes. The Issuers shall promptly pay the principal of and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. An installment of principal of or interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent holds as of 12:00 p.m. New York City time money sufficient to pay all principal and interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the holders on that date pursuant to the terms of this Indenture.

The Issuers shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate borne by the Notes to the extent lawful.

SECTION 4.02 Reports and Other Information.

(a) For so long as any Notes are outstanding, the Issuers shall deliver to the Trustee a copy of all of the information and reports referred to below:

(i) within 15 days after the time period specified in the SEC's rules and regulations for non-accelerated filers, annual reports of the Reporting Entity (as defined below) for such fiscal year containing the information that would have been required to be contained in an annual report on Form 10-K (or any successor or comparable form) if the Reporting Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC;

(ii) within 15 days after the time period specified in the SEC's rules and regulations for non-accelerated filers, quarterly reports of the Reporting Entity for such fiscal quarter containing the information that would have been required to be contained in a quarterly report on Form 10-Q (or any successor or comparable form) if the Reporting Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC; and

(iii) within 15 days after the time period specified in the SEC's rules and regulations for filing current reports on Form 8-K, current reports of the Reporting Entity containing substantially all of the information that would be required to be filed in a current report on Form 8-K under the Exchange Act on the Issue Date pursuant to Sections 1, 2 and 4, Items 5.01, 5.02 (a),(b) and (c) and Item 9.01(a) and (b) (only to the extent relating to any of the foregoing) of Form 8-K if the Reporting Entity had been a reporting company under the Exchange Act; *provided, however*, that no such current reports (or items thereof or all or a portion of the financial statements that would have

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otherwise been required thereby) will be required to be delivered (or included) if the Company determines in its good faith judgment that such event (or information) is not material to holders or the business, assets, operations, financial position or prospects of the Company and its Restricted Subsidiaries, taken as a whole.

In addition to providing such information to the Trustee, the Issuers shall make available to the holders, prospective investors, market makers affiliated with any initial purchaser of the Notes and securities analysts the information required to be provided pursuant to the foregoing clauses (i), (ii) and (iii), by posting such information to its website (or the website of any of the Company's parent companies, including the Reporting Entity) or on IntraLinks or any comparable online data system or website. If at any time the Company or any direct or indirect parent of the Company has made a good faith determination to file a registration statement with the SEC with respect to an initial public offering of such entity's Capital Stock, the Issuers will not be required to disclose any information or take any actions that, in the good faith view of the Company, would violate the securities laws or the SEC's "gun jumping" rules.

Notwithstanding the foregoing, (A) neither the Company nor another Reporting Entity will be required to deliver any information, certificates or reports that would otherwise be required by (i) Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 or 308 of Regulation S-K or (ii) Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-generally accepted accounting principles financial measures contained therein, (B) such reports will not be required to contain financial information required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X or include any exhibits or certifications required by Form 10-K, Form 10-Q or Form 8-K (or any successor or comparable forms) or related rules under Regulation S-K and (C) such reports shall be subject to exceptions, exclusions and other differences consistent with the presentation of financial and other information in the Offering Memorandum and shall not be required to present compensation or beneficial ownership information.

(b) The financial statements, information and other documents required to be provided as described in this Section 4.02 may be those of (i) the Company or (ii) any direct or indirect parent of the Company (any such entity, a "Reporting Entity"), so long as in the case of clause (ii) such direct

or indirect parent of the Company shall not conduct, transact or otherwise engage, or commit to conduct, transact or otherwise engage, in any material business or operations other than its direct or indirect ownership of all of the Equity Interests in, and its management of, the Company; *provided* that, if the financial information so delivered relates to such direct or indirect parent of the Company, the same is accompanied by a reasonably detailed description of the quantitative differences between the information relating to such parent, on the one hand, and the information relating to the Company and its Restricted Subsidiaries on a standalone basis, on the other hand.

(c) In addition, the Issuers will make such information available to prospective investors upon request. The Issuers have agreed that, for so long as any Notes remain outstanding during any period when neither it nor another Reporting Entity is subject to Section 13 or 15(d) of the Exchange Act, or otherwise permitted to furnish the SEC with certain information pursuant to Rule 12g3-2(b) of the Exchange Act, they will furnish to the holders of

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the Notes and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(d) Notwithstanding the foregoing, the Issuers will be deemed to have delivered such reports and information referred to in this Section 4.02 to the holders, prospective investors, market makers, securities analysts and the Trustee for all purposes of this Indenture if the Company or another Reporting Entity has filed such reports with the SEC via the EDGAR filing system (or any successor system) and such reports are publicly available. In addition, the requirements of this Section 4.02 shall be deemed satisfied and the Issuers will be deemed to have delivered such reports and information referred to this Section 4.02 to the Trustee, holders, prospective investors, market makers and securities analysts for all purposes of this Indenture by the posting of reports and information that would be required to be provided on the Company's website (or that of any of the Company's parent companies, including the Reporting Entity). The Trustee shall have no obligation to monitor whether the Issuers post such reports, information and documents on the Company's website (or that of any of the Company's parent companies, including the Reporting Entity) or the SEC's EDGAR service, or collect any such information from the Company's (or any of the Company's parent companies) website or the SEC's EDGAR service.

(e) The Company will also hold quarterly conference calls, beginning with the first full fiscal quarter ending after the Issue Date, for all holders of the Notes, prospective investors, market makers affiliated with any initial purchaser of the Notes and securities analysts to discuss such financial information no later than ten Business Days after the distribution of such information required by clauses (i) or (ii) of Section 4.02(a) and, prior to the date of each such conference call, will announce the time and date of such conference call and either include all information necessary to access the call or inform holders of the Notes, prospective investors, market makers affiliated with any initial purchaser of the Notes and securities analysts how they can obtain such information, including, without limitation, the applicable password or login information (if applicable).

(f) Delivery of reports, information and documents to the Trustee pursuant to this Section 4.02 is for informational purposes only and the Trustee's receipt thereof shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuers' compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely conclusively on the Officer's Certificates). The Trustee is under no duty to examine such reports, information or documents to ensure compliance with the provision of this Indenture or to ascertain the correctness or otherwise of the information or the statements contained therein.

#### SECTION 4.03 Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

(a) (i) The Company shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock; and (ii) the Company shall not permit any of the Restricted Subsidiaries (other than a Subsidiary Guarantor) to issue any shares of Preferred Stock; *provided, however*, that an Issuer and any Subsidiary Guarantor may incur Indebtedness

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(including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary of the Company that is not an Issuer or a Subsidiary Guarantor may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock or issue shares of Preferred Stock, in each case if the Fixed Charge Coverage Ratio of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00 determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been Incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period; *provided, further*, that any Restricted Subsidiary that is not an Issuer or a Subsidiary Guarantor may not incur Indebtedness or issue shares of Disqualified Stock or Preferred Stock in excess of an amount, together with any Refinancing Indebtedness thereof pursuant to Section 4.03(b)(xv), equal to, after giving *pro forma* effect to such incurrence or issuance (including *pro forma* effect to the application of the net proceeds therefrom), the greater of \$40 million and 0.12 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred, or Disqualified Stock or Preferred Stock is issued, and after giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount).

(b) The limitations set forth in Section 4.03(a) shall not apply to:

(i) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness (including under any Credit Agreement and the issuance and creation of letters of credit and bankers' acceptances thereunder and Indebtedness represented by the Notes and the Subsidiary Guarantees) up to an aggregate principal amount outstanding at the time of Incurrence that does not exceed an amount equal to the sum of (x) \$1,675 million plus (y) an additional aggregate principal amount of Consolidated Total Indebtedness that at the time of Incurrence does not cause the Senior Secured Leverage Ratio for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee, determined on a *pro forma* basis, to exceed 3.75 to 1.00; provided that for purposes of determining the amount of Indebtedness that may be incurred under this clause (b)(i)(y), all Indebtedness incurred under this clause (b)(i) shall be treated as Secured Indebtedness constituting First-Priority Obligations;

(ii) [Reserved];

(iii) Indebtedness existing on the Issue Date (other than Indebtedness described in clauses (i) and (ii) of this Section 4.03(b));

(iv) (1) Indebtedness (including Capitalized Lease Obligations) Incurred by the Company or any Restricted Subsidiary, Disqualified Stock issued by the Company or any Restricted Subsidiary and Preferred Stock issued by any Restricted

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Subsidiary to finance (whether prior to or within 270 days after) the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) in an aggregate principal amount that, when aggregated with the principal amount or liquidation preference of all other Indebtedness, Disqualified Stock or Preferred Stock then outstanding and Incurred pursuant to this clause (iv)(1), together with any Refinancing Indebtedness in respect thereof Incurred pursuant to clause (xv) below, does not exceed the greater of \$75 million and 0.22 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred or Disqualified Stock or Preferred Stock is issued and after giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount); and

(2) Capitalized Lease Obligations or other obligations or deferrals attributable to capital spending or other funds made available by suppliers in connection with any sale and leaseback arrangements not in violation of this Indenture;

(v) Indebtedness Incurred by the Company or any Restricted Subsidiary owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to Holdings, the Company or any Restricted Subsidiary, pursuant to reimbursement or indemnification obligations to such Person, in each case, provided in the ordinary course of business or consistent with past practices or industry practices;

(vi) Indebtedness arising from agreements of the Company or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, Incurred or assumed in connection with the disposition of any business, assets or a Restricted Subsidiary, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or a Restricted Subsidiary for the purpose of financing such acquisition, in each case, to the extent such obligation or transaction is permitted by this Indenture;

(vii) Indebtedness of the Company to a Restricted Subsidiary; *provided* that (except in respect of intercompany current liabilities incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of the Company and its Subsidiaries) any such Indebtedness owed to a Restricted Subsidiary that is not an Issuer or a Subsidiary Guarantor is subordinated in right of payment to the obligations of the Issuers under the Notes; *provided, further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien

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but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (vii);

(viii) shares of Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; *provided* that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary that holds such shares of Preferred Stock of another Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock not permitted by this clause (viii);

(ix) Indebtedness of a Restricted Subsidiary to the Company or another Restricted Subsidiary; *provided* that if a Subsidiary Guarantor incurs such Indebtedness to a Restricted Subsidiary that is not an Issuer or a Subsidiary Guarantor (except in respect of intercompany current liabilities incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of the Company and its Subsidiaries), such Indebtedness is subordinated in right of payment to the Subsidiary Guarantee of such Subsidiary Guarantor; *provided, further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (ix);

(x) Hedging Obligations that are not incurred for speculative purposes but (A) for the purpose of fixing or hedging interest rate risk with respect to any Indebtedness that is permitted by the terms of this Indenture to be outstanding; (B) for the purpose of fixing or hedging currency exchange rate risk with respect to any currency exchanges; or (C) for the purpose of fixing or hedging commodity price risk with respect to any commodity purchases or sales and, in each case, extensions or replacements thereof;

(xi) Indebtedness of the Company and the Restricted Subsidiaries in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case, reasonably required in the conduct of the business (giving effect to any growth or expansion of such business permitted hereunder), including those incurred to secure health, safety, insurance and environmental obligations of the Company and the Restricted Subsidiaries as conducted in accordance with good and prudent business industry practices and otherwise as permitted by this Indenture;

(xii) Indebtedness or Disqualified Stock of the Company or Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which when aggregated with the principal

amount or liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred pursuant to this clause (xii), together with any Refinancing Indebtedness in respect thereof Incurred pursuant to clause (xv) below, does not exceed the greater of \$100 million and 0.29 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred, or Disqualified Stock or Preferred Stock is issued, and after giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xiii) Indebtedness or Disqualified Stock of the Company or any Restricted Subsidiary and Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference at any time outstanding, together with Refinancing Indebtedness in respect thereof Incurred pursuant to clause (xv) hereof, not greater than an amount equal to 100.0% of the amount of net cash proceeds received by the Company and its Restricted Subsidiaries since immediately after the Issue Date, in each case from the issue or sale of Equity Interests of the Company or any direct or indirect parent entity of the Company (which proceeds are contributed to the Company or any Restricted Subsidiary) or cash contributed to the capital of the Company (in each case other than proceeds of Disqualified Stock or sales of Equity Interests to, or contributions received from, the Company or any of its Subsidiaries, or the proceeds of the Closing Equity Contribution) to the extent such net cash proceeds or cash have not been applied to increase the calculation of the Cumulative Credit pursuant to clauses (2) or (3) of the definition thereof or applied to make Restricted Payments specified in Sections 4.04(b)(ii), (iv), (ix), (x) or (xxi) or to make Permitted Investments specified in clauses (9), (10), (11) or (16) of the definition thereof (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xiv) any guarantee by the Company or any Restricted Subsidiary of Indebtedness or other obligations of the Company or any Restricted Subsidiary so long as the Incurrence of such Indebtedness or other obligations by the Company or such Restricted Subsidiary is permitted under the terms of this Indenture; *provided* that (A) if such Indebtedness is by its express terms subordinated in right of payment to the Notes or the Subsidiary Guarantee of the Company or such Restricted Subsidiary, as applicable, any such guarantee with respect to such Indebtedness shall be subordinated in right of payment to the Notes or such Subsidiary Guarantee, as applicable, substantially to the same extent as such Indebtedness is subordinated to the Notes or the Subsidiary Guarantee, as applicable, and (B) if such guarantee is of Indebtedness of the Company, such guarantee is Incurred in accordance with, or not in contravention of, Section 4.11 solely to the extent Section 4.11 is applicable;

(xv) the Incurrence by the Company or any of the Restricted Subsidiaries of Indebtedness or Disqualified Stock or Preferred Stock of a Restricted Subsidiary that serves to refund, refinance or defease any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued as permitted under Section 4.03(a) and clauses (i)(y), (ii), (iii), (iv)(1), (xii), (xiii), (xv), (xvi), (xx) and (xxiii) of this Section 4.03(b) up to the

outstanding principal amount (or, if applicable, the liquidation preference face amount, or the like) or, if greater, committed amount (only to the extent the committed amount could have been Incurred on the date of initial Incurrence and was deemed Incurred at such time for the purposes of this Section 4.03) of such Indebtedness or Disqualified Stock or Preferred Stock, in each case at the time such Indebtedness was Incurred or Disqualified Stock or Preferred Stock was issued pursuant to Section 4.03(a) or clauses (i)(y), (ii), (iii), (iv)(1), (xi), (xiii), (xv), (xvi), (xx) and (xxii) of this Section 4.03(b), or any Indebtedness, Disqualified Stock or Preferred Stock Incurred to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock, plus any additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay premiums (including tender premiums), accrued and unpaid interest, expenses, defeasance costs and fees in connection therewith (subject to the following proviso, "Refinancing Indebtedness") prior to its respective maturity; *provided, however*, that such Refinancing Indebtedness:

(1) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced or defeased and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Indebtedness, Disqualified Stock and Preferred Stock being refunded or refinanced that were due on or after the date that is one year following the last maturity date of any Notes then outstanding were instead due on such date (*provided* that this subclause (1) will not apply to any refunding or refinancing of any Secured Indebtedness constituting First-Priority Obligations);

(2) to the extent such Refinancing Indebtedness refinances (a) Indebtedness subordinated in right of payment to the Notes or a Subsidiary Guarantee, as applicable, such Refinancing Indebtedness is subordinated in right of payment to the Notes or the Subsidiary Guarantee, as applicable, or (b) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock; and

(3) shall not include (x) Indebtedness of a Restricted Subsidiary that is not an Issuer or a Subsidiary Guarantor that refinances Indebtedness of an Issuer or a Subsidiary Guarantor, or (y) Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary;

(xvi) Indebtedness, Disqualified Stock or Preferred Stock of (A) the Company or any Restricted Subsidiary incurred to finance an acquisition or (B) Persons that are acquired by the Company or any Restricted Subsidiary or merged, consolidated or amalgamated with or into the Company or any Restricted Subsidiary in accordance with the terms of this Indenture; *provided* that after giving effect to such acquisition or merger, consolidation or amalgamation, either:

(1) the Company would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a); or

(2) the Fixed Charge Coverage Ratio of the Company would be no less than immediately prior to such acquisition or merger, consolidation or amalgamation;

*provided further* that the aggregate principal amount of Indebtedness of Restricted Subsidiaries that are not an Issuer or a Subsidiary Guarantor incurred under this clause (xvi) (solely if incurred in contemplation of such acquisition or merger, consolidation or amalgamation), together with any Refinancing Indebtedness in respect thereof incurred under clause (xv) hereof, shall not exceed the greater of \$40 million and 0.12 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred and after giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xvii) Indebtedness in connection with Permitted Securitization Financings;

(xviii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business (*provided* that such Indebtedness is extinguished within five Business Days of its Incurrence) or other cash management services in the ordinary course of business;

(xix) Indebtedness of the Company or any Restricted Subsidiary supported by a letter of credit or bank guarantee issued pursuant to Bank Indebtedness, in a principal amount not in excess of the stated amount of such letter of credit;

(xx) Indebtedness of Restricted Subsidiaries that is not an Issuer or a Subsidiary Guarantor; *provided, however*, that the aggregate principal amount of Indebtedness Incurred under this clause (xx), when aggregated with the principal amount of all other Indebtedness then outstanding and Incurred pursuant to this clause (xx), together with Refinancing Indebtedness in respect thereof Incurred pursuant to clause (xv) hereof, does not exceed the greater of \$40 million and 0.12 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such date on which such additional Indebtedness is Incurred and after giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xxi) Indebtedness of the Company or any Restricted Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(xxii) Indebtedness of the Company and the Restricted Subsidiaries in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued

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to support performance obligations and trade letters of credit (other than obligations in respect of other Indebtedness) in the ordinary course of business;

(xxiii) Indebtedness, Incurred on behalf of, or representing guarantees of Indebtedness of, joint ventures of the Company and any Restricted Subsidiary; *provided, however*, that the aggregate principal amount of Indebtedness Incurred under this clause (xxiii), when aggregated with the principal amount of all other Indebtedness then outstanding and Incurred pursuant to this clause (xxiii), together with any Refinancing Indebtedness in respect thereof Incurred pursuant to clause (xv) hereof, does not exceed the greater of \$40 million and 0.12 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xxiv) to the extent constituting Indebtedness of the Company and the Restricted Subsidiaries, all premium (if any), defeasance costs, interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Indebtedness otherwise permitted to be incurred pursuant to this Section 4.03;

(xxv) Indebtedness in respect of Obligations of the Company or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedging Obligations;

(xxvi) Indebtedness of the Company or any Restricted Subsidiary to or on behalf of any joint venture (regardless of the form of legal entity) that is not a Restricted Subsidiary arising in the ordinary course of business in connection with the cash management operations (including with respect to intercompany self-insurance arrangements) of the Company and its Restricted Subsidiaries.

(xxvii) deposits raised by any Restricted Subsidiary that is subject to state and/or federal banking regulations that constitute Indebtedness owing to such depositor;

(xxviii) Indebtedness consisting of earn outs and obligations of the Company or any Restricted Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with the Transactions or any Permitted Investment;

(xxix) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business; and

(xxx) Obligations in respect of Cash Management Agreements.

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(c) For purposes of determining compliance with this Section 4.03:

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness described in clauses (i) through (xxx) of Section 4.03(b) above or is entitled to be Incurred or issued pursuant to Section 4.03(a), then the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this Section 4.03; *provided* that Indebtedness outstanding under the Credit Agreement on the Issue Date and the Notes offered hereby (but for the avoidance of doubt, not any Additional Notes) shall be incurred under clause (i) of Section 4.03(b) above and may not be reclassified;

(2) at the time of Incurrence, classification or reclassification, the Company will be entitled to divide and classify an item of Indebtedness in more than one of the categories of Indebtedness described in Section 4.03(a) or clauses (i) through (xxx) of Section 4.03(b) (or any portion thereof) without giving *pro forma* effect to the Indebtedness Incurred, classified or reclassified pursuant to any other clause or paragraph of this Section 4.03 (or any portion thereof) when calculating the amount of Indebtedness that may be Incurred, classified or reclassified pursuant to any such clause or paragraph (or any portion thereof) at such time; *provided* that, for the avoidance of doubt, it is understood and agreed that for any Indebtedness Incurred, classified or reclassified in reliance on a category of permitted Indebtedness involving the calculation of a ratio, such Indebtedness will be included in the calculation of such ratio at the time of such Incurrence, classification or reclassification; and

(3) in connection with (x) the Incurrence or issuance, as applicable, of revolving loan Indebtedness under this Section 4.03 or (y) any commitment to incur or issue Indebtedness, Disqualified Stock or Preferred Stock under this Section 4.03, the Company or applicable Restricted Subsidiary may designate such Incurrence or issuance as having occurred on the date of first Incurrence of such revolving loan Indebtedness or commitment (such date, the "Deemed Date"), and any related subsequent actual Incurrence or issuance will be deemed for all purposes under this Indenture to have been Incurred or issued on such Deemed Date, including without limitation for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets hereunder (if applicable), the Total Indebtedness Leverage Ratio, the Secured Leverage Ratio, the Senior Secured Leverage Ratio and EBITDA (and all such calculations on and after the Deemed Date until the termination of such commitments shall be made on a *pro forma* basis after giving effect to the deemed Incurrence or issuance and related transactions in connection therewith).

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as applicable, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an Incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 4.03. Guarantees of, or obligations in

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respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; *provided* that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 4.03.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. 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 U.S. dollar equivalent), in the case of revolving credit debt. However, if the Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and the refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Indebtedness does not exceed the principal amount of the Indebtedness being refinanced.

Notwithstanding any other provision of this Section 4.03, the maximum amount of Indebtedness that the Company and its Restricted Subsidiaries may incur pursuant to this Section 4.03 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Indebtedness is denominated that is in effect on the date of the refinancing.

#### SECTION 4.04 Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any distribution on account of any of the Company's or any of the Restricted Subsidiaries' Equity Interests, including any payment made in connection with any merger, amalgamation or consolidation involving the Company (other than (A) dividends or distributions payable solely in Equity Interests (other than Disqualified Stock) of the Company; or (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, the Company or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities);

(ii) purchase or otherwise acquire or retire for value any Equity Interests of the Company or any direct or indirect parent of the Company;

(iii) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment or

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scheduled maturity, any Subordinated Indebtedness of an Issuer or any Subsidiary Guarantor (other than the payment, redemption, repurchase, defeasance, acquisition or retirement of (A) Subordinated Indebtedness in anticipation of satisfying a sinking fund obligation, principal

installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement and (B) Indebtedness permitted under clauses (vii) and (ix) of Section 4.03(b)); or

(iv) make any Restricted Investment

(all such payments and other actions set forth in clauses (i) through (iv) above being collectively referred to as “Restricted Payments”), unless, at the time of such Restricted Payment:

(1) no Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) immediately after giving effect to such transaction on a *pro forma* basis, the Company could Incur \$1.00 of additional Indebtedness under Section 4.03(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and the Restricted Subsidiaries after the Issue Date (including Restricted Payments permitted by clauses (vi)(C), (viii) and (xiii)(B) of Section 4.04(b), but excluding all other Restricted Payments permitted by Section 4.04(b)), is less than the amount equal to the Cumulative Credit.

(b) The provisions of Section 4.04(a) shall not prohibit:

(i) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration thereof, if at the date of declaration or the giving notice of such redemption, as applicable, such payment would have complied with the provisions of this Indenture;

(ii) (A) the redemption, repurchase, retirement or other acquisition of any Equity Interests (“Retired Capital Stock”) or Subordinated Indebtedness of an Issuer, any direct or indirect parent of the Company or any Subsidiary Guarantor in exchange for, or out of the proceeds of, the substantially concurrent sale of, Equity Interests of the Company or any direct or indirect parent of the Company or contributions to the equity capital of the Company (other than any Disqualified Stock or any Equity Interests sold to a Subsidiary of the Company) (collectively, including any such contributions, “Refunding Capital Stock”),

(B) the declaration and payment of dividends on the Retired Capital Stock out of the proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of Refunding Capital Stock, and

(C) if immediately prior to the retirement of Retired Capital Stock, the declaration and payment of dividends thereon was permitted under clause (vi) of this Section 4.04(b) and not made pursuant to clause (ii)(B), the declaration and payment of

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dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any direct or indirect parent of the Company) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Retired Capital Stock immediately prior to such retirement;

(iii) the redemption, repurchase, defeasance, or other acquisition or retirement of Subordinated Indebtedness of an Issuer or any Subsidiary Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of an Issuer or a Subsidiary Guarantor, which is Incurred in accordance with Section 4.03 so long as:

(A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable), *plus* any accrued and unpaid interest, of the Subordinated Indebtedness being so redeemed, repurchased, defeased, acquired or retired for value (plus the amount of any premium required to be paid under the terms of the instrument governing the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired, any tender premiums, *plus* any defeasance costs, fees and expenses incurred in connection therewith),

(B) such Indebtedness is subordinated to the Notes or the related Subsidiary Guarantee of such Subsidiary Guarantor, as the case may be, at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value,

(C) such Indebtedness has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Notes then outstanding, and

(D) such Indebtedness has a Weighted Average Life to Maturity at the time Incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, repurchased, defeased, acquired or retired and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Subordinated Indebtedness being redeemed, repurchased, defeased, acquired or retired that were due on or after the date that is one year following the last maturity date of any Notes then outstanding were instead due on such date;

(iv) a Restricted Payment to pay for the repurchase, retirement or other acquisition for value of Equity Interests of the Company or any direct or indirect parent of the Company held by any future, present or former employee, director, officer or consultant of the Company or any direct or indirect parent of the Company or any Subsidiary of the Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or

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arrangement; *provided, however*, that the aggregate Restricted Payments made under this clause (iv) do not exceed \$7.5 million in any calendar year (which shall increase to \$15 million subsequent to the consummation of an underwritten public Equity Offering of Capital Stock of the Company or any direct or indirect parent of the Company), with unused amounts in any calendar year being permitted to be carried over to succeeding calendar years subject to a maximum of \$15 million in any calendar year (which shall increase to \$80 million subsequent to the consummation of an underwritten public Equity Offering of Capital Stock); *provided, further, however*, that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds received by the Company or any of the Restricted Subsidiaries from the sale of Equity Interests (other than Disqualified Stock) of the Company or any direct or indirect parent of the Company (to the extent contributed to the Company) to employees, directors, officers or consultants of the Company and the Restricted Subsidiaries or any direct or indirect parent of the Company that occurs after the Issue Date (*provided* that the amount of such cash proceeds utilized for any such repurchase, retirement, other acquisition or dividend will not increase the amount available under clause (3) of the definition of Cumulative Credit), *plus*

(B) the cash proceeds of key man life insurance policies received by the Company or any direct or indirect parent of the Company (to the extent contributed to the Company) or the Restricted Subsidiaries after the Issue Date;

*provided* that the Company may elect to apply all or any portion of the aggregate increase contemplated by clauses (A) and (B) above in any calendar year; and *provided, further*, that cancellation of Indebtedness owing to the Company or any Restricted Subsidiary from any present or former employees, directors, officers or consultants of the Company, any Restricted Subsidiary or the direct or indirect parents of the Company in connection with a repurchase of Equity Interests of the Company or any of its direct or indirect parents will not be deemed to constitute a Restricted Payment for purposes of this Section 4.04 or any other provision of this Indenture;

(v) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Company or any Restricted Subsidiary issued or incurred in accordance with Section 4.03;

(vi) (A) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued after the Issue Date;

(B) a Restricted Payment to any direct or indirect parent of the Company, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of any direct or indirect parent of the Company issued after the Issue Date; *provided* that the aggregate amount of dividends declared and paid pursuant to this clause (B) does not exceed the net cash proceeds actually received by the Company from any such sale of

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Designated Preferred Stock (other than Disqualified Stock) issued after the Issue Date; and

(C) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to Section 4.04(b)(ii);

*provided, however*, in the case of each of clauses (A) and (C) above of this clause (vi), that for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding the date of issuance of such Designated Preferred Stock, after giving effect to such issuance (and the payment of dividends or distributions and treating such Designated Preferred Stock as Indebtedness for borrowed money for such purpose) on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), the Company would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(vii) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value (as determined in good faith by the Company), taken together with all other Investments made pursuant to this clause (vii) that are at that time outstanding, not to exceed the sum of (a) the greater of \$45 million and 0.13 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters and (b) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided, however*, that if any Investment pursuant to this clause (vii) is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) of the definition of "Permitted Investments" and shall cease to have been made pursuant to this clause (vii) for so long as such Person continues to be the Company or a Restricted Subsidiary;

(viii) any Restricted Payments made as a dividend to Holdings to be used by Holdings or any direct or indirect parent of Holdings to make dividends to its equity holders in an aggregate amount not to exceed \$25 million per annum;

(ix) Restricted Payments that are made with (or in an aggregate amount that does not exceed the aggregate amount of) Excluded Contributions;

(x) other Restricted Payments in an aggregate amount, when taken together with all other Restricted Payments made pursuant to this clause (x) that are at that time outstanding, not to exceed the greater of \$50 million and 0.15 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters

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for which financial statements have been delivered to the Trustee immediately preceding such event and giving *pro forma* effect thereto as if such event occurred at the beginning of such four fiscal quarters;

(xi) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries;

(xii) (A) with respect to any taxable period for which the Company (or if the Company is a partnership or disregarded entity for U.S. federal income tax purposes that is wholly owned (directly or indirectly) by a C corporation for U.S. federal and/or applicable state, local or foreign income tax purposes, such C corporation) and/or any of its Subsidiaries are members of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state, local or foreign income tax purposes of which a direct or indirect parent of the Company is the common parent, distributions to any such direct or indirect parent of the Company to fund income Taxes for which such parent is liable, in an amount not to exceed the amount of any U.S. federal, state and/or local income taxes that the Company and/or its Subsidiaries, as applicable, would have paid for such taxable period (taking into account prior year losses) had the Company and/or its Subsidiaries, as applicable, been a stand-alone corporate taxpayer or a stand-alone corporate group, and (B) with respect to any taxable period ending after the Issue Date for which the Company is a partnership or disregarded entity for U.S. federal income tax purposes (other than a partnership or disregarded entity described in clause (A)), distributions to any direct or indirect parent of the Company in an amount necessary to permit such direct or indirect parent of the Company to make a pro rata distribution to its owners such that each direct or indirect owner of the Company receives an amount from such pro rata distribution sufficient to enable such owner to pay its U.S. federal, state and/or local income taxes (to the extent the Company is treated as a pass-through for state and/or local purposes, as applicable) attributable to its direct or indirect ownership of the Company and its Subsidiaries with respect to such taxable period (assuming that each owner is subject to tax at the highest combined marginal federal, state, local and/or foreign income tax rate applicable to an individual resident of New York, New York for such taxable period and taking into account the deductibility of state and local income taxes for U.S. federal income tax purposes (and any limitations thereon), the alternative minimum tax, any cumulative net taxable loss of the Company for prior taxable periods ending after the Issue Date to the extent such loss is of a character that would allow such loss to be available to reduce taxes in the current taxable period (taking into account any limitations on the utilization of such loss to reduce such taxes and assuming such loss had not already been utilized) and the character (e.g., long-term or short-term capital gain or ordinary or exempt) of the applicable income);

(xiii) any Restricted Payment, if applicable:

(A) in amounts required for any direct or indirect parent of the Company to pay fees and expenses (including franchise or similar taxes) required

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to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any direct or indirect parent of the Company and general corporate operating and overhead expenses of any direct or indirect parent of the Company in each case to the extent such fees and expenses are attributable to the ownership or operation of the Company, if applicable, and its Subsidiaries;

(B) in amounts required for any direct or indirect parent of the Company, if applicable, to pay interest and/or principal on Indebtedness the proceeds of which have been contributed to the Company or any Restricted Subsidiary and that has been guaranteed by, or is otherwise considered Indebtedness of, the Company Incurred in accordance with Section 4.03; and

(C) in amounts required for any direct or indirect parent of the Company to pay fees and expenses related to any equity or debt offering of such parent (whether or not successful);

(xiv) repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(xv) any consideration, payment, dividend, distribution or other transfer in connection with a Permitted Securitization Financing;

(xvi) Restricted Payments by the Company or any Restricted Subsidiary to allow the payments of cash, or dividends, distributions or advances to allow such Person to make payments of cash, in lieu of the issuance of fractional shares upon the exercise of options or warrants or upon the conversion or exchange of Equity Interests of any such Person;

(xvii) the repurchase, redemption or other acquisition or retirement for value of any Preferred Stock or any Subordinated Indebtedness pursuant to the provisions similar to those described in Section 4.06 and 4.08; *provided* that all Notes tendered by holders of the Notes in connection with a Change of Control Offer or Asset Sale Offer, as applicable, have been repurchased, redeemed or acquired for value;

(xviii) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, that complies with Section 5.01; *provided* that as a result of such consolidation, amalgamation, merger or transfer of assets, the Issuers shall have made a Change of Control Offer (if required by this Indenture) and that all Notes tendered by holders in connection with such Change of Control Offer have been repurchased, redeemed or acquired for value;

(xix) any Restricted Payment used to fund the Transactions and the payment of fees and expenses Incurred in connection with the Transactions or owed by the Company or any direct or indirect parent of the Company or Restricted Subsidiaries of

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the Company to Affiliates, and any other payments made, including any such payments made to any direct or indirect parent of the Company to enable it to make payments in connection with the consummation of the Transactions, whether payable on the Issue Date or thereafter, in each case to the extent permitted by Section 4.07;

(xx) any Restricted Payment made under the Acquisition Documents (as in effect on the Issue Date);

(xxi) other Restricted Payments so long as, immediately after giving effect to such Restricted Payment, the Total Indebtedness Leverage Ratio for the most recently ended four fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding such Restricted Payment is not greater than 2.47 to 1.00 on a *pro forma* basis; and

(xxii) any Person may make distributions to minority shareholders of any Subsidiary that is acquired pursuant to an acquisition or Investment permitted under this Indenture pursuant to appraisal or dissenters' rights with respect to shares of such Subsidiary held by such shareholders.

*provided, however*, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (vi)(B), (vii), (x), (xi), (xiii)(B) and (xxi) of this Section 4.04(b), no Default shall have occurred and be continuing or would occur as a consequence thereof; *provided, further*, that any Restricted Payments made with property other than cash shall be calculated using the Fair Market Value (as determined in good faith by the Company) of such property.

(c) As of the Issue Date, all of the Subsidiaries of the Company will be Restricted Subsidiaries. The Company will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the definition of "Unrestricted Subsidiary." For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Company and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated on such date of designation will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will only be permitted if a Restricted Payment or Permitted Investment in such amount would be permitted at such time and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

SECTION 4.05 Dividend and Other Payment Restrictions Affecting Subsidiaries. The Company shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(a) (i) pay dividends or make any other distributions to the Company or any Restricted Subsidiary (1) on its Capital Stock; or (2) with respect to any other interest or participation in, or measured by, its profits; or (ii) pay any Indebtedness owed to the Company or any Restricted Subsidiary;

(b) make loans or advances to the Company or any Restricted Subsidiary; or

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(c) sell, lease or transfer any of its properties or assets to the Company or any Restricted Subsidiary;

*except* in each case for such encumbrances or restrictions existing under or by reason of:

(1) (A) contractual encumbrances or restrictions in effect on the Issue Date and (B) contractual encumbrances or restrictions pursuant to the Credit Agreement, the other Credit Agreement Documents and, in each case, any similar contractual encumbrances or restrictions or any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of such agreements or instruments;

(2) this Indenture, the Notes, the Security Documents, the First Lien Intercreditor Agreement or the Subsidiary Guarantees;

(3) applicable law or any applicable rule, regulation or order;

(4) any agreement or other instrument of a Person acquired by the Company or any Restricted Subsidiary which was in existence at the time of such acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;

(5) contracts or agreements for the sale of assets, including any restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Capital Stock or assets of such Restricted Subsidiary;

(6) Secured Indebtedness otherwise permitted to be Incurred pursuant to Section 4.03 and Section 4.12 that limit the right of the debtor to dispose of the assets securing such Indebtedness;

(7) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(8) customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;

(9) purchase money obligations for property acquired and Capitalized Lease Obligations in the ordinary course of business that impose restrictions of the nature discussed in Section 4.05(c) above on the property so acquired;

(10) customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business or consistent with past practice or industry norm;

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(11) in the case of Section 4.05(c) above, any encumbrance or restriction that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any such lease, license (including without limitation, licenses of intellectual property) or other contracts;

(12) any encumbrances or restrictions of a Special Purpose Securitization Subsidiary effected in connection with a Permitted Securitization Financing; *provided, however*, that such restrictions apply only to such Special Purpose Securitization Subsidiary;

(13) other Indebtedness, Disqualified Stock or Preferred Stock (a) of the Company or any Restricted Subsidiary that is an Issuer, a Subsidiary Guarantor or a Foreign Subsidiary or (b) of any Restricted Subsidiary that is not an Issuer, a Subsidiary Guarantor or a Foreign Subsidiary so long as such encumbrances and restrictions contained in any agreement or instrument will not materially affect the Issuers' ability to make anticipated principal or interest payments on the Notes (as determined in good faith by the Company), *provided* that in the case of each of clauses (a) and (b), such Indebtedness, Disqualified Stock or Preferred Stock is permitted to be Incurred subsequent to the Issue Date pursuant to Section 4.03;

(14) any Restricted Investment not prohibited by Section 4.04 and any Permitted Investment; or

(15) any encumbrances or restrictions of the type referred to in Section 4.05(a), (b) or (c) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (14) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, not materially more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

For purposes of determining compliance with this Section 4.05, (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (ii) the subordination of loans or advances made to the Company or a Restricted Subsidiary to other Indebtedness Incurred by the Company or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

#### SECTION 4.06 Asset Sales.

(a) The Company shall not, and shall not permit any of the Restricted Subsidiaries to, cause or make an Asset Sale, unless (x) the Company or any Restricted

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Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value (as determined in good faith by the Company) of the assets sold or otherwise disposed of, and (y) at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, is in the form of Cash Equivalents; *provided* that the amount of:

(i) any liabilities (as shown on the Company's or a Restricted Subsidiary's most recent balance sheet or in the notes thereto) of the Company or a Restricted Subsidiary (other than liabilities that are by their terms subordinated to the Notes or any Subsidiary Guarantee) that are assumed by the transferee of any such assets or that are otherwise cancelled or terminated in connection with the transaction with such transferee,

(ii) any notes or other obligations or other securities or assets received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash within 180 days of the receipt thereof (to the extent of the cash received),

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Sale, to the extent that the Company and each other Restricted Subsidiary are released from any guarantee of payment of such Indebtedness in connection with the Asset Sale,

(iv) consideration consisting of Indebtedness of the Company or any Restricted Subsidiary (other than Subordinated Indebtedness) received after the Issue Date from Persons who are not the Company or any Restricted Subsidiary, and

(v) any Designated Non-cash Consideration received by the Company or any Restricted Subsidiary in such Asset Sale having an aggregate Fair Market Value (as determined in good faith by the Company), taken together with all other Designated Non-cash Consideration received pursuant to this Section 4.06(a)(v) that is at that time outstanding, not to exceed the greater of \$65 million and 0.19 multiplied by the Pro Forma EBITDA of the Company for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Trustee immediately preceding the receipt of such Designated Non-cash Consideration (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),

shall in each case be deemed to be Cash Equivalents for the purposes of this Section 4.06(a).

(b) Within 365 days after the Company's or any Restricted Subsidiary's receipt of the Net Proceeds of any Asset Sale, the Company or such Restricted Subsidiary may apply the Net Proceeds from such Asset Sale, at its option:

(i) to repay (A) Indebtedness constituting First-Priority Obligations (and, if the Indebtedness repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto), (B) Indebtedness of a Restricted Subsidiary that is not an Issuer or a Subsidiary Guarantor, (C) Obligations under the Notes or (D) other

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Pari Passu Indebtedness other than First-Priority Obligations so long as the Net Proceeds are with respect to assets not constituting Collateral (*provided* that if an Issuer or any Subsidiary Guarantor shall so reduce other First-Priority Obligations pursuant to clause (A) or Pari Passu Indebtedness that does not constitute First-Priority Obligations under this clause (D) (which, for the avoidance of doubt, does not include Indebtedness described in clauses (A), (B) and (C) even if such Indebtedness may also constitute Pari Passu Indebtedness), the Issuers will

equally and ratably reduce Notes Obligations pursuant to Section 3.01, through open-market purchases (*provided* that such purchases are at or above 100% of the principal amount thereof or, in the event that the Notes were issued with significant original issue discount, 100% of the accreted value thereof) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders to purchase a pro rata principal amount of Notes at a purchase price equal to 100% of the principal amount thereof (or, in the event that the Notes were issued with significant original issue discount, 100% of the accreted value thereof), *plus* accrued and unpaid interest, if any), in each case other than Indebtedness owed to the Company or an Affiliate of the Company; or

(ii) to make an investment in any one or more businesses (*provided* that if such investment is in the form of the acquisition of Capital Stock of a Person, such acquisition results in such Person becoming a Restricted Subsidiary of the Company or in an increase in the percentage ownership by the Company (or a Restricted Subsidiary) in such Restricted Subsidiary), assets, or property or capital expenditures, in each case (A) used or useful in a Similar Business or (B) that replace the properties and assets that are the subject of such Asset Sale or, in each case, to reimburse the cost of any of the foregoing incurred on or after the date on which the Asset Sale giving rise to such Net Proceeds was contractually committed.

In the case of Section 4.06(b)(ii), a binding commitment shall be treated as a permitted application of the Net Proceeds from the date of such commitment until the 18-month anniversary of the date of the receipt of such Net Proceeds; *provided* that in the event such binding commitment is later canceled or terminated for any reason after the 365-day after the receipt of such Net Proceeds but before such Net Proceeds are so applied, then such Net Proceeds shall constitute Excess Proceeds unless the Company or such Restricted Subsidiary enters into another binding commitment (a "Second Commitment") within six months of such cancellation or termination of the prior binding commitment; *provided, further*, that the Company or such Restricted Subsidiary may only enter into a Second Commitment under the foregoing provision one time with respect to each Asset Sale and to the extent such Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied or are not applied within 180 days of such Second Commitment, then such Net Proceeds shall constitute Excess Proceeds.

Pending the final application of any such Net Proceeds, the Company or such Restricted Subsidiary may temporarily reduce Indebtedness under a revolving credit facility, if any, or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture. Any Net Proceeds from any Asset Sale that are not applied as provided and within the time period set forth in the first paragraph of this Section 4.06(b) (it being understood that any portion of such Net Proceeds used to make an offer to purchase Notes, as described in clause (i) of this Section

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4.06(b), shall be deemed to have been so applied whether or not such offer is accepted) will be deemed to constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$75 million, the Issuers shall make an offer to all holders of Notes (and, at the option of the Issuers, to holders of any other First-Priority Obligations or, unless the Asset Sale is with respect to Collateral, other Pari Passu Indebtedness) (an "Asset Sale Offer") to purchase the maximum principal amount of Notes (and such First-Priority Obligations or other Pari Passu Indebtedness), that is at least \$2,000 and an integral multiple of \$1,000 in excess thereof that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof (or, in the event the Notes or such First-Priority Obligations or other Pari Passu Indebtedness were issued with significant original issue discount, 100% of the accreted value thereof), *plus* accrued and unpaid interest, if any (or, in respect of such First-Priority Obligations or other Pari Passu Indebtedness, such lesser price, if any, as may be provided for by the terms of such First-Priority Obligations or other Pari Passu Indebtedness), to, but excluding, the date fixed for the closing of such offer, in accordance with the procedures set forth in this Section 4.06. The Issuers will commence an Asset Sale Offer with respect to Excess Proceeds within ten (10) Business Days after the date that aggregate amount of Excess Proceeds exceeds \$75 million by mailing, or delivering electronically if held by the Depository, the notice required pursuant to the terms of this Indenture, with a copy to the Trustee. To the extent that the aggregate amount of Notes (and such First-Priority Obligations or other Pari Passu Indebtedness) tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Issuers may use any remaining Excess Proceeds for any purpose that is not prohibited by this Indenture. If the aggregate principal amount of Notes (and such First-Priority Obligations or other Pari Passu Indebtedness) surrendered by holders thereof exceeds the amount of Excess Proceeds, the Issuers shall select the Notes to be purchased in the manner described in Section 4.06(e). Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(c) The Issuers will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent such laws or regulations are applicable in connection with the repurchase of the Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuers will comply with the applicable securities laws and regulations and shall not be deemed to have breached their obligations described in this Indenture by virtue thereof.

(d) Not later than the date upon which written notice of an Asset Sale Offer is delivered to the Trustee as provided above, the Issuers shall deliver to the Trustee an Officer's Certificate as to (i) the amount of the Excess Proceeds, (ii) the allocation of the Net Proceeds from the Asset Sales pursuant to which such Asset Sale Offer is being made and (iii) the compliance of such allocation with the provisions of Section 4.06(b). On the Asset Sale Offer purchase date, the Issuers shall irrevocably deposit with the Trustee or with the applicable Paying Agent (or, if the Company or a Subsidiary is acting as the Paying Agent, segregate and hold in trust) an amount equal to the Asset Sale Offer purchase price to be paid in accordance with the provisions of this Section 4.06. Upon the expiration of the period for which the Asset Sale Offer remains open (the "Offer Period"), the Issuers shall deliver to the Trustee for cancellation the Notes or portions thereof that have been properly tendered to and are to be accepted by the Issuers. The Trustee (or the applicable Paying Agent, if not the Trustee) shall,

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on the date of purchase, mail or deliver payment to each tendering holder in the amount of the purchase price. In the event that the Asset Sale Offer purchase price delivered by the Issuers to the Trustee are greater than the purchase price of the Notes tendered, the Trustee shall deliver the excess to the Issuers immediately after the expiration of the Offer Period for application in accordance with this Section 4.06.

(e) Holders electing to have a Note purchased shall be required to surrender such Note, with an appropriate form duly completed, to the Issuers at the address specified in the notice at least three Business Days prior to the purchase date. Holders shall be entitled to withdraw their election if the Trustee or the Issuers receive not later than one Business Day prior to the purchase date, a facsimile transmission or letter setting forth the name of the holder, the principal amount of the Note which was delivered by the holder for purchase and a statement that such holder is withdrawing his election to have such Note purchased. If at the end of the Offer Period more Notes (and such First-Priority Obligations or other Pari Passu Indebtedness) are tendered

pursuant to an Asset Sale Offer than the Issuers are required to purchase, selection of such Notes for purchase shall be made by the Issuers in compliance with the requirements of the principal national securities exchange, if any, on which such Notes are listed (and the Issuers shall notify the Trustee of any such listing), or if such Notes are not so listed, on a pro rata basis to the extent practicable, by lot or by such other method as the Issuers deem appropriate (and in such manner as complies with the requirements of the Depository, if applicable); *provided* that no Notes of \$2,000 or less shall be purchased in part. Selection of such First-Priority Obligations or other Pari Passu Indebtedness shall be made pursuant to the terms of such First-Priority Obligations or other Pari Passu Indebtedness.

(f) Notices of an Asset Sale Offer shall be mailed by the Issuers by first class mail, postage prepaid, or delivered electronically if held by the Depository, at least 30 but not more than 60 days before the purchase date to each holder of Notes at such holder's registered address, with a copy to the Trustee. If any Note is to be purchased in part only, any notice of purchase that relates to such Note shall state the portion of the principal amount thereof that has been or is to be purchased.

SECTION 4.07 Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an "Affiliate Transaction") involving aggregate consideration in excess of \$10 million, unless:

(i) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and

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(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50 million, the Company delivers to the Trustee a resolution adopted in good faith by the majority of the Board of Directors of the Company, approving such Affiliate Transaction and set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (i) above.

(b) The provisions of Section 4.07(a) shall not apply to the following:

(i) transactions between or among the Company and/or any of the Restricted Subsidiaries (or an entity that becomes a Restricted Subsidiary as a result of such transaction) and any merger, consolidation or amalgamation of the Company and any direct parent of the Company; *provided* that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Company and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Indenture and effected for a bona fide business purpose;

(ii) Restricted Payments permitted by Section 4.04 and Permitted Investments;

(iii) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Company, any Restricted Subsidiary, or any direct or indirect parent of the Company;

(iv) transactions in which the Company or any Restricted Subsidiary, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (i) of Section 4.07(a);

(v) payments or loans (or cancellation of loans) to officers, directors, employees or consultants which are approved by a majority of the Board of Directors of the Company in good faith;

(vi) any agreement as in effect as of the Issue Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the holders of the Notes in any material respect than the original agreement as in effect on the Issue Date, as determined in good faith by the Company) or any transaction contemplated thereby;

(vii) the existence of, or the performance by the Company or any Restricted Subsidiary of its obligations under the terms of, any stockholders or other agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Issue Date, and any transaction, agreement or arrangement described in the Offering Memorandum and, in each case, any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; *provided, however*, that the existence of, or the performance by the Company or any

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Restricted Subsidiary of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Issue Date shall only be permitted by this clause (vii) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the holders of the Notes in any material respect than the original transaction, agreement or arrangement as in effect on the Issue Date, as determined in good faith by the Issuer;

(viii) the execution of the Transactions, and the payment of all fees, expenses, bonuses and awards related to the Transactions, including fees to any Investor or Investor Affiliate;



(ix) (A) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture, which are fair to the Company and the Restricted Subsidiaries in the reasonable determination of the Board of Directors or the senior management of the Company or (B) transactions with joint ventures or Unrestricted Subsidiaries entered into in the ordinary course of business or consistent with past practice;

(x) transactions pursuant to any Permitted Securitization Financing;

(xi) the issuance of Equity Interests (other than Disqualified Stock) of the Company to any Person;

(xii) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Company or any direct or indirect parent of the Company or of a Restricted Subsidiary, as appropriate, in good faith;

(xiii) the entering into of any tax sharing agreement or arrangement that complies with Section 4.04(b)(xii) and the performance under any such agreement or arrangement;

(xiv) any contribution to the capital of the Company;

(xv) transactions permitted by, and complying with, Section 5.01;

(xvi) transactions between the Company or any Restricted Subsidiary and any Person that would constitute an Affiliate Transaction solely because a director of such other Person is also a director of the Company or any direct or indirect parent of the Company; *provided, however*, that such director abstains from voting as a director of the Company or such direct or indirect parent, as the case may be, on any matter involving such other Person;

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(xvii) pledges of Equity Interests of Unrestricted Subsidiaries;

(xviii) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(xix) the termination of HandsOn Management Agreements and any payments for termination fees in connection therewith, including any net present value of future payments;

(xx) provided no Default or Event of Default shall have occurred and be continuing or would result therefrom, payments by the Company or any of its Restricted Subsidiaries to any of the Investors or any Investor Affiliate 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 Board of Directors of the Company in good faith;

(xxi) intercompany transactions for the purpose of improving the consolidated tax efficiency of the Company and its Subsidiaries and not for the purpose of circumventing any covenant set forth in this Indenture;

(xxii) investments by any Investor or Investor Affiliate in securities of the Company or any Restricted Subsidiary so long as (i) the investment is being generally offered to other investors on the same or more favorable terms and (ii) the investment constitutes less than 5% of the proposed or outstanding issue amount of such class of securities; and

(xxiii) any agreements or arrangements between a third party and an Affiliate of the Company that are acquired or assumed by the Company or any Restricted Subsidiary in connection with an acquisition or merger of such third party (or assets of such third party) by or with the Company or any Restricted Subsidiary; provided that (A) such acquisition or merger is permitted under this Indenture and (B) such agreements or arrangements are undertaken in good faith and not entered into in contemplation of such acquisition or merger or otherwise for the purpose of avoiding the restrictions imposed by this Section 4.07.

#### SECTION 4.08 Change of Control.

(a) Upon the occurrence of a Change of Control, each holder shall have the right to require the Issuers to repurchase all or any part of such holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof, *plus* accrued and unpaid interest, if any, to, but excluding, the date of repurchase (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date), in accordance with the terms contemplated in this Section 4.08; *provided, however*, that notwithstanding the occurrence of a Change of Control, the Company shall not be obligated to purchase any Notes pursuant to this Section 4.07(b)(xxii) in the event that it has previously or concurrently elected to redeem such Notes in accordance with Article III of this Indenture. In the event that at the time

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of such Change of Control, the terms of the Bank Indebtedness restrict or prohibit the repurchase of Notes pursuant to this Section 4.07(b)(xxii), then prior to the mailing (or other delivery) of the notice to holders provided for in Section 4.08(b) but in any event within 30 days following any Change of Control, the Issuers shall: (i) repay in full all Bank Indebtedness or, if doing so will allow the purchase of Notes, offer to repay in full all Bank Indebtedness and repay the Bank Indebtedness of each lender and/or noteholder who has accepted such offer; or (ii) obtain the requisite consent under the agreements governing the Bank Indebtedness to permit the repurchase of the Notes as provided for in Section 4.08(b).

(b) Within 30 days following any Change of Control, except to the extent that the Issuers have exercised its right to redeem the Notes in accordance with Article III of this Indenture, the Issuers shall mail to each holder's registered address, or deliver electronically if held by the Depository, with a copy to the Trustee a notice (a "Change of Control Offer") stating:

(i) that a Change of Control has occurred and that such holder has the right to require the Issuers to repurchase such holder's Notes at a repurchase price in cash equal to 101% of the principal amount thereof, *plus* accrued and unpaid interest, if any, to, but excluding, the date of repurchase (subject to the right of the holders of record on the relevant Record Date to receive interest on the relevant Interest Payment Date);

(ii) the circumstances and relevant facts and financial information regarding such Change of Control;

(iii) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed or delivered electronically); and

(iv) the instructions determined by the Issuers, consistent with this Section 4.08, that a holder must follow in order to have its Notes purchased.

(c) Holders electing to have a Note purchased shall be required to surrender the Note, with an appropriate form duly completed, to the Issuers at the address specified in the notice at least three Business Days prior to the purchase date. The holders shall be entitled to withdraw their election if the Trustee or the Issuers receive not later than one Business Day prior to the purchase date a facsimile transmission or letter setting forth the name of the holder, the principal amount of the Note which was delivered for purchase by the holder and a statement that such holder is withdrawing his election to have such Note purchased. Holders whose Notes are purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered.

(d) On the purchase date, all Notes purchased by the Issuers under this Section 4.08 shall be delivered to the Trustee for cancellation, and the Issuers shall pay the purchase price *plus* accrued and unpaid interest, if any, to the holders entitled thereto.

(e) A Change of Control Offer may be made in advance of a Change of Control, and conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

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(f) Notwithstanding the provisions of this Section 4.08, the Issuers shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuers and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

(g) Notes repurchased by the Issuers pursuant to a Change of Control Offer will have the status of Notes issued but not outstanding or will be retired and canceled at the option of the Issuers. Notes purchased by a third party pursuant to the preceding clause (f) will have the status of Notes issued and outstanding.

(h) At the time the Issuers deliver Notes to the Trustee which are to be accepted for purchase, the Issuers shall also deliver an Officer's Certificate stating that such Notes are to be accepted by the Issuers pursuant to and in accordance with the terms of this Section 4.08. A Note shall be deemed to have been accepted for purchase at the time the Trustee, directly or through an agent, mails or delivers payment therefor to the surrendering holder.

(i) Prior to any Change of Control Offer, the Issuers shall deliver to the Trustee an Officer's Certificate stating that all conditions precedent contained herein to the right of the Issuers to make such offer have been complied with.

(j) The Issuers shall comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to this Section 4.08. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.08, the Issuers shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.08 by virtue thereof.

(k) If holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Issuers, or any third party making a Change of Control Offer in lieu of the Company as described above, purchases all of the Notes validly tendered and not withdrawn by such holders, the Issuers or such third party will have the right, upon not less than 30 nor more than 60 days' prior written notice to the holders (with a copy to the Trustee), given not more than 30 days following such purchase pursuant to the Change of Control Offer, to redeem all Notes that remain outstanding following such purchase at a price in cash equal to 101% of the principal amount thereof *plus* accrued and unpaid interest to, but excluding, the date of redemption. Any such redemption shall be effected pursuant to Article III.

**SECTION 4.09**      Compliance Certificate. The Issuers shall deliver to the Trustee within 120 days after the end of each fiscal year of the Issuer, beginning with the fiscal year ending in December 2017, an Officer's Certificate stating that in the course of the performance by the signers of their duties as Officers of the Issuers they would normally have knowledge of any Default and whether or not the signers know of any Default that occurred during such period. If any Officer of the Issuers does, the certificate shall describe the Default,

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its status and what action the Issuers are taking or propose to take with respect thereto. The Issuers also shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice of any event which would constitute certain Defaults, their status and what action the Issuers are taking or propose to take in respect thereof. Except with respect to receipt of payments of principal and interest on the Notes and any Default or Event of Default information contained in the Officer's Certificate delivered to it pursuant to this Section 4.09, the Trustee shall have no duty to review, ascertain or confirm the Issuers' compliance with or the breach of any representation, warranty or covenant made in this Indenture.

SECTION 4.10 Further Instruments and Acts. Upon request of the Trustee, the Issuers shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 4.11 Future Subsidiary Guarantors. The Company shall cause each Restricted Subsidiary that guarantees or becomes a borrower under the Credit Agreement and each Wholly Owned Restricted Subsidiary that is not an Excluded Subsidiary that guarantees any other Indebtedness of an Issuer or any of the Subsidiary Guarantors to execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit C hereto pursuant to which such Restricted Subsidiary will guarantee the Issuers' Obligations under the Notes and this Indenture and, if required by the First Lien Intercreditor Agreement, execute and deliver a joinder to the First Lien Intercreditor Agreement.

SECTION 4.12 Liens.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur or suffer to exist any Lien (except Permitted Liens) on any asset or property of the Company or such Restricted Subsidiary securing Indebtedness of the Company or a Restricted Subsidiary.

(b) For purposes of determining compliance with this Section 4.12, (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 4.12(a) but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 4.12(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien or such item of Indebtedness secured by such Lien (or any portion thereof) in one of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 4.12(a) and, in such event, such Lien securing such item of Indebtedness (or any portion thereof) will be treated as being Incurred or existing pursuant to only such clause or clauses (or any portion thereof) or pursuant to Section 4.12(a) without giving *pro forma* effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be Incurred pursuant to any other clause or paragraph (or portion thereof) at such time. In addition, with respect to any revolving loan Indebtedness or commitment to

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Incur Indebtedness that is designated to be Incurred on any Deemed Date pursuant to Section 4.03(c)(3), any Lien that does or that shall secure such Indebtedness may also be designated by the Company or any Restricted Subsidiary to be Incurred on such Deemed Date and, in such event, any related subsequent actual Incurrence of such Lien shall be deemed for all purposes under this Indenture to be Incurred on such prior date, including for purposes of calculating usage of any "Permitted Lien" (and any calculations on and after the Deemed Date until the termination of such commitments shall be made on a *pro forma* basis after giving effect to the deemed Incurrence or issuance and related transactions in connection therewith).

(c) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Company, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (3) of the definition of "Indebtedness."

SECTION 4.13 After-Acquired Property. Upon the acquisition by an Issuer or any Subsidiary Guarantor of any After-Acquired Property, or upon any additional Restricted Subsidiary becoming a Subsidiary Guarantor, such Issuer or such Subsidiary Guarantor shall execute and deliver such mortgages, deeds of trust, security instruments, financing statements and other Security Documents as shall be reasonably necessary to vest in the First-Priority Collateral Agent a perfected first-priority security interest, subject only to Permitted Liens and Liens permitted under Section 4.12, in such After-Acquired Property and to have such After-Acquired Property (but subject to the limitations as described in Article XI, the Security Documents and the First Lien Intercreditor Agreement) added to the Collateral (or in the case of a Subsidiary Guarantor, all of its assets that constitute After-Acquired Property), and thereupon all provisions of this Indenture relating to the Collateral shall be deemed to relate to such After-Acquired Property to the same extent and with the same force and effect.

SECTION 4.14 Maintenance of Office or Agency.

(a) The Issuers shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee or Registrar) where Notes may be surrendered for registration of transfer or for exchange. The Issuers shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuers shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations and surrenders may be made at the Corporate Trust Office of the Trustee as set forth in Section 13.02.

(b) The Issuers may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such

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designation or rescission shall in any manner relieve the Issuers of their obligation to maintain an office or agency for such purposes. The Issuers shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

(c) The Issuers hereby designate the Corporate Trust Office of the Trustee or its agent as such office or agency of the Issuers in accordance with Section 2.04.

SECTION 4.15 Covenant Suspension. If on any date following the Issue Date, (i) the Notes have Investment Grade Ratings from both Rating Agencies, and (ii) no Default has occurred and is continuing under this Indenture, then, beginning on that day (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a “Covenant Suspension Event”), and subject to the provisions of the following paragraph, the Company and the Restricted Subsidiaries shall not be subject to Sections 4.03, 4.04, 4.05, 4.06, 4.07, 4.11 and 5.01(a)(iv) (collectively the “Suspended Covenants”).

In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the “Reversion Date”) one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below an Investment Grade Rating, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under this Indenture with respect to future events.

The Issuers shall provide the Trustee with written notice of each Covenant Suspension Event or Reversion Date within five Business Days of the occurrence thereof. The Trustee shall have no duty to monitor or provide notice to the holders of the Notes of any such Covenant Suspension Event or Reversion Date.

On each Reversion Date, all Indebtedness Incurred, or Disqualified Stock or Preferred Stock issued, during the Suspension Period will be classified as having been Incurred or issued pursuant to Sections 4.03(a) or (b) (to the extent such Indebtedness or Disqualified Stock or Preferred Stock would be permitted to be Incurred or issued thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred or issued prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness or Disqualified Stock or Preferred Stock would not be so permitted to be Incurred or issued pursuant to Sections 4.03(a) or (b), such Indebtedness or Disqualified Stock or Preferred Stock will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under Section 4.03(b)(iii). Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.04 will be made as though Section 4.04 had been in effect since the Issue Date and prior to, but not during, the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will not reduce the amount available to be made as Restricted Payments under Section 4.04(a). As described above, however, no Default or Event of Default will be deemed to have occurred on the Reversion Date as a result of any actions taken by the Company or its Restricted Subsidiaries during the Suspension Period. Within 30 days of such Reversion Date, the Issuers must comply with the terms of Section 4.11.

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For purposes of Section 4.06, on the Reversion Date, the unutilized Excess Proceeds amount will be reset to zero.

## ARTICLE V

### SUCCESSOR COMPANY

SECTION 5.01 When Issuers and Subsidiary Guarantors May Merge or Transfer Assets.

(a) The Company may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not the Company is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless:

(i) the Company is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation, merger, winding up or conversion (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership or limited liability company or similar entity organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (the Company or such Person, as the case may be, being herein called the “Successor Company”); *provided* that in the event that the Successor Company is not a corporation, a co-obligor of the Notes is a corporation;

(ii) the Successor Company (if other than the Issuer) expressly assumes all the obligations of the Company under this Indenture and the Security Documents pursuant to supplemental indentures or other applicable documents or instruments;

(iii) immediately after giving effect to such transaction (and treating any Indebtedness which becomes an obligation of the Successor Company or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Company or such Issuer or such Restricted Subsidiary at the time of such transaction) no Default shall have occurred and be continuing;

(iv) immediately after giving *pro forma* effect to such transaction, as if such transaction had occurred at the beginning of the applicable four-quarter period (and treating any Indebtedness which becomes an obligation of the Successor Company or any Restricted Subsidiary as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction), either

(1) the Successor Company would be permitted to Incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a); or

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(2) the Fixed Charge Coverage Ratio for the Successor Company and its Restricted Subsidiaries would be no less than such ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction;

(v) if the Company is not the Successor Company, each Subsidiary Guarantor, unless it is the other party to the transactions described above, shall have by supplemental indenture confirmed that its Subsidiary Guarantee shall apply to such Person’s obligations under this Indenture and the Notes; and

(vi) the Successor Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, amalgamation or transfer and such supplemental indentures (if any) comply with this Indenture.

The Successor Company (if other than the Issuer) will succeed to, and be substituted for, the Company under this Indenture, the Notes and the Security Documents, and in such event the Company will automatically be released and discharged from its obligations under this Indenture, the Notes and the Security Documents. Notwithstanding the foregoing clauses (iii) and (iv) of this Section 5.01(a), (A) the Company or any Restricted Subsidiary may merge, consolidate or amalgamate with or transfer all or part of its properties and assets to a Restricted Subsidiary and (B) the Company may merge, consolidate or amalgamate with an Affiliate incorporated solely for the purpose of reincorporating or reorganizing the Company in another state of the United States, the District of Columbia or any territory of the United States (collectively, "Permitted Jurisdiction") or may convert into a corporation, partnership or limited liability company, so long as the amount of Indebtedness of the Company and the Restricted Subsidiaries is not increased thereby. This Section 5.01(a) will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and the Restricted Subsidiaries.

(b) The Co-Issuer may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not the Co-Issuer is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless:

(i) the Co-Issuer is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation, merger, winding up or conversion (if other than the Co-Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (the Co-Issuer or such Person, as the case may be, being herein called the "Successor Co-Issuer") and the Successor Co-Issuer (if other than the Co-Issuer) expressly assumes all of the obligations of the Co-Issuer under this Indenture and the Security Documents and the Notes pursuant to a supplemental indenture or other documents or instruments; or

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(ii) after giving effect thereto, at least one obligor of the Notes shall be a corporation organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof.

The Successor Co-Issuer (if other than the Co-Issuer) will succeed to, and be substituted for, the Co-Issuer under this Indenture, the Notes and the Security Documents, and in such event the Co-Issuer will automatically be released and discharged from its obligations under this Indenture, the Notes and the Security Documents. This Section 5.01(b) will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Co-Issuer and the Restricted Subsidiaries.

(c) Subject to the provisions of Section 11.04 and Section 12.02(b), no Subsidiary Guarantor shall, and the Company shall not permit any Subsidiary Guarantor to, consolidate, amalgamate or merge with or into or wind up into (whether or not such Subsidiary Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, any Person unless:

(i) either (A) such Subsidiary Guarantor is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Subsidiary Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a company, corporation, partnership or limited liability company or similar entity organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "Successor Subsidiary Guarantor") and the Successor Subsidiary Guarantor (if other than such Subsidiary Guarantor) expressly assumes all the obligations of such Subsidiary Guarantor under this Indenture, the Notes, the Security Documents and the Subsidiary Guarantee, as applicable, pursuant to a supplemental indenture or other applicable documents or instruments, or (B) such sale or disposition or consolidation, amalgamation or merger is not in violation of Section 4.06; and

(ii) the Successor Subsidiary Guarantor (if other than such Subsidiary Guarantor) shall have delivered or caused to be delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indenture (if any) comply with this Indenture.

Except as otherwise provided in this Indenture, the Successor Subsidiary Guarantor (if other than such Subsidiary Guarantor) will succeed to, and be substituted for, such Subsidiary Guarantor under this Indenture, the Notes, the Security Documents and the Subsidiary Guarantee, as applicable, and such Subsidiary Guarantor will automatically be released and discharged from its obligations under this Indenture, the Notes, the Security Documents and its Subsidiary Guarantee. Notwithstanding the foregoing, (1) a Subsidiary Guarantor may merge, amalgamate or consolidate with an Affiliate incorporated solely for the purpose of reincorporating or reorganizing such Subsidiary Guarantor in a Permitted Jurisdiction or may

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convert into a limited liability company, corporation, partnership or similar entity organized or existing under the laws of any Permitted Jurisdiction so long as the amount of Indebtedness of such Subsidiary Guarantor is not increased thereby and (2) a Subsidiary Guarantor may merge, amalgamate or consolidate with an Issuer or any Subsidiary Guarantor.

In addition, notwithstanding the foregoing, a Subsidiary Guarantor may consolidate, amalgamate or merge with or into or wind up into, liquidate, dissolve, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets (collectively, a "Transfer") to the Company or any Restricted Subsidiary.

## ARTICLE VI

### DEFAULTS AND REMEDIES

(a) there is a default in any payment of interest on any Note when due and payable, and such default continues for a period of 30 days;

(b) there is a default in the payment of principal or premium, if any, of any Note when due at its Stated Maturity, upon optional redemption, upon required repurchase, upon declaration or otherwise;

(c) there is a failure by the Issuers for 120 days after receipt of written notice given by the Trustee or the holders of not less than 30% in aggregate principal amount of the Notes then outstanding (with a copy to the Trustee) to comply with any of its obligations, covenants or agreements in Section 4.02;

(d) there is a failure by the Company or any Restricted Subsidiary for 60 days after written notice given by the Trustee or the holders of not less than 30% in aggregate principal amount of the Notes then outstanding (with a copy to the Trustee) to comply with its other obligations, covenants or agreements (other than a default referred to in clauses (a), (b) and (c) above) contained in the Notes or this Indenture;

(e) there is a failure by the Company or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) to pay any Indebtedness (other than Indebtedness owing to the Company or a Restricted Subsidiary or any Permitted Securitization Financing) within any applicable grace period after final maturity or the acceleration of any such Indebtedness by the holders thereof because of a default, in each case, if the total amount of such Indebtedness unpaid or accelerated exceeds \$75 million or its foreign currency equivalent;

(f) the Company or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) pursuant to or within the meaning of any Bankruptcy Law:

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(i) commences a voluntary case;

(ii) consents to the entry of an order for relief against it in an involuntary case;

(iii) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(iv) makes a general assignment for the benefit of its creditors or takes any comparable action under any foreign laws relating to insolvency;

(g) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) in an involuntary case;

(ii) appoints a Custodian of the Company or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) or for any substantial part of its property; or

(iii) orders the winding up or liquidation of the Company or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary);

or any similar relief is granted under any foreign laws and the order or decree remains unstayed and in effect for 60 days;

(h) there is a failure by the Company or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) to pay final judgments aggregating in excess of \$75 million or its foreign currency equivalent (net of any amounts which are covered by enforceable insurance policies issued by solvent carriers), which judgments are not discharged, waived or stayed for a period of 60 days;

(i) the Subsidiary Guarantee of a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) with respect to the Notes ceases to be in full force and effect (except as contemplated by the terms thereof) or an Issuer or any Subsidiary Guarantor that qualifies as a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) denies or disaffirms its obligations under this Indenture or any Subsidiary Guarantee with respect to the Notes (except as contemplated by the terms thereof) and such Default continues for 10 days;

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(j) unless such Liens have been released in accordance with the provisions of this Indenture, the Security Documents or the First Lien Intercreditor Agreement, the Liens in favor of the holders of the Notes with respect to all or substantially all of the Collateral cease to be valid or enforceable and such Default continues for 30 days; or

(k) there is a failure by an Issuer or any Subsidiary Guarantor to comply for 60 days after notice to such Issuer or such Subsidiary Guarantor with its other agreements contained in the Security Documents except for a failure that would not be material to the holders of the Notes and would not materially affect the value of the Collateral taken as a whole.

The foregoing shall constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

However, a default under clauses (c), (d) or (k) above shall not constitute an Event of Default until the Trustee notifies the Issuers or the holders of at least 30% in aggregate principal amount of outstanding Notes notify the Issuers, with a copy to the Trustee, of the default and the Issuers do not cure such default within the time specified in clauses (c), (d) or (k) hereof after receipt of such notice. Such notice must specify the Default, demand that it be remedied and state that such notice is a “Notice of Default.”

The term “Bankruptcy Law” means Title 11, United States Code, or any similar Federal or state law for the relief of debtors. The term “Custodian” means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

SECTION 6.02 Acceleration. If an Event of Default (other than an Event of Default specified in Section 6.01(f) or (g) with respect to the Issuer) occurs and is continuing, the Trustee by notice to the Issuers or the holders of at least 30% in aggregate principal amount of outstanding Notes by notice to the Issuers (with a copy to the Trustee) may declare the principal of, premium, if any, and accrued but unpaid interest on all the Notes to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. If an Event of Default specified in Section 6.01(f) or (g) with respect to the Company occurs, the principal of, premium, if any, and interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any holders. Under certain circumstances, the holders of a majority in principal amount of outstanding Notes may rescind any such acceleration with respect to the Notes and its consequences.

In the event of any Event of Default specified in Section 6.01(e), such Event of Default and all consequences thereof (excluding, however, any resulting payment default) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the holders of the Notes, if within 20 days after such Event of Default arose the Issuers deliver an Officer’s Certificate to the Trustee stating that (x) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged or (y) the holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has been cured, it being

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understood that in no event shall an acceleration of the principal amount of the Notes as described above be annulled, waived or rescinded upon the happening of any such events.

SECTION 6.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy at law or in equity to collect the payment of principal of or interest on the Notes or to enforce the performance of any provision of the Notes, this Indenture or the Security Documents.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. To the extent required by law, all available remedies are cumulative.

SECTION 6.04 Waiver of Past Defaults. Provided the Notes are not then due and payable by reason of a declaration of acceleration, the holders of a majority in principal amount of the Notes then outstanding by written notice to the Trustee may waive an existing Default and its consequences except (a) a Default in the payment of the principal of or interest on a Note, (b) a Default arising from the failure to redeem or purchase any Note when required pursuant to the terms of this Indenture or (c) a Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each holder affected. When a Default is waived, it is deemed cured and the Issuers, the Trustee and the holders will be restored to their former positions and rights under this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any consequent right.

SECTION 6.05 Control by Majority. The holders of a majority in principal amount of outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, if the Trustee, being advised by counsel, determines that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or expense for which it is not adequately indemnified, or subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of any other holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such holders) or that would involve the Trustee in personal liability. Prior to taking any action under this Indenture, the Trustee shall be entitled to indemnification satisfactory to it against all losses and expenses caused by taking or not taking such action.

SECTION 6.06 Limitation on Suits.

(a) Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no holder may pursue any remedy with respect to this Indenture or the Notes unless:

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- (i) such holder has previously given the Trustee written notice that an Event of Default is continuing,
- (ii) holders of at least 30% in aggregate principal amount of the outstanding Notes have requested the Trustee in writing to pursue the remedy,
- (iii) such holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense,

(iv) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity, and

(v) the holders of a majority in principal amount of the outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

(b) A holder may not use this Indenture to prejudice the rights of another holder or to obtain a preference or priority over another holder.

SECTION 6.07 Contractual Rights of the Holders to Receive Payment. Notwithstanding any other provision of this Indenture, the contractual right of any holder to receive payment of principal of and interest on the Note held by such holder, on or after the respective due dates thereof, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder.

SECTION 6.08 Collection Suit by Trustee. If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuers or any other obligor on the Notes for the whole amount then due and owing (together with interest on overdue principal and (to the extent lawful) on any unpaid interest at the rate provided for in the Notes) and the amounts provided for in Section 7.07.

SECTION 6.09 Trustee May File Proofs of Claim. The Trustee may file such proofs of claim, statements of interest and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation, expenses disbursements and advances of the Trustee (including counsel, accountants, experts or such other professionals as the Trustee deems necessary, advisable or appropriate)) and the holders allowed in any judicial proceedings relative to the Issuer, the Subsidiary Guarantors, their creditors or their property, shall be entitled to participate as a member, voting or otherwise, of any official committee of creditors appointed in such matters and, unless prohibited by law or applicable regulations, may vote on behalf of the holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any holder any

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plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any holder, or to authorize the Trustee to vote in respect of the claim of any holder in any such proceeding.

SECTION 6.10 Priorities. Subject to the terms of the First Lien Intercreditor Agreement and the Security Documents, any money or property collected by the Trustee pursuant to this Article VI and any other money or property distributable in respect of the Company's or any Subsidiary Guarantor's obligations under this Indenture (including upon exercise of any remedies in respect of Collateral) after an Event of Default shall be applied in the following order:

FIRST: to the Trustee and the First-Priority Collateral Agent for amounts due hereunder and under the Security Documents;

SECOND: to the holders for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

THIRD: to the Company or, to the extent the Trustee collects any amount for any Subsidiary Guarantor, to such Subsidiary Guarantor or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to the holders pursuant to this Section 6.10. At least 15 days before such record date, the Trustee shall mail to each holder and the Company a notice that states the record date, the payment date and the amount to be paid.

SECTION 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Article VI does not apply to a suit by the Trustee, a suit by a holder pursuant to Section 6.07 or a suit by holders of more than 10% in principal amount of the Notes.

SECTION 6.12 Waiver of Stay or Extension Laws. Neither the Company nor any Subsidiary Guarantor (to the extent it may lawfully do so) shall at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company and the Subsidiary Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

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## ARTICLE VII

### TRUSTEE

SECTION 7.01 Duties of Trustee.



(a) The Trustee, prior to the occurrence of an Event of Default with respect to the Notes and after the curing or waiving of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee (it being agreed that the permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty); and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. The Trustee shall be under no duty to make any investigation as to any statement contained in any such instance, but may accept the same as conclusive evidence of the truth and accuracy of such statement or the correctness of such opinions. However, in the case of certificates or opinions required by any provision hereof to be provided to it, the Trustee shall examine the form of certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05; and

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(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.

(e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer.

(f) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 7.01.

#### SECTION 7.02 Rights of Trustee.

(a) The Trustee may conclusively rely on any document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be responsible or liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; *provided, however*, that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its own selection and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture, note or other paper or document unless requested in writing to do so by the holders of not less than a majority in principal amount of the Notes at the time outstanding and indemnified in accordance with Section 6.05, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine (or is requested in writing by the holders as set

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forth above) to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuers, personally or by agent or attorney, at the expense of the Issuers and shall incur no liability of any kind by reason of such inquiry or investigation.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture or the Security Documents at the request or direction of any of the holders pursuant to this Indenture, unless such holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which might be Incurred by it in compliance with such request or direction.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder, including the First-Priority Collateral Agent.

(i) The Trustee shall not be responsible or liable for any action taken or omitted by it in good faith at the direction of the holders of not less than a majority in principal amount of the Notes as to the time, method and place of conducting any proceedings for any remedy available to the Trustee or the exercising of any power conferred by this Indenture.

(j) Any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent, is the holder of any Note shall be conclusive and binding upon future holders of Notes and upon Notes executed and delivered in exchange therefor or in place thereof.

(k) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Trust Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee from the Issuers, any Subsidiary Guarantor or any holder, and such notice references the Notes and this Indenture.

(l) The Trustee may request that the Issuers delivers an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any Person authorized to sign an Officer's Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(m) The Trustee shall not be responsible or liable for punitive, special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of actions.

(n) The Trustee shall not be required to give any bond or surety in respect of the execution of the trusts and powers under this Indenture.

(o) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly,

by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics; riots; interruptions; loss or malfunction of utilities, computer (hardware or software) or communication services; accidents; labor disputes; and acts of civil or military authorities and governmental action.

SECTION 7.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuers or their Affiliates with the same rights it would have if it were not Trustee. The First-Priority Collateral Agent and any Paying Agent or Registrar may do the same with like rights. However, the Trustee must comply with Section 7.10.

SECTION 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Subsidiary Guarantees or the Notes, it shall not be accountable for the Issuers' use of the proceeds from the Notes, and it shall not be responsible for any statement of the Issuers or any Subsidiary Guarantor in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication. The Trustee shall not be charged with knowledge of any Default or Event of Default under Sections 6.01(c), (d), (e), (f), (g), (h), (i), (j) or (k), or of the identity of any Significant Subsidiary unless either (a) a Trust Officer shall have actual knowledge thereof or (b) the Trustee shall have received written notice thereof in accordance with Section 14.02 hereof from the Issuers, any Subsidiary Guarantor or any holder. In accepting the trust hereby created, the Trustee acts solely as Trustee under this Indenture and not in its individual capacity and all persons, including without limitation the holders of Notes and the Issuers having any claim against the Trustee arising from this Indenture shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

SECTION 7.05 Notice of Defaults. If a Default occurs and is continuing and is actually known to a Trust Officer of the Trustee, the Trustee shall mail, or deliver electronically if held by the Depository, to each holder of the Notes notice of the Default within the later of 90 days after it occurs or 30 days after it is actually known to a Trust Officer or written notice of it is received by the Trustee at the Corporate Trust Office of the Trustee from the Issuers, any Subsidiary Guarantor or any holder. Except in the case of a Default in the payment of principal of, premium (if any) or interest on any Note, the Trustee may withhold notice if and so long as a committee of its Trust Officers in good faith determines that withholding notice is in the interests of the holders of the Notes.

SECTION 7.06 [Reserved].

SECTION 7.07 Compensation and Indemnity. The Issuers and the Subsidiary Guarantors, jointly and severally, shall pay to the Trustee from time to time compensation for the Trustee's acceptance of this Indenture and its services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuers and the Subsidiary Guarantors, jointly and severally, shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses, disbursements and advances Incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses

shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Issuers and the Subsidiary Guarantors, jointly and severally, shall indemnify the Trustee or any predecessor Trustee and their directors, officers, employees and agents against any and all loss, liability, claim, damage or expense (including reasonable attorneys' fees, disbursements and expenses and including taxes (other than taxes based upon, measured by or determined by the income of the Trustee) Incurred by or in connection with the acceptance or administration of this trust and the performance of its duties hereunder, including the costs and expenses of enforcing this Indenture, the Notes, any Subsidiary Guarantee or any Security Document against the Company or any Subsidiary Guarantor (including this Section 7.07) and defending itself against or investigating any claim (whether asserted by the Issuer, any Subsidiary Guarantor, any holder or any other Person). The obligation to pay such amounts shall survive the payment in full or defeasance of the Notes or the removal or resignation of the Trustee. The Trustee shall notify the Issuers of any claim for which it may seek indemnity promptly upon obtaining actual knowledge thereof; *provided, however*, that any failure so to notify the Issuers shall not relieve the Issuers or any Subsidiary Guarantor of its indemnity obligations hereunder. The Issuers shall defend the claim and the indemnified party shall provide reasonable cooperation at the Issuers' expense in the defense. Such indemnified parties may have separate counsel and the Issuers and such Subsidiary Guarantor, as applicable, shall pay the fees, disbursements and expenses of such counsel; *provided, however*, that the Issuers shall not be required to pay such fees, disbursements and expenses if it assumes such indemnified parties' defense and, in such indemnified parties' reasonable judgment, there is no actual or potential conflict of interest between the Issuers and the Subsidiary Guarantors, as applicable, on the one hand, and such indemnified parties, on the other hand, in connection with such defense. The Issuers need not reimburse any expense or indemnify against any loss, liability or expense Incurred by an indemnified party through such party's own willful misconduct, gross negligence or bad faith (as determined by a court of competent jurisdiction in a final, non-appealable order).

To secure the Issuers' and the Subsidiary Guarantors' payment obligations in this Section 7.07, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes.

The Issuers' and the Subsidiary Guarantors' payment obligations pursuant to this Section 7.07 shall survive the satisfaction or discharge of this Indenture, any rejection or termination of this Indenture under any bankruptcy law or the resignation or removal of the Trustee. Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee Incurs expenses after the occurrence of a Default specified in Section 6.01(f) or (g) with respect to the Issuers or any Significant Subsidiary, the expenses (including the charges and expenses of the Trustee's agents and counsel) are intended to constitute expenses of administration under the Bankruptcy Law.

No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise Incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if repayment of such funds or adequate indemnity against such risk or liability is not assured to its satisfaction.

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SECTION 7.08      Replacement of Trustee.

(a)      The Trustee may resign at any time by so notifying the Issuer. The holders of a majority in principal amount of the Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee. The Company shall remove the Trustee if:

- (i)      the Trustee fails to comply with Section 7.10;
- (ii)     the Trustee is adjudged bankrupt or insolvent;
- (iii)    a receiver or other public officer takes charge of the Trustee or its property; or
- (iv)    the Trustee otherwise becomes incapable of acting.

(b)      If the Trustee resigns, is removed by the Company or by the holders of a majority in principal amount of the Notes and such holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuers shall promptly appoint a successor Trustee.

(c)      A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuers. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail (or otherwise deliver in accordance with the procedures of the Depository) a notice of its succession to the holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the Lien provided for in Section 7.07.

(d)      If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee or the holders of 10% in principal amount of the Notes may petition at the expense of the Issuers any court of competent jurisdiction for the appointment of a successor Trustee.

(e)      If the Trustee fails to comply with Section 7.10, any holder who has been a bona fide holder of a Note for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f)      Notwithstanding the replacement of the Trustee pursuant to this Section, the obligations of the Issuers and the Subsidiary Guarantors under Section 7.07 shall continue for the benefit of the retiring Trustee.

SECTION 7.09      Successor Trustee by Merger. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall be the successor Trustee.

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In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates of authentication shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of authentication of the Trustee shall have.

SECTION 7.10 Eligibility; Disqualification. The Trustee shall have a combined capital and surplus of at least \$100.0 million as set forth in its most recent published annual report of condition.

SECTION 7.11 [Reserved].

SECTION 7.12 Limitation on Duty of Trustee in Respect of Collateral; Indemnification.

(a) Beyond the exercise of reasonable care in the custody thereof, the Trustee and the First-Priority Collateral Agent shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee and the First-Priority Collateral Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. Each of the Trustee and the First-Priority Collateral Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee or the First-Priority Collateral Agent in good faith.

(b) The Trustee and the First-Priority Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on their respective part hereunder or under any Security Document, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Issuers to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. Subject to Section 7.01 of this Indenture, the Trustee and the First-Priority Collateral Agent shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture, the First Lien Intercreditor Agreement, the Collateral Agreement or any other Security Document by the Issuers or the Subsidiary Guarantors. The Trustee and the First-Priority Collateral Agent may act and rely and shall be protected in acting and relying in good faith on the opinion or advice of or information obtained from any counsel, accountant, appraiser or other expert or adviser,

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whether retained or employed by the Issuers or by the Trustee or the First-Priority Collateral Agent, in relation to any matter arising in the administration of this Indenture, the First Lien Intercreditor Agreement or the Security Documents.

## ARTICLE VIII

### DISCHARGE OF INDENTURE; DEFEASANCE

SECTION 8.01 Discharge of Liability on Notes; Defeasance.

(a) This Indenture shall be discharged and shall cease to be of further effect (except as to surviving rights, indemnities and immunities of the Trustee (and each Paying Agent and Registrar and the First-Priority Collateral Agent) and rights of registration or transfer or exchange of Notes, as expressly provided for in this Indenture) as to all outstanding Notes when:

(i) either (A) all the Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuers and thereafter repaid to the Issuers or discharged from such trust) have been delivered to the Trustee for cancellation or (B) all of the Notes not delivered to the Trustee for cancellation (1) have become due and payable, (2) will become due and payable at their stated maturity within one year or (3) if redeemable at the option of the Issuers, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuers, and the Issuers have irrevocably deposited or caused to be deposited with the Trustee funds in U.S. dollars in an amount sufficient to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of deposit (in the case of Notes that have become due and payable), or to the date of maturity or redemption, as applicable, together with irrevocable written instructions from the Issuers directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be; *provided* that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any deficit as of the date of the redemption only required to be deposited with the Trustee on or prior to the date of the redemption;

(ii) the Issuers and/or the Subsidiary Guarantors have paid all other sums due and payable under this Indenture; and

(iii) the Issuers have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been complied with.

(b) Subject to Sections 8.01(c) and 8.02, the Issuers at any time may terminate (i) all of its obligations under the Notes and this Indenture with respect to the holders of the

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Notes (“legal defeasance option”), and (ii) its obligations under Sections 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.09, 4.11, 4.12, 4.13 and 4.15 and the operation of Section 5.01 for the benefit of the holders of the Notes, and Sections 6.01(c), 6.01(d), 6.01(e), 6.01(f), 6.01(g) (in the case of Sections 6.01(f) and 6.01(g) with respect to Significant Subsidiaries only), 6.01(h), 6.01(i), 6.01(j) and 6.01(k) (“covenant defeasance option”). The Issuers may exercise their legal defeasance option notwithstanding its prior exercise of its covenant defeasance option. In the event that the Issuers terminates all of their obligations under the Notes and this Indenture (with respect to such Notes) by exercising its legal defeasance option or its covenant defeasance option, the obligations of each Subsidiary Guarantor with respect to its Subsidiary Guarantee and the Security Documents shall be terminated simultaneously with the termination of such obligations.

If the Issuers exercise their legal defeasance option, payment of the Notes so defeased may not be accelerated because of an Event of Default. If the Issuers exercise their covenant defeasance option, payment of the Notes so defeased may not be accelerated because of an Event of Default specified in Sections 6.01(c), 6.01(d), 6.01(e), 6.01(f), 6.01(g) (in the case of Sections 6.01(f) and (g), with respect to Significant Subsidiaries only), 6.01(h), 6.01(i), 6.01(j) or 6.01(k) or because of the failure of the Company to comply with Section 5.01(a)(iv).

Upon satisfaction of the conditions set forth herein and upon request of the Issuers, the Trustee shall acknowledge in writing the discharge of those obligations that the Issuers terminated.

(c) Notwithstanding clauses (a) and (b) above, the Issuers’ obligations in Sections 2.04, 2.05, 2.06, 2.07, 2.08 and 2.09 and Article VII, including, without limitation, Sections 7.07 and 7.08 and in this Article VIII and the rights, indemnities and immunities of the Trustee under this Indenture shall survive until the Notes have been paid in full. Thereafter, the Issuers’ obligations in Sections 7.07, 7.08, 8.05 and 8.06 and the rights, indemnities and immunities of the Trustee under this Indenture shall survive such satisfaction and discharge.

SECTION 8.02      Conditions to Defeasance.

(a) The Issuers may exercise their legal defeasance option or its covenant defeasance option only if:

(i) the Issuers irrevocably deposit in trust with the Trustee money in U.S. dollars or U.S. Government Obligations in an amount that is sufficient for the payment of principal, premium (if any) and interest on the Notes to redemption or maturity, as the case may be;

(ii) the Issuers deliver to the Trustee a certificate from a nationally recognized firm of independent accountants expressing their opinion that the payments of principal and interest when due and without reinvestment on the deposited U.S. Government Obligations *plus* any deposited money without investment will provide cash at such times and in such amounts as will be sufficient to pay principal, premium, if any, and interest when due on all the Notes to maturity or redemption, as the case may be;

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(iii) no Default specified in Section 6.01(f) or (g) with respect to the Issuers shall have occurred or is continuing on the date of such deposit;

(iv) the deposit does not constitute a default under any other material agreement or instrument binding on the Issuers;

(v) in the case of the legal defeasance option, the Issuers shall have delivered to the Trustee an Opinion of Counsel stating that (1) the Issuers have received from, or there has been published by, the Internal Revenue Service a ruling, or (2) since the date of this Indenture there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and defeasance and will be subject to U.S. federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred; *provided* that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any deficit as of the date of the redemption only required to be deposited with the Trustee on or prior to the date of the redemption. Notwithstanding the foregoing, the Opinion of Counsel required by the immediately preceding sentence with respect to a legal defeasance need not be delivered if all of the Notes not theretofore delivered to the Trustee for cancellation (x) have become due and payable or (y) will become due and payable at their Stated Maturity within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuers;

(vi) such exercise does not impair the right of any holder to receive payment of principal of, premium, if any, and interest on such holder’s Notes on or after the due dates therefore or to institute suit for the enforcement of any payment on or with respect to such holder’s Notes;

(vii) in the case of the covenant defeasance option, the Issuers shall have delivered to the Trustee an Opinion of Counsel to the effect that the holders of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred; and

(viii) the Issuers deliver to the Trustee an Officer’s Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance and discharge of the Notes to be so defeased and discharged as contemplated by this Article VIII have been complied with.

(b) Before or after a deposit, the Issuers may make arrangements satisfactory to the Trustee for the redemption of such Notes at a future date in accordance with Article III.

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SECTION 8.03 Application of Trust Money. The Trustee shall hold in trust money or U.S. Government Obligations (including proceeds thereof) deposited with it pursuant to this Article VIII. The Trustee shall apply the deposited money and the money from U.S. Government Obligations through each Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Notes so discharged or defeased.

SECTION 8.04 Repayment to Issuers. Each of the Trustee and each Paying Agent shall promptly turn over to the Issuers upon request any money or U.S. Government Obligations held by it as provided in this Article VIII that, in the written opinion of a nationally recognized firm of independent public accountants delivered to the Trustee (which delivery shall only be required if U.S. Government Obligations have been so deposited), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent discharge or defeasance in accordance with this Article VIII.

Subject to any applicable abandoned property law, the Trustee and each Paying Agent shall pay to the Issuers upon written request any money held by them for the payment of principal or interest that remains unclaimed for two years, and, thereafter, holders entitled to the money must look to the Issuers for payment as general creditors, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

SECTION 8.05 Indemnity for U.S. Government Obligations. The Issuers shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest received on such U.S. Government Obligations.

SECTION 8.06 Reinstatement. If the Trustee or any Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with this Article VIII by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuers' obligations under this Indenture and the Notes so discharged or defeased shall be revived and reinstated as though no deposit had occurred pursuant to this Article VIII until such time as the Trustee or any Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with this Article VIII; *provided, however*, that, if the Issuers have made any payment of principal of, or interest on, any such Notes because of the reinstatement of its obligations, the Issuers shall be subrogated to the rights of the holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or any Paying Agent.

## ARTICLE IX

### AMENDMENTS AND WAIVERS

SECTION 9.01 Without Consent of the Holders.

(a) The Issuers, the First-Priority Collateral Agent and the Trustee may amend this Indenture, the Notes, the Subsidiary Guarantees, the Security Documents and/or the First Lien Intercreditor Agreement without notice to or the consent of any holder:

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(i) to cure any ambiguity, omission, mistake, defect or inconsistency;

(ii) to provide for the assumption by a Successor Company (with respect to the Issuer) of the obligations of the Company under this Indenture, the Notes, the Security Documents and the First Lien Intercreditor Agreement or to provide for the assumption by a Successor Co-Issuer (with respect to the Co-Issuer) of the obligations of the Co-Issuer under this Indenture, the Notes, the Security Documents and the First Lien Intercreditor Agreement;

(iii) to provide for the assumption by a Successor Subsidiary Guarantor (with respect to any Subsidiary Guarantor), as the case may be, of the obligations of a Subsidiary Guarantor under this Indenture, its Subsidiary Guarantee, the Security Documents and the First Lien Intercreditor Agreement;

(iv) to provide for uncertificated Notes in addition to or in place of certificated Notes, *provided, however*, that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Code;

(v) to conform the text of this Indenture, the Notes, the Subsidiary Guarantees, the Security Documents or the First Lien Intercreditor Agreement to any provision of the "Description of Senior Secured Notes" in the Offering Memorandum to the extent that such provision in this Indenture, the Notes, the Subsidiary Guarantees, the Security Documents or the First Lien Intercreditor Agreement, as applicable, was intended by the Issuers to be a verbatim recitation of a provision in the "Description of Senior Secured Notes" in the Offering Memorandum, as stated in an Officer's Certificate;

(vi) to add a Subsidiary Guarantee or collateral with respect to the Notes;

(vii) to release or subordinate Collateral as permitted by this Indenture, the Security Documents or the First Lien Intercreditor Agreement;

(viii) to add additional secured creditors holding other First-Priority Obligations or Junior Lien Obligations so long as such obligations are not prohibited by this Indenture;

(ix) to add to the covenants of the Issuers for the benefit of the holders or to surrender any right or power herein conferred upon the Issuers;

(x) to comply with any requirement of the SEC in connection with qualifying or maintaining the qualification of, this Indenture under the TIA (if the Issuers elect to qualify this Indenture under the TIA);

(xi) to make any change that does not adversely affect the rights of any holder in any material respect; or

(xii) to make changes to provide for the issuance of Additional Notes, which shall have terms substantially identical in all material respects to the Initial Notes, and which shall be treated, together with any outstanding Initial Notes, as a single issue of securities.

(b) The First Lien Intercreditor Agreement may be amended without notice to or the consent of any holder, the Trustee or the First-Priority Collateral Agent in connection with the permitted entry into the First Lien Intercreditor Agreement of any class of additional secured creditors holding other First-Priority Obligations.

(c) After an amendment under this Section 9.01 becomes effective, the Issuers shall mail, or otherwise deliver in accordance with the procedures of the Depository, to the holders a notice briefly describing such amendment. The failure to give such notice to all holders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 9.01.

SECTION 9.02 With Consent of the Holders. The Issuers, the First-Priority Collateral Agent and the Trustee may amend this Indenture, the Notes, the Subsidiary Guarantees, the Security Documents and the First Lien Intercreditor Agreement with the consent of the holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange for the Notes) and any past default or compliance with any provisions of this Indenture may be waived with the consent of the holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange for the Notes). However, without the consent of each holder of an outstanding Note affected, an amendment may not:

- (1) reduce the amount of Notes whose holders must consent to an amendment;
- (2) reduce the rate of or extend the time for payment of interest on any Note;
- (3) reduce the principal of or change the Stated Maturity of any Note;
- (4) reduce the premium payable upon the redemption of any Note or change the time at which any Note may be redeemed in accordance with Article III;
- (5) make any Note payable in money other than that stated in such Note;
- (6) expressly subordinate the Notes or any Subsidiary Guarantee to any other Indebtedness of an Issuer or any Subsidiary Guarantor;
- (7) impair the contractual right of any holder to receive payment of principal of, premium, if any, and interest on such holder's Note on or after the due dates thereof or to institute suit for the enforcement of any payment on or with respect to such holder's Note;
- (8) make any change in the amendment provisions which require each holder's consent or in the waiver provisions; or

(9) make any change to the provisions of this Indenture, the First Lien Intercreditor Agreement or the Security Documents with respect to the *pro rata* application of proceeds of Collateral in respect of the Notes required thereby in a manner that by its terms modifies the application of such proceeds in respect of the Notes required thereby to be on a less than *pro rata* basis to the holder of such Note.

Except as expressly provided by this Indenture, the Security Documents or the First Lien Intercreditor Agreement, without the consent of the holders of at least 66.67% in an aggregate principal amount of the Notes then outstanding, no amendment or waiver may release all or substantially all of the Collateral from the Lien of this Indenture and the Security Documents with respect to the Notes.

It shall not be necessary for the consent of the holders under this Section 9.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 9.02 becomes effective, the Issuers shall mail, or otherwise deliver in accordance with the procedures of the Depository, to the holders a notice briefly describing such amendment. The failure to give such notice to all holders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 9.02.

SECTION 9.03 Revocation and Effect of Consents and Waivers.

(a) A consent to an amendment or a waiver by a holder of a Note shall bind the holder and every subsequent holder of that Note or portion of the Note that evidences the same debt as the consenting holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such holder or subsequent holder may revoke the consent or waiver as to such holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date on which the Trustee receives an Officer's Certificate from the Issuers certifying that the requisite principal amount of Notes have consented. After an amendment or waiver becomes effective, it shall bind every holder. An amendment or waiver becomes effective upon the (i) receipt by the Issuers or the Trustee of consents by the holders of the requisite principal amount of securities, (ii) satisfaction of conditions to effectiveness as set forth in this Indenture and any indenture supplemental hereto containing such amendment or waiver and (iii) execution of such amendment or waiver (or supplemental indenture) by the Issuers, the Subsidiary Guarantors and the Trustee.

(b) The Issuers may, but shall not be obligated to, fix a record date for the purpose of determining the holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

SECTION 9.04 Notation on or Exchange of Notes. If an amendment, supplement or waiver changes the terms of a Note, the Issuers may require the holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the holder. Alternatively, if the Issuers or the Trustee so determine, the Issuers in exchange for the Note shall issue and, upon written order of the Issuers signed by an Officer of each Issuer, the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment, supplement or waiver.

SECTION 9.05 Trustee to Sign Amendments. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article IX if the amendment does not adversely affect the rights, duties, liabilities, indemnities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, the Trustee shall be entitled to receive indemnity satisfactory to it and shall be provided with, and (subject to Section 7.01) shall be fully protected in relying upon, (i) an Officer's Certificate, (ii) an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Issuers and any Subsidiary Guarantors, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof, (iii) a copy of the resolution of the Board of Directors, certified by the Secretary or Assistant Secretary of the Issuer, authorizing the execution of such amendment, supplement or waiver and (iv) if such amendment, supplement or waiver is executed pursuant to Section 9.02, evidence reasonably satisfactory to the Trustee of the consent of the holders required to consent thereto.

SECTION 9.06 Additional Voting Terms; Calculation of Principal Amount. All Notes issued under this Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class and no Notes will have the right to vote or consent as a separate class on any matter. Determinations as to whether holders of the requisite aggregate principal amount of Notes have concurred in any direction, waiver or consent shall be made in accordance with this Article IX and Section 2.13.

## ARTICLE X

### RANKING OF NOTE LIENS

SECTION 10.01 Relative Rights. The First Lien Intercreditor Agreement governs the relative rights and remedies, as lienholders, among holders of Liens securing First-Priority Obligations. Nothing in this Indenture or the First Lien Intercreditor Agreement will:

(a) impair, as between the Issuers and holders of Notes, the obligation of the Issuers which is absolute and unconditional, to pay principal of, premium and interest on Notes in accordance with their terms or to perform any other obligation of the Issuers or any other obligor under this Indenture, the Notes, the Subsidiary Guarantees and the Security Documents;

(b) restrict the right of any holder to sue for payments that are then due and owing, in a manner not inconsistent with the provisions of the First Lien Intercreditor Agreement;

(c) prevent the Trustee, the First-Priority Collateral Agent or any holder from exercising against the Issuers or any other obligor any of its other available remedies upon a Default or Event of Default (other than its rights as a secured party, which are subject to the First Lien Intercreditor Agreement); or

(d) restrict the right of the Trustee, the First-Priority Collateral Agent or any holder:

(1) to file and prosecute a petition seeking an order for relief in an involuntary bankruptcy case as to any obligor or otherwise to commence, or seek relief commencing, any insolvency or liquidation proceeding involuntarily against any obligor;

(2) to make, support or oppose any request for an order for dismissal, abstention or conversion in any insolvency or liquidation proceeding;

(3) to make, support or oppose, in any insolvency or liquidation proceeding, any request for an order extending or terminating any period during which the debtor (or any other Person) has the exclusive right to propose a plan of reorganization or other dispositive restructuring or liquidation plan therein;

(4) to seek the creation of, or appointment to, any official committee representing creditors (or certain of the creditors) in any insolvency or liquidation proceedings and, if appointed, to serve and act as a member of such committee without being in any respect restricted or bound by, or liable for, any of the obligations under this Article X;

(5) to seek or object to the appointment of any professional person to serve in any capacity in any insolvency or liquidation proceeding or to support or object to any request for compensation made by any professional person or others therein;

(6) to make, support or oppose any request for order appointing a trustee or examiner in any insolvency or liquidation proceedings; or

(7) otherwise to make, support or oppose any request for relief in any insolvency or liquidation proceeding that it is permitted by law to make, support or oppose if it were a holder of unsecured claims, or as to any matter relating to (x) any plan of reorganization or other restructuring or liquidation plan or (y) the administration of the estate or the disposition of the case or proceeding (in each case except as set forth in the First Lien Intercreditor Agreement).

## ARTICLE XI



SECTION 11.01 Security Documents.

(a) The payment of the principal of and interest and premium, if any, on the Notes when due, whether on an Interest Payment Date, at maturity, by acceleration, repurchase,

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redemption or otherwise and whether by the Issuers pursuant to the Notes or by the Subsidiary Guarantors pursuant to the Subsidiary Guarantees, the payment of all other Notes Obligations and the performance of all other obligations of the Issuers and the Subsidiary Guarantors under this Indenture, the Notes, the Subsidiary Guarantees and the Security Documents (and other First-Priority Obligations if required thereby) shall be secured as provided in the Security Documents, which the Issuers and the applicable Subsidiary Guarantors will enter into on the Issue Date and will be secured by Security Documents thereafter delivered as required or permitted by this Indenture. The Issuers shall, and shall cause each Restricted Subsidiary to, and each Restricted Subsidiary shall, make all filings (including filings of continuation statements and amendments to UCC financing statements that may be necessary to continue the effectiveness of such UCC financing statements) and all other actions as are necessary or required by the Security Documents to maintain (at the sole cost and expense of the Issuers and the Restricted Subsidiaries) the security interest created by the Security Documents in the Collateral (other than with respect to any Collateral the security interest in which is not required to be perfected under the Security Documents) as a perfected security interest subject only to Permitted Liens and Liens permitted by Section 4.12.

(b) Notwithstanding the foregoing, the Issuers shall use commercially reasonable efforts to perfect all security interests in the Collateral (other than Excluded Property) on the Issue Date and, with respect to any Collateral (other than Excluded Property), for which security interests have not been granted or perfected on the Issue Date, use commercially reasonable efforts to cause the taking of additional actions required to grant or perfect the security interest in the Collateral required to be pledged under this Indenture and the Security Documents within 120 days following the Issue Date.

SECTION 11.02 First-Priority Collateral Agent.

(a) The First-Priority Collateral Agent is authorized and empowered to appoint one or more co-First-Priority Collateral Agents as it deems necessary or appropriate.

(b) Subject to Section 7.01, neither the Trustee nor the First-Priority Collateral Agent nor any of their respective officers, directors, employees, attorneys or agents will be responsible or liable for the existence, genuineness, value or protection of any Collateral, for the legality, enforceability, effectiveness or sufficiency of the Security Documents, for the creation, perfection, priority, sufficiency or protection of any Lien securing First-Priority Obligations, or for any defect or deficiency as to any such matters, or for any failure to demand, collect, foreclose or realize upon or otherwise enforce any of the Liens securing First-Priority Obligations or the Security Documents or any delay in doing so.

(c) The First-Priority Collateral Agent will be subject to such directions as may be given it by the Trustee from time to time (as required or permitted by this Indenture); *provided* that in the event of conflict between directions received pursuant to the Security Documents and the First Lien Intercreditor Agreement and directions received hereunder, the First-Priority Collateral Agent will be subject to directions received pursuant to the Security Documents and the First Lien Intercreditor Agreement. Except as directed by the Trustee as required or permitted by this Indenture and any other representatives pursuant to the Security

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Documents or the First Lien Intercreditor Agreement, the First-Priority Collateral Agent will not be obligated:

- (1) to act upon directions purported to be delivered to it by any other Person;
- (2) to foreclose upon or otherwise enforce any Lien securing First-Priority Obligations; or
- (3) to take any other action whatsoever with regard to any or all of the Liens securing First-Priority Obligations, Security Documents or Collateral.

(d) The First-Priority Collateral Agent will be accountable only for amounts that it actually receives as a result of the enforcement of the Liens securing First-Priority Obligations or the Security Documents.

(e) In acting as First-Priority Collateral Agent or co-First-Priority Collateral Agent, the First-Priority Collateral Agent and each co-First-Priority Collateral Agent may rely upon and enforce each and all of the rights, powers, immunities, indemnities and benefits of the Trustee under Article VII hereof.

(f) The holders of Notes agree that the First-Priority Collateral Agent shall be entitled to the rights, privileges, protections, immunities, indemnities and benefits provided to the First-Priority Collateral Agent by this Indenture and the Security Documents. Furthermore, each holder of a Note, by accepting such Note, consents to the terms of and authorizes and directs the Trustee (in each of its capacities) and the First-Priority Collateral Agent to enter into and perform each of the First Lien Intercreditor Agreement and Security Documents in each of its capacities thereunder.

(g) If the Issuers (i) Incur Other First-Priority Obligations at any time when no intercreditor agreement is in effect or at any time when Indebtedness constituting Other First-Priority Obligations entitled to the benefit of the First Lien Intercreditor Agreement is concurrently retired, and (ii) delivers to the First-Priority Collateral Agent an Officer's Certificate so stating and requesting the First-Priority Collateral Agent to enter into an intercreditor agreement (on substantially the same terms as the First Lien Intercreditor Agreement) in favor of a designated agent or representative for the holders of the Other First-Priority Obligations so Incurred, the First-Priority Collateral Agent shall (and is hereby authorized and directed to) enter into such intercreditor agreement, bind the holders on the terms set forth therein and perform and observe its obligations thereunder.

(h) At all times when the Trustee is not itself the First-Priority Collateral Agent, the Issuers will deliver to the Trustee copies of all Security Documents delivered to the First-Priority Collateral Agent and copies of all documents delivered to the First-Priority Collateral Agent pursuant to this Indenture and the Security Documents.

(i) If the Issuers Incur any Junior Lien Obligations and delivers to the First-Priority Collateral Agent and/or the Trustee, as applicable, an Officer's Certificate requesting the First-Priority Collateral Agent and/or the Trustee, as applicable, to enter into an intercreditor agreement with a designated agent or representative for the holders of the Junior Lien

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Obligations so Incurred, the First-Priority Collateral Agent and/or the Trustee, as applicable, shall (and each is hereby authorized and directed to) enter into such intercreditor agreement, bind the holders on the terms set forth therein and perform and observe its obligations thereunder.

(j) Notwithstanding anything in this Indenture to the contrary and for the avoidance of doubt, the First-Priority Collateral Agent and the Trustee shall have no duty to act outside of the United States of America in respect of any Collateral.

SECTION 11.03 Authorization of Actions to Be Taken. (a) Each holder of Notes, by its acceptance thereof, appoints the First-Priority Collateral Agent as its collateral agent under the Security Documents, consents and agrees to the terms of each Security Document and the First Lien Intercreditor Agreement as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, authorizes and directs the Trustee and/or the First-Priority Collateral Agent to enter into the First Lien Intercreditor Agreement and the Security Documents to which it is a party, authorizes and empowers the Trustee to direct the First-Priority Collateral Agent to enter into, and the First-Priority Collateral Agent to execute and deliver, the Security Documents and First Lien Intercreditor Agreement and authorizes and empowers the Trustee and the First-Priority Collateral Agent to bind the holders of Notes and other holders of Obligations secured by the Security Documents as set forth in the Security Documents to which it is a party and the First Lien Intercreditor Agreement and to perform its obligations and exercise its rights and powers thereunder.

(b) Subject to the provisions of the First Lien Intercreditor Agreement and the Security Documents, the Trustee and the First-Priority Collateral Agent are authorized and empowered to receive for the benefit of the holders of Notes any funds collected or distributed under the Security Documents to which the First-Priority Collateral Agent or Trustee is a party and to make further distributions of such funds to the holders of Notes according to the provisions of this Indenture.

(c) Subject to the provisions of Article VI, Section 7.01 and Section 7.02 hereof, the First Lien Intercreditor Agreement and the Security Documents, upon the occurrence and continuance of an Event of Default, the Trustee may, in its sole discretion and without the consent of the holders, direct, on behalf of the holders, the First-Priority Collateral Agent to take all actions it deems necessary or appropriate in order to:

- (1) foreclose upon or otherwise enforce any or all of the Liens securing the First-Priority Obligations;
- (2) enforce any of the terms of the Security Documents to which the First-Priority Collateral Agent or Trustee is a party; or
- (3) collect and receive payment of any and all Notes Obligations.

Subject to the First Lien Intercreditor Agreement, the Trustee is authorized and empowered to institute and maintain, or direct the First-Priority Collateral Agent to institute and maintain, such suits and proceedings as it may deem expedient to protect or enforce the Liens securing the First-Priority Obligations or the Security Documents to which the First-Priority

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Collateral Agent or Trustee is a party or to prevent any impairment of Collateral by any acts that may be unlawful or in violation of the Security Documents to which the First-Priority Collateral Agent or Trustee is a party or this Indenture, and such suits and proceedings as the Trustee or the First-Priority Collateral Agent may deem expedient to preserve or protect its interests and the interests of the holders of Notes in the Collateral, including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of holders, the Trustee or the First-Priority Collateral Agent.

SECTION 11.04 Release of Liens. (a) Notwithstanding anything to the contrary in the Security Documents or the First Lien Intercreditor Agreement, Collateral may be released from the Lien and security interest created by the Security Documents to secure the Notes and obligations under this Indenture at any time or from time to time in accordance with the provisions of the First Lien Intercreditor Agreement or the Security Documents or as provided hereby. The applicable assets included in the Collateral shall be automatically released from the Liens securing the Notes, and the applicable Subsidiary Guarantor shall be automatically released from its obligations under this Indenture and the Security Documents, under any one or more of the following circumstances or any applicable circumstance as provided in the First Lien Intercreditor Agreement or the Security Documents:

- (1) to enable the Issuers or any Subsidiary Guarantor to consummate the disposition (other than any disposition to an Issuer or another Subsidiary Guarantor) of such property or assets to the extent not prohibited under Section 4.06;
- (2) in respect of the property and assets of a Subsidiary Guarantor, upon the designation of such Subsidiary Guarantor to be an Unrestricted Subsidiary in accordance with Section 4.04 and the definition of "Unrestricted Subsidiary", and such Subsidiary Guarantor shall be automatically released from its obligations hereunder and under the Security Documents;
- (3) in respect of the property and assets of a Subsidiary Guarantor, upon the release or discharge of the Subsidiary Guarantee of such Subsidiary Guarantor in accordance with this Indenture;
- (4) in respect of any property and assets of an Issuer or a Subsidiary Guarantor that would constitute Collateral but is at such time not subject to a Lien securing First-Priority Obligations (other than the Notes Obligations), other than any property or assets that cease to be subject to a

Lien securing First-Priority Obligations in connection with a Discharge of First-Priority Obligations; *provided* that if such property and assets are subsequently subject to a Lien securing First-Priority Obligations (other than Excluded Property), such property and assets shall subsequently constitute Collateral under this Indenture;

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- (5) in respect of any Common Collateral transferred to a third party or otherwise disposed of in connection with any enforcement by the First-Priority Collateral Agent in accordance with the First Lien Intercreditor Agreement;
- (6) pursuant to an amendment or waiver in accordance with Article IX; and
- (7) if the Notes have been discharged or defeased pursuant to Section 8.01.

In addition, (i) the security interests granted pursuant to the Security Documents securing the Obligations shall automatically terminate and/or be released all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the applicable Pledgors (as defined in the Collateral Agreement), as of the date when all the Obligations under this Indenture and the Security Documents (other than contingent or unliquidated obligations or liabilities not then due) have been paid in full in cash or immediately available funds; and (ii) the security interests granted pursuant to the Security Documents securing the Obligations shall automatically terminate as of the date when the holders of at least two thirds in aggregate principal amount of all Notes issued under this Indenture consent to the termination of the Security Documents.

In connection with any termination or release pursuant to this Section 11.04(a), the First-Priority Collateral Agent shall execute and deliver to any Pledgor (as defined in the Collateral Agreement), at such Pledgor's expense, all documents that such Pledgor shall reasonably request to evidence such termination or release (including, without limitation, UCC termination statements), and will duly assign and transfer to such Pledgor, such of the Pledged Collateral (as defined in the Collateral Agreement) that may be in the possession of the First-Priority Collateral Agent and has not theretofore been sold or otherwise applied or released pursuant to this Indenture or the Security Documents. Any execution and delivery of documents pursuant to this Section 11.04(a) shall be without recourse to or warranty by the First-Priority Collateral Agent. In connection with any release pursuant to this Section 11.04(a), the Pledgors shall be permitted to take any action in connection therewith consistent with such release including, without limitation, the filing of UCC termination statements.

Upon the receipt of an Officer's Certificate from the Issuers, as described in Section 11.04(b) below, if applicable, and any necessary or proper instruments of termination, satisfaction or release prepared by the Issuers, the First-Priority Collateral Agent shall execute, deliver or acknowledge such instruments or releases to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Security Documents or the First Lien Intercreditor Agreement.

(b) Notwithstanding anything herein to the contrary, in connection with (x) any release of Collateral pursuant to Section 11.04(a)(2), (3) or (6), such Collateral may not be released from the Lien and security interest created by the Security Documents and (y) any release of Collateral pursuant to Section 11.04(a)(1), (4) and (5) the First-Priority Collateral Agent shall not be required to execute, deliver or acknowledge any instruments of termination, satisfaction or release unless, in each case, an Officer's Certificate and Opinion of Counsel certifying that all conditions precedent, including, without limitation, this Section 11.04, have been met, and stating under which of the circumstances set forth in Section 11.04(a) above the

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Collateral is being released, have been delivered to the First-Priority Collateral Agent on or prior to the date of such release or, in the case of clause (y) above, the date on which the First-Priority Collateral Agent executes any such instrument.

(c) Notwithstanding anything herein to the contrary, at any time when a Default or Event of Default has occurred and is continuing and the maturity of the Notes has been accelerated (whether by declaration or otherwise) and the Trustee has delivered a notice of acceleration to the First-Priority Collateral Agent, no release of Collateral pursuant to the provisions of this Indenture or the Security Documents will be effective as against the holders, except as otherwise provided in the First Lien Intercreditor Agreement.

**SECTION 11.05** Powers Exercisable by Receiver or Trustee. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XI upon the Issuers or the Subsidiary Guarantors with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuers or the Subsidiary Guarantors or of any officer or officers thereof required by the provisions of this Article XI; and if the Trustee, First-Priority Collateral Agent or a nominee of the Trustee or First-Priority Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee, First-Priority Collateral Agent or a nominee of the Trustee or First-Priority Collateral Agent.

**SECTION 11.06** Release Upon Termination of the Issuers' Obligations. In the event (i) that the Issuers deliver to the Trustee an Officer's Certificate and Opinion of Counsel certifying that all the Obligations under this Indenture, the Notes and the Security Documents have been satisfied and discharged by the payment in full of the Issuers' Obligations under the Notes, this Indenture and the Security Documents, and all such Obligations have been so satisfied, or (ii) a discharge, legal defeasance or covenant defeasance of this Indenture occurs under Article VIII, the Trustee shall deliver to the Issuers and the First-Priority Collateral Agent a notice stating that the Trustee, on behalf of the holders, disclaims and gives up any and all rights it has in or to the Collateral, and any rights it has under the Security Documents, and upon receipt by the First-Priority Collateral Agent of such notice, the First-Priority Collateral Agent shall be deemed not to hold a Lien in the Collateral on behalf of the Trustee and shall do or cause to be done all acts reasonably necessary at the request and expense of the Issuers to release such Lien as soon as is reasonably practicable.

**SECTION 11.07** Designations. Except as provided in the next sentence, for purposes of the provisions hereof and the First Lien Intercreditor Agreement requiring the Issuers to designate Indebtedness for the purposes of the terms Other First-Priority Obligations, Junior Lien Obligations or any other such designations hereunder or under the First Lien Intercreditor Agreement, any such designation shall be sufficient if the relevant designation provides in writing that such Other First-Priority Obligations or Junior Lien Obligations are permitted under this Indenture and is signed on behalf of the

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## ARTICLE XII

### GUARANTEE

#### SECTION 12.01 Subsidiary Guarantee.

(a) Each Subsidiary Guarantor hereby jointly and severally, irrevocably and unconditionally guarantees, on a senior basis, as a primary obligor and not merely as a surety, to each holder and to the Trustee and its successors and assigns (i) the performance and punctual payment when due, whether at Stated Maturity, by acceleration or otherwise, of all obligations of the Issuers under this Indenture and the Notes, whether for payment of principal of, premium, if any, or interest on the Notes and all other monetary obligations of the Company under this Indenture and the Notes and (ii) the full and punctual performance within applicable grace periods of all other obligations of the Issuers whether for fees, expenses, indemnification or otherwise under this Indenture and the Notes (all the foregoing being hereinafter collectively called the “Guaranteed Obligations”). The Guaranteed Obligations of all Subsidiary Guarantors shall be secured by first-priority security interests (subject to Permitted Liens and Liens permitted by Section 4.12) in the Collateral owned by such Subsidiary Guarantor on a *pari passu* basis with all other First-Priority Obligations pursuant to the terms of the Security Documents and the First Lien Intercreditor Agreement, but subject to the terms and conditions of the Security Documents and the First Lien Intercreditor Agreement. Each Subsidiary Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from any Subsidiary Guarantor, and that each Subsidiary Guarantor shall remain bound under this Article XII notwithstanding any extension or renewal of any Guaranteed Obligation.

(b) Each Subsidiary Guarantor waives presentation to, demand of payment from and protest to the Issuers of any of the Guaranteed Obligations and also waives notice of protest for nonpayment. Each Subsidiary Guarantor waives notice of any default under the Notes or the Guaranteed Obligations. The obligations of each Subsidiary Guarantor hereunder shall not be affected by (i) the failure of any holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Issuers or any other Person under this Indenture, the Notes or any other agreement or otherwise; (ii) any extension or renewal of this Indenture, the Notes or any other agreement; (iii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement; (iv) the release of any security held by any holder or the Trustee for the Guaranteed Obligations or each Subsidiary Guarantor; (v) the failure of any holder or Trustee to exercise any right or remedy against any other guarantor of the Guaranteed Obligations; or (vi) any change in the ownership of each Subsidiary Guarantor, except as provided in Section 12.02(b). Each Subsidiary Guarantor hereby waives any right to which it may be entitled to have its obligations hereunder divided among the Subsidiary Guarantors, such that such Subsidiary Guarantor’s obligations would be less than the full amount claimed.

(c) Each Subsidiary Guarantor hereby waives any right to which it may be entitled to have the assets of the Issuers first be used and depleted as payment of the Issuers’ or such Subsidiary Guarantor’s obligations hereunder prior to any amounts being claimed from or paid by such Subsidiary Guarantor hereunder. Each Subsidiary Guarantor hereby waives any

right to which it may be entitled to require that the Issuers be sued prior to an action being initiated against such Subsidiary Guarantor.

(d) Each Subsidiary Guarantor further agrees that its Subsidiary Guarantee herein constitutes a guarantee of payment, performance and compliance when due (and not a guarantee of collection) and waives any right to require that any resort be had by any holder or the Trustee to any security held for payment of the Guaranteed Obligations.

(e) The Subsidiary Guarantee of each Subsidiary Guarantor is, to the extent and in the manner set forth in this Article XII, equal in right of payment to all existing and future *Pari Passu* Indebtedness of such Subsidiary Guarantor, and senior in right of payment to all existing and future Subordinated Indebtedness of such Subsidiary Guarantor.

(f) Except as expressly set forth in Sections 8.01(b), 12.02 and 12.06, the obligations of each Subsidiary Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Subsidiary Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Notes or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Subsidiary Guarantor or would otherwise operate as a discharge of any Subsidiary Guarantor as a matter of law or equity.

(g) Each Subsidiary Guarantor agrees that its Subsidiary Guarantee shall remain in full force and effect until payment in full of all the Guaranteed Obligations. Each Subsidiary Guarantor further agrees that its Subsidiary Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guaranteed Obligation is rescinded or must otherwise be restored by any holder or the Trustee upon the bankruptcy or reorganization of the Issuers or otherwise.

(h) In furtherance of the foregoing and not in limitation of any other right which any holder or the Trustee has at law or in equity against any Subsidiary Guarantor by virtue hereof, upon the failure of the Issuers to pay the principal of or interest on any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Guaranteed Obligation, each Subsidiary Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the holders or the Trustee an amount equal to the sum of (i) the unpaid principal amount of such Guaranteed Obligations, (ii) accrued and unpaid interest on such

(i) Each Subsidiary Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the holders in respect of any Guaranteed Obligations guaranteed hereby until payment in full of all Guaranteed Obligations. Each Subsidiary Guarantor further agrees that, as between it, on the one hand, and the holders and the Trustee, on the other hand, (i) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in Article VI for the purposes of the Subsidiary Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Guaranteed Obligations as provided in Article VI, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by the Subsidiary Guarantors for the purposes of this Section 12.01.

(j) Each Subsidiary Guarantor also agrees to pay any and all costs and expenses (including reasonable out of pocket attorneys' fees and expenses) Incurred by the Trustee, the First-Priority Collateral Agent or any holder in enforcing any rights under this Section 12.01.

(k) Upon request of the Trustee, each Subsidiary Guarantor shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 12.02 Limitation on Liability.

(a) Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the Guaranteed Obligations guaranteed hereunder by each Subsidiary Guarantor shall not exceed the maximum amount that can be hereby guaranteed by the applicable Subsidiary Guarantor without rendering the Subsidiary Guarantee or this Indenture, as it relates to such Subsidiary Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally or capital maintenance or corporate benefit rules applicable to guarantees for obligations of affiliates.

(b) A Subsidiary Guarantee as to any Restricted Subsidiary that is (or becomes) a party hereto on the date hereof or that executes a supplemental indenture in accordance with Section 4.11 hereof and provides a guarantee shall terminate and be of no further force or effect and such Subsidiary Guarantee shall be deemed to be automatically released from all obligations under this Article XII upon any of the following:

(i) the sale, disposition, exchange or other transfer (including through merger, consolidation, amalgamation or otherwise) of the Capital Stock (including any sale, disposition or other transfer following which the applicable Subsidiary Guarantor is no longer a Restricted Subsidiary), of the applicable Subsidiary Guarantor if such sale, disposition, exchange or other transfer is made in a manner not in violation of this Indenture;

(ii) the designation of such Subsidiary Guarantor as an Unrestricted Subsidiary in accordance with the provisions of Section 4.04 and the definition of "Unrestricted Subsidiary";

(iii) the release or discharge of the guarantee by such Subsidiary Guarantor of the Indebtedness under the Credit Agreement, other than in connection with the payment in full of the Credit Agreement or such other Indebtedness, or any other Indebtedness which resulted in the obligation to guarantee the Notes;

(iv) the Issuers' exercise of their legal defeasance option or covenant defeasance option under Article VIII or if the Issuers' obligations under this Indenture are discharged in accordance with the terms of this Indenture;

(v) such Subsidiary ceasing to be a Subsidiary as a result of any foreclosure of any pledge or security interest in favor of the First-Priority Obligations or other exercise of remedies in respect thereof, subject to, in each case, the application of the proceeds of such foreclosure or exercise of remedies in the manner described in the Security Documents; and

(vi) the occurrence of a Covenant Suspension Event.

SECTION 12.03 [Reserved].

SECTION 12.04 Successors and Assigns. This Article XII shall be binding upon each Subsidiary Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the holders and, in the event of any transfer or assignment of rights by any holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Notes shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 12.05 No Waiver. Neither a failure nor a delay on the part of either the Trustee or the holders in exercising any right, power or privilege under this Article XII shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article XII at law, in equity, by statute or otherwise.

SECTION 12.06 Modification. No modification, amendment or waiver of any provision of this Article XII, nor the consent to any departure by any Subsidiary Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Subsidiary Guarantor in any case shall entitle any Subsidiary Guarantor to any other or further notice or demand in the same, similar or other circumstances.

pursuant to Section 4.11 shall promptly execute and deliver to the Trustee a supplemental indenture in the form of Exhibit C hereto pursuant to which such Subsidiary shall become a Subsidiary Guarantor under this Article XII and shall guarantee the Notes. Concurrently with the execution and delivery of such supplemental indenture, the Issuers shall deliver to the Trustee an Opinion of Counsel and an Officer's Certificate certifying that such supplemental indenture has been duly authorized, executed and delivered by such Subsidiary and that, subject to the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws relating to creditors' rights generally and to the principles of equity, whether considered in a proceeding at law or in equity, the Subsidiary Guarantee of such Subsidiary Guarantor is a valid and binding obligation of such Subsidiary Guarantor, enforceable against such Subsidiary Guarantor in accordance with its terms and/or to such other matters as the Trustee may reasonably request.

SECTION 12.08 Non-Impairment. The failure to endorse a Subsidiary Guarantee on any Note shall not affect or impair the validity thereof.

### ARTICLE XIII

#### MISCELLANEOUS

SECTION 13.01 [Reserved].

SECTION 13.02 Notices.

(a) Any notice or communication required or permitted hereunder shall be in writing and delivered in person, via facsimile or mailed by first-class mail addressed as follows:

if to the Issuers or a Subsidiary Guarantor:

c/o HandsOn Global Management, LLC  
1712 Berkeley Street  
Santa Monica, CA 90404  
Attention: Par Chadha  
Fax: (310) 496-3248

with copies to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019  
Attention: Brian Kim, Catherine Goodall  
Fax: 212-757-3990

and

Willkie Farr & Gallagher LLP  
787 Seventh Avenue

New York NY 10019  
Attention: Maurice Lefkort  
Fax: (212) 728-8111  
Email: mlefkort@willkie.com

if to the Trustee:

Wilmington Trust, National Association  
Global Capital Markets  
50 South Sixth Street, Suite 1290  
Minneapolis, MN 55402  
Attention: Exela Notes Administrator  
Fax: 612-217-5651

The Issuers or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

(b) Any notice or communication mailed to a holder shall be mailed, first class mail, to the holder at the holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

(c) Failure to mail a notice or communication to a holder or any defect in it shall not affect its sufficiency with respect to other holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it, except that notices to the Trustee are effective only if received.

The Trustee may, in its sole discretion, agree to accept and act upon instructions or directions pursuant to this Indenture sent by e-mail, facsimile transmission or other similar electronic methods. If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Notwithstanding anything to the contrary contained herein, as long as the Notes are in the form of a Global Note, notice to the holders may be made electronically (or otherwise) in accordance with procedures of the Depository.

SECTION 13.03      [Reserved].

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SECTION 13.04      Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Issuers to the Trustee to take or refrain from taking any action under this Indenture, the Issuers shall furnish to the Trustee at the request of the Trustee:

(a) an Officer's Certificate in form reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel in form reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 13.05      Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture (other than pursuant to Section 4.09) shall include:

(a) a statement that the individual making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with; *provided, however,* that with respect to matters of fact an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

SECTION 13.06      When Notes Disregarded. In determining whether the holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuers, the Subsidiary Guarantors or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuers or the Subsidiary Guarantors shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which the Trustee actually knows are so owned shall be so disregarded. Subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

SECTION 13.07      Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of the holders. The First-Priority Collateral Agent, the Registrar and a Paying Agent may make reasonable rules for their functions.

SECTION 13.08      Legal Holidays. If a payment date is not a Business Day, payment shall be made on the next succeeding day that is a Business Day, and no interest shall

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accrue on any amount that would have been otherwise payable on such payment date if it were a Business Day for the intervening period. If a regular Record Date is not a Business Day, the Record Date shall not be affected.

SECTION 13.09      **GOVERNING LAW. THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.**

SECTION 13.10      No Recourse Against Others. No director, officer, employee, manager, incorporator or holder of any Equity Interests in the Company or any direct or indirect parent companies, as such, shall have any liability for any obligations of the Issuers or any Subsidiary Guarantor under the Notes, the Subsidiary Guarantees or this Indenture, as applicable, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

SECTION 13.11      Successors. All agreements of the Issuers and the Subsidiary Guarantors in this Indenture and the Notes shall bind such person's successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 13.12      Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

SECTION 13.13 Table of Contents; Headings. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

SECTION 13.14 Indenture Controls. If and to the extent that any provision of the Notes limits, qualifies or conflicts with a provision of this Indenture, such provision of this Indenture shall control.

SECTION 13.15 Severability. In case any provision in this Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

SECTION 13.16 Intercreditor Agreement. The terms of this Indenture are subject to the terms of the First Lien Intercreditor Agreement.

SECTION 13.17 Waiver of Jury Trial. **EACH OF THE ISSUERS, THE SUBSIDIARY GUARANTORS AND THE TRUSTEE HEREBY (AND EACH HOLDER OF A NOTE BY ITS ACCEPTANCE THEREOF) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING**

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**TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.**

*[Remainder of page intentionally left blank.]*

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IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

**EXELA INTERMEDIATE LLC**

By: /s/ Ronald Cogburn  
Name: Ronald Cogburn  
Title: President

**EXELA FINANCE INC.**

By: /s/ Ronald Cogburn  
Name: Ronald Cogburn  
Title: President

[Signature Page to Indenture]

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**WILMINGTON TRUST, NATIONAL ASSOCIATION**, not in its individual capacity, but solely as Trustee

By: /s/ Jane Schweiger  
Name: Jane Schweiger  
Title: Vice President

[Signature Page to Indenture]

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**APPENDIX A**

**PROVISIONS RELATING TO INITIAL NOTES AND ADDITIONAL NOTES**

1. Definitions.

1.1 Definitions.

For the purposes of this Appendix A the following terms shall have the meanings indicated below:



“**Definitive Note**” means a certificated Initial Note or Additional Note (bearing the Restricted Notes Legend if the transfer of such Note is restricted by applicable law) that does not include the Global Notes Legend.

“**Depository**” means The Depository Trust Company, its nominees and their respective successors.

“**Global Notes Legend**” means the legend set forth under that caption in the applicable Exhibit to this Indenture.

“**IAI**” means an institutional “accredited investor” as described in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

“**Notes Custodian**” means the custodian with respect to a Global Note (as appointed by the Depository) or any successor Person thereto, who shall initially be the Trustee.

“**QIB**” means a “qualified institutional buyer” as defined in Rule 144A.

“**Regulation S**” means Regulation S under the Securities Act.

“**Regulation S Notes**” means all Initial Notes offered and sold outside the United States in reliance on Regulation S.

“**Restricted Notes Legend**” means the legend set forth in Section 2.2(f)(i) herein.

“**Restricted Period**,” with respect to any Notes, means the period of 40 consecutive days beginning on and including the later of (a) the day on which such Notes are first offered to Persons other than distributors (as defined in Regulation S under the Securities Act) in reliance on Regulation S, notice of which day shall be promptly given by the Issuers to the Trustee, and (b) the Issue Date, and with respect to any Additional Notes that are Transfer Restricted Notes, it means the comparable period of 40 consecutive days.

“**Rule 501**” means Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

“**Rule 144A**” means Rule 144A under the Securities Act.

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“**Rule 144A Notes**” means all Initial Notes initially offered and sold to QIBs in reliance on Rule 144A.

Legend. “**Transfer Restricted Definitive Notes**” means Definitive Notes that bear or are required to bear or are subject to the Restricted Notes

“**Transfer Restricted Global Notes**” means Global Notes that bear or are required to bear or are subject to the Restricted Notes Legend.

“**Transfer Restricted Notes**” means the Transfer Restricted Definitive Notes and Transfer Restricted Global Notes.

“**Unrestricted Definitive Notes**” means Definitive Notes that are not required to bear, or are not subject to, the Restricted Notes Legend.

“**Unrestricted Global Notes**” means Global Notes that are not required to bear, or are not subject to, the Restricted Notes Legend.

#### 1.2 Other Definitions.

<u>Term:</u>	<u>Defined in Section:</u>
Agent Members	2.1(b)
Global Notes	2.1(b)
Regulation S Global Notes	2.1(b)
Regulation S Permanent Global Note	2.1(b)
Regulation S Temporary Global Note	2.1(b)
Rule 144A Global Notes	2.1(b)

#### 2. The Notes.

##### 2.1 Form and Dating; Global Notes.

(a) The Initial Notes issued on the date hereof will be (i) privately placed by the Issuers pursuant to the Offering Memorandum and (ii) sold, initially only to (1) QIBs in reliance on Rule 144A and (2) Persons other than U.S. Persons (as defined in Regulation S) in reliance on Regulation S. Such Initial Notes may thereafter be transferred to, among others, QIBs, purchasers in reliance on Regulation S and, except as set forth below, IAIs in accordance with Rule 501. One or more Rule 144A Notes may be issued with a separate CUSIP number for purposes of transfers of Notes to IAIs in accordance with Rule 501. Additional Notes offered after the date hereof may be offered and sold by the Issuers from time to time pursuant to one or more agreements in accordance with applicable law.

(b) **Global Notes.** (i) Except as provided in clause (d) of Section 2.2 below, Rule 144A Notes initially shall be represented by one or more Notes in definitive, fully registered, global form without interest coupons (collectively, the “**Rule 144A Global Notes**”).

Regulation S Notes initially shall be represented by one or more Notes in fully registered, global form without interest coupons (collectively, the “**Regulation S Temporary**”).

Global Note” and, together with the Regulation S Permanent Global Note (defined below), the “Regulation S Global Notes”), which shall be registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear Bank S.A./N.V., as operator of the Euroclear system (“Euroclear”) or Clearstream Banking, Société Anonyme (“Clearstream”).

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in a permanent Global Note (the “Regulation S Permanent Global Note”) pursuant to the applicable procedures of the Depository. Simultaneously with the authentication of the Regulation S Permanent Global Note, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

The provisions of the “Operating Procedures of the Euroclear System” and “Terms and Conditions Governing Use of Euroclear” and the “General Terms and Conditions of Clearstream Banking” and “Customer Handbook” of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Note that are held by participants through Euroclear or Clearstream.

The term “Global Notes” means the Rule 144A Global Notes and the Regulation S Global Notes. The Global Notes shall bear the Global Note Legend. The Global Notes initially shall (i) be registered in the name of the Depository or the nominee of such Depository, in each case for credit to an account of an Agent Member, (ii) be delivered to the Trustee as custodian for such Depository and (iii) bear the Restricted Notes Legend.

Members of, or direct or indirect participants in, the Depository (collectively, the “Agent Members”) shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository, or the Trustee as its custodian, or under the Global Notes. The Depository may be treated by the Issuers, the Trustee and any agent of the Issuers or the Trustee as the absolute owner of the Global Notes for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuers, the Trustee or any agent of the Issuers or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository, or impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a holder of any Note.

(ii) Transfers of Global Notes shall be limited to transfer in whole, but not in part, to the Depository, its successors or their respective nominees. Interests of beneficial owners in the Global Notes may be transferred or exchanged for Definitive Notes only in accordance with the applicable rules and procedures of the Depository and the provisions of Section 2.2. In addition, a Global Note shall be exchangeable for Definitive Notes if (x) the Depository (1) notifies the Issuers that it is unwilling or unable to continue as depository for such Global Note and the Issuers thereupon fails to appoint a successor depository or (2) has ceased to be a clearing agency registered under the Exchange Act or (y) there shall have occurred and be continuing an Event of Default with respect to such

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Global Note and a request has been made for such exchange; *provided* that in no event shall the Regulation S Temporary Global Note be exchanged by the Issuers for Definitive Notes prior to (x) the expiration of the Restricted Period and (y) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act. In all cases, Definitive Notes delivered in exchange for any Global Note or beneficial interests therein shall be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depository in accordance with its customary procedures.

(iii) In connection with the transfer of a Global Note as an entirety to beneficial owners pursuant to subsection (i) of this Section 2.1(b), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Issuers shall execute, and, upon written order of each Issuer signed by an Officer, the Trustee shall authenticate and make available for delivery, to each beneficial owner identified by the Depository in writing in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations.

(iv) Any Transfer Restricted Note delivered in exchange for an interest in a Global Note pursuant to Section 2.2 shall, except as otherwise provided in Section 2.2, bear the Restricted Notes Legend.

(v) Notwithstanding the foregoing, through the Restricted Period, a beneficial interest in a Regulation S Global Note may be held only through Euroclear or Clearstream unless delivery is made in accordance with the applicable provisions of Section 2.2.

(vi) The holder of any Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a holder is entitled to take under this Indenture or the Notes.

#### 2.2 Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except as set forth in Section 2.1(b). Global Notes will not be exchanged by the Issuers for Definitive Notes except under the circumstances described in Section 2.1(b)(ii). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Section 2.08 of this Indenture. Beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.2(b).

(b) Transfer and Exchange of Beneficial Interests in Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the applicable rules and procedures of the Depository. Beneficial interests in Transfer Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Beneficial interests in Global Notes shall be transferred or exchanged only for beneficial interests in Global Notes. Transfers and exchanges of beneficial interests in the

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Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Transfer Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Transfer Restricted Global Note in accordance with the transfer restrictions set forth in the Restricted Notes Legend; *provided, however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in a Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person. A beneficial interest in an Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.2(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests in any Global Note that is not subject to Section 2.2(b)(i), the transferor of such beneficial interest must deliver to the Registrar (1) a written order from an Agent Member given to the Depository in accordance with the applicable rules and procedures of the Depository directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the applicable rules and procedures of the Depository containing information regarding the Agent Member account to be credited with such increase. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note pursuant to Section 2.2(i).

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in a Transfer Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Transfer Restricted Global Note if the transfer complies with the requirements of Section 2.2(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in a Rule 144A Global Note, then the transferor must deliver a certificate in the form attached to the applicable Note; and

(B) if the transferee will take delivery in the form of a beneficial interest in a Regulation S Global Note, then the transferor must deliver a certificate in the form attached to the applicable Note.

(iv) Transfer and Exchange of Beneficial Interests in a Transfer Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in a Transfer Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes

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delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.2(b)(ii) above and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Transfer Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note; or

(B) if the holder of such beneficial interest in a Transfer Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Issuers or the Registrar so request or if the applicable rules and procedures of the Depository so require, an Opinion of Counsel in form reasonably acceptable to the Issuers and the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act. If any such transfer or exchange is effected pursuant to this subparagraph (iv) at a time when an Unrestricted Global Note has not yet been issued, the Issuers shall issue and, upon receipt of an written order of the Issuers in the form of an Officer's Certificate in accordance with Section 2.01, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred or exchanged pursuant to this subparagraph (iv).

(v) Transfer and Exchange of Beneficial Interests in an Unrestricted Global Note for Beneficial Interests in a Transfer Restricted Global Note. Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Transfer Restricted Global Note.

(c) Transfer and Exchange of Beneficial Interests in Global Notes for Definitive Notes. A beneficial interest in a Global Note may not be exchanged for a Definitive Note except under the circumstances described in Section 2.1(b)(ii). A beneficial interest in a Global Note may not be transferred to a Person who takes delivery thereof in the form of a Definitive Note except under the circumstances described in Section 2.1(b)(ii). In any case, beneficial interests in Global Notes shall be transferred or exchanged only for Definitive Notes.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes. Transfers and exchanges of Definitive Notes for beneficial interests in the Global Notes also shall require compliance with either subparagraph (i), (ii) or (iii) below, as applicable:

(i) Transfer Restricted Definitive Notes to Beneficial Interests in Transfer Restricted Global Notes. If any holder of a Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Definitive Note for a beneficial interest in a Transfer Restricted Global Note or to transfer such Transfer Restricted Definitive Note to

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a Person who takes delivery thereof in the form of a beneficial interest in a Transfer Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

- (A) if the holder of such Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Note for a beneficial interest in a Transfer Restricted Global Note, a certificate from such holder in the form attached to the applicable Note;
- (B) if such Transfer Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate from such holder in the form attached to the applicable Note;
- (C) if such Transfer Restricted Definitive Note is being transferred to a non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate from such holder in the form attached to the applicable Note;
- (D) if such Transfer Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate from such holder in the form attached to the applicable Note;
- (E) if such Transfer Restricted Definitive Note is being transferred to an IAI in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate from such holder in the form attached to the applicable Note, including the certifications, certificates and Opinion of Counsel, if applicable; or
- (F) if such Transfer Restricted Definitive Note is being transferred to the Company or a Subsidiary thereof, a certificate from such holder in the form attached to the applicable Note;

the Trustee shall cancel the Transfer Restricted Definitive Note, and increase or cause to be increased the aggregate principal amount of the appropriate Transfer Restricted Global Note.

(ii) Transfer Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A holder of a Transfer Restricted Definitive Note may exchange such Transfer Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Transfer Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

- (A) if the holder of such Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note; or

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- (B) if the holder of such Transfer Restricted Definitive Notes proposes to transfer such Transfer Restricted Definitive Note to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Issuers or the Registrar so request or if the applicable rules and procedures of the Depository so require, an Opinion of Counsel in form reasonably acceptable to the Issuers and the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act. Upon satisfaction of the conditions of this subparagraph (ii), the Trustee shall cancel the Transfer Restricted Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note. If any such transfer or exchange is effected pursuant to this subparagraph (ii) at a time when an Unrestricted Global Note has not yet been issued, the Issuers shall issue and, upon receipt of an written order of the Company in the form of an Officer's Certificate, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Transfer Restricted Notes transferred or exchanged pursuant to this subparagraph (ii).

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A holder of an Unrestricted Definitive Note may exchange such Unrestricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes. If any such transfer or exchange is effected pursuant to this subparagraph (iii) at a time when an Unrestricted Global Note has not yet been issued, the Issuers shall issue and, upon receipt of an written order of the Company in the form of an Officer's Certificate, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Unrestricted Definitive Notes transferred or exchanged pursuant to this subparagraph (iii).

(iv) Unrestricted Definitive Notes to Beneficial Interests in Transfer Restricted Global Notes. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a beneficial interest in a Transfer Restricted Global Note.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a holder of Definitive Notes and such holder's compliance with the provisions of this Section 2.2(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such holder or by its attorney, duly authorized in writing. In addition, the requesting holder shall provide any additional

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certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.2(e).

(i) Transfer Restricted Definitive Notes to Transfer Restricted Definitive Notes. A Transfer Restricted Note may be transferred to and registered in the name of a Person who takes delivery thereof in the form of a Transfer Restricted Definitive Note if the Registrar receives the following:

- (A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form attached to the applicable Note;
- (B) if the transfer will be made pursuant to Rule 903 or Rule 904 under the Securities Act, then the transferor must deliver a certificate in the form attached to the applicable Note;
- (C) if the transfer will be made pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate in the form attached to the applicable Note;
- (D) if the transfer will be made to an IAI in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (A) through (D) above, a certificate in the form attached to the applicable Note; and
- (E) if such transfer will be made to the Company or a Subsidiary thereof, a certificate in the form attached to the applicable Note.

(ii) Transfer Restricted Definitive Notes to Unrestricted Definitive Notes. Any Transfer Restricted Definitive Note may be exchanged by the holder thereof for an Unrestricted Definitive Note or transferred to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

- (A) if the holder of such Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Definitive Note for an Unrestricted Definitive Note, a certificate from such holder in the form attached to the applicable Note; or
- (B) if the holder of such Transfer Restricted Definitive Note proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Issuers or the Registrar so request, an Opinion of Counsel in form reasonably acceptable to the Issuers and the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act.

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(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A holder of an Unrestricted Definitive Note may transfer such Unrestricted Definitive Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note at any time. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the holder thereof.

(iv) Unrestricted Definitive Notes to Transfer Restricted Definitive Notes. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a Transfer Restricted Definitive Note.

At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(f) Legend.

(i) Except as permitted by the following paragraph (iii), (iv) or (v), each Note certificate evidencing the Global Notes and any Definitive Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form (each defined term in the legend being defined as such for purposes of the legend only):

“THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH BELOW. BY ITS ACQUISITION HEREOF, THE HOLDER (1) REPRESENTS THAT (A) IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT WITHIN [IN THE CASE OF RULE 144A NOTES: ONE YEAR] [IN THE

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CASE OF REGULATION S NOTES: 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUERS OR ANY AFFILIATE OF THE ISSUERS WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY) RESELL OR OTHERWISE TRANSFER THIS SECURITY EXCEPT (A) TO THE ISSUERS OR ANY SUBSIDIARY THEREOF, (B) INSIDE THE UNITED STATES TO A QUALIFIED INSTITUTIONAL BUYER IN

COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 903 OR RULE 904 UNDER THE SECURITIES ACT, (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (E) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE ISSUERS SO REQUEST), OR (F) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANING GIVEN TO THEM BY REGULATIONS UNDER THE SECURITIES ACT."

"THE TERMS OF THIS SECURITY ARE SUBJECT TO THE TERMS OF THE PARI FIRST LIEN INTERCREDITOR AGREEMENT AMONG ROYAL BANK OF CANADA, AS COLLATERAL AGENT AND ADMINISTRATIVE AGENT, WILMINGTON TRUST, NATIONAL ASSOCIATION, AS INITIAL OTHER AUTHORIZED REPRESENTATIVE, AND THE OTHER PARTIES FROM TIME TO TIME PARTY THERETO, DATED AS OF THE ISSUE DATE, AS IT MAY BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE INDENTURE."

Each Regulation S Note shall bear the following additional legend:

"BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON, NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON, AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE

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TRANSACTION IN ACCORDANCE WITH REGULATIONS UNDER THE SECURITIES ACT."

Each Definitive Note shall bear the following additional legend:

"IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS."

(ii) Upon any sale or transfer of a Transfer Restricted Definitive Note, the Registrar shall permit the holder thereof to exchange such Transfer Restricted Note for a Definitive Note that does not bear the legends set forth above and rescind any restriction on the transfer of such Transfer Restricted Definitive Note if the holder certifies in writing to the Registrar that its request for such exchange was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Initial Note).

(iii) Upon a sale or transfer after the expiration of the Restricted Period of any Initial Note acquired pursuant to Regulation S, all requirements that such Initial Note bear the Restricted Notes Legend shall cease to apply and the requirements requiring any such Initial Note be issued in global form shall continue to apply.

(iv) Any Additional Notes sold in a registered offering shall not be required to bear the Restricted Notes Legend (other than the portion thereof relating to the First Lien Intercreditor Agreement).

(g) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 of this Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(h) Obligations with Respect to Transfers and Exchanges of Notes.

(i) To permit registrations of transfers and exchanges, the Issuers shall execute and the Trustee shall authenticate, Definitive Notes and Global Notes at the Registrar's request.

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(ii) No service charge shall be made for any registration of transfer or exchange of Notes, but the Issuers may require payment of a sum sufficient to cover any transfer tax, assessments, or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charge payable upon exchanges pursuant to Sections 3.08, 4.06, 4.08 and 9.04 of this Indenture).

(iii) Prior to the due presentation for registration of transfer of any Note, the Issuers, the Trustee, a Paying Agent or the Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuers, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.

(iv) All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

(i) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or any other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of redemption or repurchase) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the holders and all payments to be made to the holders under the Notes shall be given or made only to the registered holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

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EXHIBIT A

**[FORM OF FACE OF INITIAL NOTE]**

[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO DTC, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[Restricted Notes Legend for Notes Offered in Reliance on Regulation S]

BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON, NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON, AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.

[Restricted Notes Legend]

"THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH BELOW. BY ITS ACQUISITION HEREOF, THE HOLDER (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT WITHIN [IN THE CASE OF RULE 144A NOTES: ONE YEAR] [IN THE CASE OF REGULATION S NOTES: 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUERS OR ANY AFFILIATE OF THE ISSUERS WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY)

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RESELL OR OTHERWISE TRANSFER THIS SECURITY EXCEPT (A) TO THE ISSUERS OR ANY SUBSIDIARY THEREOF, (B) INSIDE THE UNITED STATES TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 903 OR RULE 904 UNDER THE SECURITIES ACT, (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (E) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE ISSUERS SO REQUEST), OR (F) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANING GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT."

"THE TERMS OF THIS SECURITY ARE SUBJECT TO THE TERMS OF THE PARI FIRST LIEN INTERCREDITOR AGREEMENT AMONG ROYAL BANK OF CANADA, AS COLLATERAL AGENT AND ADMINISTRATIVE AGENT, WILMINGTON TRUST, NATIONAL

ASSOCIATION, AS INITIAL OTHER AUTHORIZED REPRESENTATIVE, AND THE OTHER PARTIES FROM TIME TO TIME PARTY THERETO, DATED AS OF THE ISSUE DATE, AS IT MAY BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE INDENTURE.”

[Definitive Notes Legend]

“IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.”

Exhibit A-2

[FORM OF INITIAL NOTE]

EXELA INTERMEDIATE LLC  
EXELA FINANCE INC.

No. [ ]

144A CUSIP No. [ ]  
144A ISIN No. [ ]  
REG S CUSIP No.[ ]  
REG S ISIN No.[ ]  
\$[ ]

10.000% First-Priority Senior Secured Note due 2023

Exela Intermediate LLC, a Delaware limited liability company (together with its successors and assigns under the Indenture), and Exela Finance Inc., a Delaware corporation (together with its successors and assigns under the Indenture), promise to pay to Cede & Co., or registered assigns, the principal sum set forth on the Schedule of Increases or Decreases in Global Note attached hereto on July 15, 2023.

Interest Payment Dates: January 15 and July 15, commencing [ ](1).

Record Dates: January 1 and July 1.

Additional provisions of this Note are set forth on the other side of this Note.

(1) To be January 15, 2018 for Notes issued on July 12, 2017.

Exhibit A-3

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed.

EXELA INTERMEDIATE LLC

By:

Name:  
Title:

EXELA FINANCE INC.

By:

Name:  
Title:

Dated:

Exhibit A-4

TRUSTEE’S CERTIFICATE OF AUTHENTICATION

WILMINGTON TRUST, NATIONAL ASSOCIATION  
as Trustee, certifies that this is  
one of the Notes  
referred to in the Indenture.



By: \_\_\_\_\_  
Authorized Signatory

Dated: \_\_\_\_\_

\*/ If the Note is to be issued in global form, add the Global Notes Legend and the attachment from Exhibit A captioned "TO BE ATTACHED TO GLOBAL NOTES - SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE."

Exhibit A-5

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**[FORM OF REVERSE SIDE OF INITIAL NOTE]**

10.000% First-Priority Senior Secured Note Due 2023

1. Interest

EXELA INTERMEDIATE LLC, a Delaware limited liability company (such entity, and its successors and assigns under the Indenture hereinafter referred to, being herein called, the "Company"), and EXELA FINANCE INC., a Delaware corporation (such entity, and its successors and assigns under the Indenture hereinafter referred to, being herein called, the "Co-Issuer" and, together with the Company, the "Issuers"), jointly and severally, promise to pay interest on the principal amount of this Note at the rate per annum shown above. The Issuers shall pay interest semiannually on January 15 and July 15 of each year (each an "Interest Payment Date"), commencing [ ] (2). Interest on the Notes shall accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from July 12, 2017, until the principal hereof is due. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Issuers shall pay interest on overdue principal at the rate borne by the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

2. Method of Payment

The Issuers shall pay interest on the Notes (except defaulted interest) to the Persons who are registered holders at the close of business on January 1 or July 1 (each a "Record Date") immediately preceding the Interest Payment Date even if Notes are canceled after the Record Date and on or before the Interest Payment Date (whether or not a Business Day). Holders must surrender Notes to the Paying Agent to collect principal payments. The Issuers shall pay principal, premium, if any, and interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium, if any, and interest) shall be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company or any successor depository. The Issuers shall make all payments in respect of a certificated Note (including principal, premium, if any, and interest) at the office of the Paying Agent, except that, at the option of the Issuers, payment of interest may be made by mailing a check to the registered address of each holder thereof; *provided, however*, that payments on the Notes may also be made, in the case of a holder of at least \$1,000,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States of America if such holder elects payment by wire transfer by giving written notice to the Trustee or Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

(2) To be January 15, 2018 for Notes issued on July 12, 2017.

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3. Paying Agent and Registrar

Initially, Wilmington Trust, National Association, as trustee under the Indenture (the "Trustee"), will act as Paying Agent and Registrar. The Issuers may appoint and change any Paying Agent or Registrar upon written notice to such Paying Agent or Registrar and to the Trustee. The Issuers or any of its domestically incorporated Subsidiaries may act as Paying Agent or Registrar.

4. Indenture

The Issuers issued the Notes under an Indenture dated as of July 12, 2017 (the "Indenture"), among the Issuers and the Trustee. Capitalized terms used herein are used as defined in the Indenture, unless otherwise indicated. The terms of the Notes include those stated in the Indenture. The Notes are subject to all terms and provisions of the Indenture, and the holders (as defined in the Indenture) are referred to the Indenture for a statement of such terms and provisions. If and to the extent that any provision of the Notes limits, qualifies or conflicts with a provision of the Indenture, such provision of the Indenture shall control.

The Notes are senior secured obligations of the Issuers. This Note is one of the Initial Notes referred to in the Indenture. The Notes include the Initial Notes and any Additional Notes. The Initial Notes and any Additional Notes are treated as a single class of securities under the Indenture. The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to, among other things, make certain Investments and other Restricted Payments, pay dividends and other distributions, Incur Indebtedness, enter into consensual restrictions upon the payment of certain dividends and distributions by such Restricted Subsidiaries, issue or sell shares of capital stock of such Restricted Subsidiaries, enter into or permit certain transactions with Affiliates, create or Incur Liens and make Asset Sales. The Indenture also imposes limitations on the ability of each Issuer and each Subsidiary Guarantor to consolidate or merge with or into any other Person or convey, transfer or lease all or substantially all of its property.

To guarantee the due and punctual payment of the principal and interest on the Notes and all other amounts payable by the Issuers under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes

and the Indenture, any Subsidiary Guarantor that executes a Subsidiary Guarantee will unconditionally guarantee the Guaranteed Obligations on a senior secured basis pursuant to the terms of the Indenture.

5. Redemption

On or after July 15, 2020, the Issuers may redeem the Notes at their option, in whole at any time or in part from time to time, upon not less than 30 nor more than 60 days' prior notice mailed by the Issuers by first-class mail to each holder's registered address, or delivered electronically if held by DTC, at the following redemption prices (expressed as a percentage of principal amount), *plus* accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of holders of record on the relevant Record Date to receive

Exhibit A-7

interest due on the relevant Interest Payment Date), if redeemed during the 12-month period commencing on July 15 of the years set forth below:

<u>Period</u>	<u>Redemption Price</u>
2020	105.000%
2021	102.500%
2022 and thereafter	100.000%

In addition, prior to July 15, 2020, the Issuers may redeem the Notes at their option, in whole at any time or in part from time to time, upon not less than 30 nor more than 60 days' prior notice mailed by the Issuers by first-class mail to each holder's registered address, or delivered electronically if held by DTC, at a redemption price equal to 100% of the principal amount of the Notes redeemed *plus* the Applicable Premium as of, and accrued and unpaid interest, if any, to, but excluding, the applicable redemption date (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

Notwithstanding the foregoing, at any time and from time to time on or prior to July 15, 2020, the Issuers may redeem in the aggregate up to 40% of the original aggregate principal amount of the Notes (calculated after giving effect to any issuance of Additional Notes) in an amount equal to the amount of net cash proceeds of one or more Equity Offerings (1) by the Company or (2) by any direct or indirect parent of the Company to the extent the net cash proceeds thereof are contributed to the common equity capital of the Company or used to purchase Capital Stock (other than Disqualified Stock) of the Issuer, at a redemption price (expressed as a percentage of principal amount thereof) of 110.000%, *plus* accrued and unpaid interest, if any, to, but excluding, the redemption date (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); *provided, however*, that at least 50% of the original aggregate principal amount of the Notes (calculated after giving effect to any issuance of Additional Notes) must remain outstanding after each such redemption; *provided, further*, that such redemption shall occur within 90 days after the date on which any such Equity Offering is consummated upon not less than 30 nor more than 60 days' notice mailed by the Issuers to each holder of Notes being redeemed, or delivered electronically if held by DTC, and otherwise in accordance with the procedures set forth in the Indenture.

Notice of any redemption upon any corporate transaction or other event (including any Equity Offering, incurrence of Indebtedness, Change of Control or other transaction) may be given prior to the completion thereof. In addition, any redemption described above or notice thereof may, at the Issuers' discretion, be subject to one or more conditions precedent, including, but not limited to, completion of a corporate transaction or other event. If any redemption is so subject to the satisfaction of one or more conditions precedent, the notice thereof shall describe each such condition and, if applicable, shall state that, in the Issuers' discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date as so delayed. In addition, the Issuers may provide in such notice that payment

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of the redemption price and performance of the Issuers' obligations with respect to such redemption may be performed by another Person.

6. Mandatory Redemption

Except as set forth in the final paragraph of Paragraph 5 of this Note, the Issuers will not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

7. Notice of Redemption

Notices of redemption (other than notices of redemption in connection with the final paragraph of Paragraph 5 of this Note) will be mailed by first class mail at least 30 but not more than 60 days before the redemption date, to each holder of Notes to be redeemed at its registered address (with a copy to the Trustee) or otherwise delivered in accordance with the procedures of The Depository Trust Company ("DTC"), except that redemption notices may be mailed or otherwise delivered more than 60 days prior to the redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture pursuant to Article VIII thereof. If money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes (or portions thereof) to be redeemed on the redemption date is deposited with a Paying Agent on or before the redemption date and certain other conditions are satisfied, on and after such date, interest ceases to accrue on such Notes (or such portions thereof) called for redemption.

8. Repurchase of Notes at the Option of the Holders upon Change of Control and Asset Sales.

Upon the occurrence of a Change of Control, each holder shall have the right, subject to certain conditions specified in the Indenture, to cause the Issuers to repurchase all or any part of such holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof, *plus* accrued and unpaid interest, if any, to, but excluding, the date of repurchase (subject to the right of the holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date), as provided in, and subject to the terms of, the Indenture.

In accordance with Section 4.06 of the Indenture, the Issuers will be required to offer to purchase Notes upon the occurrence of certain events.

9. Ranking and Collateral.

The Notes and the Subsidiary Guarantees will be secured by first-priority security interest (subject to the Permitted Liens and Liens permitted by Section 4.12 of the Indenture) in the Collateral pursuant to the Security Documents (but subject to the terms and conditions of the Security Documents and the First Lien Intercreditor Agreement). The Liens upon any and all Collateral are, to the extent and in the manner provided in the First Lien Intercreditor Agreement, equal in ranking with all present and future Liens securing First-Priority Obligations and will be senior in ranking to all present and future Liens securing Junior Lien Obligations.

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10. Denominations; Transfer; Exchange

The Notes are in registered form, without coupons, in minimum denominations of \$2,000 principal amount and integral multiples of \$1,000 in excess thereof. A holder shall register the transfer of or exchange of the Notes in accordance with the Indenture. Upon any registration of transfer or exchange, the Registrar and the Trustee may require a holder, among other things, to furnish appropriate endorsements or transfer documents and the Issuers may require a holder to pay any taxes required by law or permitted by the Indenture. The Issuers shall not be required to make, and the Registrar need not register, the transfer or exchange of any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or the transfer or exchange of any Notes for a period of 15 days before a selection of Notes to be redeemed or between a record date and the related payment date.

11. Persons Deemed Owners

Except as provided in Paragraph 2 hereof, the registered holder of this Note shall be treated as the owner of it for all purposes.

12. Unclaimed Money.

Subject to any applicable abandoned property law, the Trustee and each Paying Agent shall pay to the Issuers upon written request any money held by them for the payment of principal or interest that remains unclaimed for two years, and, thereafter, holders entitled to the money must look to the Issuers for payment as general creditors, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

13. Discharge and Defeasance

Subject to certain conditions, the Issuers at any time may terminate some of or all its obligations under the Notes and the Indenture if the Issuers deposits with the Trustee money or U.S. Government Obligations for the payment of principal of and premium (if any) and interest on the Notes to redemption or maturity, as the case may be.

14. Amendment; Waiver

Subject to certain exceptions set forth in the Indenture, (i) the Indenture, the Notes, the Subsidiary Guarantees, the Security Documents and the First Lien Intercreditor Agreement may be amended with the consent of the holders of at least a majority in principal amount of the Notes then outstanding and (ii) any past default or compliance with any provisions of the Indenture may be waived with the consent of the holders of at least a majority in principal amount of the Notes then outstanding.

Subject to certain exceptions set forth in the Indenture, without notice to or the consent of any holder, the Issuers, the First-Priority Collateral Agent and the Trustee may amend the Indenture, the Notes, the Subsidiary Guarantees, the Security Documents and/or the First Lien Intercreditor Agreement (i) to cure any ambiguity, omission, mistake, defect or inconsistency; (ii) to provide for the assumption by a Successor Company (with respect to the

Exhibit A-10

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Issuer) of the obligations of the Company under the Indenture, the Notes, the Security Documents and the First Lien Intercreditor Agreement or to provide for the assumption by a Successor Co-Issuer (with respect to the Co-Issuer) of the obligations of the Co-Issuer under the Indenture, the Notes, the Security Documents and the First Lien Intercreditor Agreement; (iii) to provide for the assumption by a Successor Subsidiary Guarantor (with respect to any Subsidiary Guarantor), as the case may be, of the obligations of a Subsidiary Guarantor under the Indenture, its Subsidiary Guarantee, the Security Documents and the First Lien Intercreditor Agreement; (iv) to provide for uncertificated Notes in addition to or in place of certificated Notes, provided, however, that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Code; (v) to conform the text of the Indenture, the Subsidiary Guarantees, the Notes, the Security Documents or the First Lien Intercreditor Agreement to any provision of the "Description of Senior Secured Notes" in the Offering Memorandum to the extent that such provision in the Indenture, the Subsidiary Guarantee, the Notes, the Security Documents or the First Lien Intercreditor Agreement, as applicable, was intended by the Issuers to be a verbatim recitation of a provision in the "Description of Senior Secured Notes" in the Offering Memorandum, as stated in an Officer's Certificate; (vi) to add a Subsidiary Guarantee or collateral with respect to the Notes, (vii) to release or subordinate Collateral as permitted by the Indenture, the Security Documents or the First Lien Intercreditor Agreement; (viii) to add additional secured creditors holding other First-Priority Obligations or Junior Lien Obligations so long as such obligations are not prohibited by the Indenture; (ix) to comply with any requirement of the SEC in connection with the qualification or maintaining the qualification of the Indenture under the TIA (if the Issuers elects to qualify the Indenture under the TIA), (x) to add to the covenants of the Issuers for the benefit of the holders or to surrender any right or power herein conferred upon the Issuers; (xi) to make any change that does not adversely affect the rights of any holder in any material respect; or (xii) to make changes to provide for the issuance of Additional Notes, which shall have terms substantially identical in all material respects to the Initial Notes, and which shall be treated, together with any outstanding Initial Notes, as a single issue of securities.

In addition, the First Lien Intercreditor Agreement may be amended without notice to or the consent of any holder, the Trustee or the First-Priority Collateral Agent in connection with the permitted entry into the First Lien Intercreditor Agreement of any class of additional secured creditors

holding Other First-Priority Obligations.

15. Defaults and Remedies

If an Event of Default (other than an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Company) occurs and is continuing, the Trustee by notice to the Issuers or the holders of at least 30% in aggregate principal amount of outstanding Notes by notice to the Issuers, with a copy to the Trustee, may declare the principal of, premium, if any, and accrued but unpaid interest on all the Notes to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. If an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Company occurs, the principal of, premium, if any, and interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any holders. Under certain circumstances, the holders of a majority in principal amount of

Exhibit A-11

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outstanding Notes may rescind any such acceleration with respect to the Notes and its consequences.

If an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any of the rights or powers under the Indenture or the Security Documents at the request or direction of any of the holders unless such holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense and certain other conditions are complied with. Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no holder may pursue any remedy with respect to the Indenture or the Notes unless (i) such holder has previously given the Trustee notice that an Event of Default is continuing, (ii) holders of at least 30% in aggregate principal amount of the outstanding Notes have requested the Trustee to pursue the remedy, (iii) such holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense, (iv) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity, and (v) the holders of a majority in principal amount of the outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period. Subject to certain restrictions, the holders of a majority in principal amount of outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is unduly prejudicial to the rights of any other holder or that would involve the Trustee in personal liability. Prior to taking any action under the Indenture, the Trustee shall be entitled to indemnification satisfactory to it against all losses and expenses caused by taking or not taking such action.

16. Trustee Dealings with the Issuers

The Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Issuers or their Affiliates and may otherwise deal with the Issuers or their Affiliates with the same rights it would have if it were not Trustee.

17. No Recourse Against Others

No director, officer, employee, manager, incorporator or holder of any Equity Interests in an Issuer or any direct or indirect parent companies, as such, will have any liability for any obligations of an Issuer or any Subsidiary Guarantor under the Notes, the Indenture or the Subsidiary Guarantees, as applicable, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of Notes by accepting a Note waives and releases all such liability.

18. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

Exhibit A-12

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19. Abbreviations

Customary abbreviations may be used in the name of a holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

20. Governing Law

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

21. CUSIP Numbers; ISINs

The Issuers have caused CUSIP numbers and ISINs to be printed on the Notes and have directed the Trustee to use CUSIP numbers and ISINs in notices of redemption as a convenience to the holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

**The Issuers will furnish to any holder of Notes upon written request and without charge to the holder a copy of the Indenture which has in it the text of this Note.**

Exhibit A-13

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ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to:

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Note on the books of the Issuers. The agent may substitute another to act for him.

Date: \_\_\_\_\_ Your Signature: \_\_\_\_\_

Sign exactly as your name appears on the other side of this Note.

Signature Guarantee:

Date: \_\_\_\_\_ Signature of Signature Guarantee \_\_\_\_\_

Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor program reasonably acceptable to the Trustee

Exhibit A-14

CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR REGISTRATION OF TRANSFER RESTRICTED NOTES

144A CUSIP No. [ ]
144A ISIN No. [ ]
REG S CUSIP No. [ ]
REG S ISIN No. [ ]

This certificate relates to \$ principal amount of Notes held in (check applicable space) book-entry or definitive form by the undersigned.

The undersigned (check one box below):

- o has requested the Trustee by written order to deliver in exchange for its beneficial interest in the Global Note held by the Depository a Note or Notes in definitive, registered form of authorized denominations and an aggregate principal amount equal to its beneficial interest in such Global Note (or the portion thereof indicated above);
o has requested the Trustee by written order to exchange or register the transfer of a Note or Notes.

In connection with any transfer of any of the Notes evidenced by this certificate occurring while this Note is still a Transfer Restricted Definitive Note or a Transfer Restricted Global Note, the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

- (1) o to the Issuers; or
(2) o to the Registrar for registration in the name of the holder, without transfer; or
(3) o pursuant to an effective registration statement under the Securities Act of 1933; or
(4) o inside the United States to a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933; or
(5) o outside the United States in an offshore transaction within the meaning of Regulation S under the Securities Act in compliance with Rule 904 under the Securities Act of 1933 and such Note shall be held immediately after the transfer through Euroclear or Clearstream until the expiration of the Restricted Period (as

Exhibit A-15

defined in the Indenture); or

- (6) o to an institutional “accredited investor” (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933) that has furnished to the Trustee a signed letter containing certain representations and agreements in the form of Exhibit B to the Indenture; or
- (7) o pursuant to another available exemption from registration provided by Rule 144 under the Securities Act of 1933.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any Person other than the registered holder thereof; *provided, however*, that if box (5), (6) or (7) is checked, the Issuers or the Trustee may require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Issuers or the Trustee have reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933.

Date: \_\_\_\_\_ Your Signature: \_\_\_\_\_

Sign exactly as your name appears on the other side of this Note.

Signature Guarantee:

Date: \_\_\_\_\_  
 Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor program reasonably acceptable to the Trustee \_\_\_\_\_  
 Signature of Signature Guarantee

Exhibit A-16

TO BE COMPLETED BY PURCHASER IF (4) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act of 1933, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuers as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Date: \_\_\_\_\_  
 NOTICE: To be executed by an executive officer

Exhibit A-17

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The initial principal amount of this Global Note is \$ \_\_\_\_\_. The following increases or decreases in this Global Note have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount of this Global Note</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal amount of this Global Note following such decrease or increase</u>	<u>Signature of authorized signatory of Trustee or Notes Custodian</u>

Exhibit A-18

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuers pursuant to Section 4.06 (Asset Sale) or 4.08 (Change of Control) of the Indenture, check the box:

Asset Sale  Change of Control

If you want to elect to have only part of this Note purchased by the Issuers pursuant to Section 4.06 (Asset Sale) or 4.08 (Change of Control) of the Indenture, state the amount (minimum of \$2,000 or any integral multiple of \$1,000 in excess thereof):

\$ \_\_\_\_\_

Date: \_\_\_\_\_ Your Signature: \_\_\_\_\_  
 (Sign exactly as your name appears on the other side of this Note)

Signature Guarantee:

\_\_\_\_\_  
Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor program reasonably acceptable to the Trustee

Exhibit A-19

**EXHIBIT B**

**[FORM OF TRANSFEREE LETTER OF REPRESENTATION]**

**TRANSFEREE LETTER OF REPRESENTATION**

[EXELA INTERMEDIATE LLC.]  
[EXELA FINANCE INC.]  
c/o Wilmington Trust, National Association  
Global Capital Markets  
50 South Sixth Street, Suite 1290  
Minneapolis, MN 55402

Ladies and Gentlemen:

This certificate is delivered to request a transfer of \$[ ] principal amount of the 10.000% First-Priority Senior Secured Notes due 2023 (the "Notes") of [EXELA INTERMEDIATE LLC] and [EXELA FINANCE INC.] (collectively, with their successors and assigns, the "Issuers").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name:

Address:

Taxpayer ID Number:

The undersigned represents and warrants to you that:

1. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act")), purchasing for our own account or for the account of such an institutional "accredited investor" at least \$100,000 principal amount of the Notes, and we are acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we invest in or purchase securities similar to the Notes in the normal course of our business. We, and any accounts for which we are acting, are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes prior to the date that is one year after the later of the date of original issue and the last date on which either the Issuers or any affiliate of the Issuers was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date") only (a) in the United States to a person whom we reasonably believe is a qualified institutional buyer (as defined in rule 144A under the Securities Act) in a

Exhibit B-1

transaction meeting the requirements of Rule 144A, (b) outside the United States in an offshore transaction in accordance with Rule 904 of Regulation S under the Securities Act, (c) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if applicable) or (d) pursuant to an effective registration statement under the Securities Act, in each of cases (a) through (d) in accordance with any applicable securities laws of any state of the United States. In addition, we will, and each subsequent holder is required to, notify any purchaser of the Note evidenced hereby of the resale restrictions set forth above. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Notes is proposed to be made to an institutional "accredited investor" prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this letter to the Issuers and the Trustee, which shall provide, among other things, that the transferee is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act and that it is acquiring such Notes for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Issuers and the Trustee reserve the right prior to the offer, sale or other transfer prior to the Resale Restriction Termination Date of the Notes pursuant to clause 1(b), 1(c) or 1(d) above to require the delivery of an opinion of counsel, certifications or other information satisfactory to the Issuers and the Trustee.

Dated: \_\_\_\_\_

TRANSFEREE: \_\_\_\_\_,

By: \_\_\_\_\_

## [FORM OF SUPPLEMENTAL INDENTURE]

## SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture") dated as of [ ], among [SUBSIDIARY GUARANTOR] (the "New Subsidiary Guarantor"), a subsidiary of EXELA INTERMEDIATE LLC, a Delaware limited liability company (or its successor) (the "Company"), the Issuer, EXELA FINANCE INC., a Delaware corporation (the "Co-Issuer" and together with the Company, the "Issuers") and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association, as trustee under the indenture referred to below (the "Trustee").

## WITNESSETH:

WHEREAS, the Issuers, certain Subsidiary Guarantors and the Trustee have heretofore executed an indenture, dated as of July 12, 2017 (as amended, supplemented or otherwise modified, the "Indenture"), providing for the issuance of the Issuers' 10.000% First-Priority Senior Secured Notes due 2023 (the "Notes"), initially in the aggregate principal amount of \$1,000,000,000;

WHEREAS, Sections 4.11 and 12.07 of the Indenture provide that under certain circumstances the Issuers are required to cause the New Subsidiary Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which the New Subsidiary Guarantor shall unconditionally guarantee all the Issuers' Obligations under the Notes and the Indenture pursuant to a Subsidiary Guarantee on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee and the Issuers are authorized to execute and deliver this Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the New Subsidiary Guarantor, the Issuers and the Trustee mutually covenant and agree for the equal and ratable benefit of the holders of the Notes as follows:

1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined, except that the term "holders" in this Supplemental Indenture shall refer to the term "holders" as defined in the Indenture and the Trustee acting on behalf of and for the benefit of such holders. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular Section hereof.
2. Agreement to Guarantee. The New Subsidiary Guarantor hereby agrees, jointly and severally with all existing Subsidiary Guarantors (if any), to unconditionally guarantee the Issuers' Obligations under the Notes and the Indenture on the terms and subject to the conditions set forth in Article XII of the Indenture and to be bound by all other applicable

## Exhibit C-1

provisions of the Indenture and the Notes and to perform all of the obligations and agreements of a Subsidiary Guarantor under the Indenture.

3. Notices. All notices or other communications to the New Subsidiary Guarantor shall be given as provided in Section 14.02 of the Indenture.
4. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.
5. Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.**
6. Trustee Makes No Representation. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or as to the statements made in the recitals.
7. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.
8. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

[Remainder of page intentionally left blank.]

## Exhibit C-2

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

EXELA INTERMEDIATE LLC, as Issuer



By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

**EXELA FINANCE INC.**, as Co-Issuer

By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

**[NEW SUBSIDIARY GUARANTOR]**, as a Subsidiary Guarantor

By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

**WILMINGTON TRUST, NATIONAL ASSOCIATION**, not in its individual capacity, but solely as Trustee

By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

## FIRST SUPPLEMENTAL INDENTURE

FIRST SUPPLEMENTAL INDENTURE (this "Supplemental Indenture") dated as of July 12, 2017, among EXELA INTERMEDIATE LLC, a Delaware limited liability company (the "Company"), EXELA FINANCE INC., a Delaware corporation (the "Co-Issuer" and, together with the Company, the "Issuers"), the SUBSIDIARY GUARANTORS listed on the signature pages hereto (the "Guarantors") and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association, as trustee under the indenture referred to below (the "Trustee").

## WITNESSETH:

WHEREAS, the Issuers and the Trustee have heretofore executed an indenture, dated as of July 12, 2017 (as amended, supplemented or otherwise modified, the "Indenture"), providing for the issuance of the Issuers' 10.000% First-Priority Senior Secured Notes due 2023 (the "Notes"), initially in the aggregate principal amount of \$1,000,000,000;

WHEREAS, Sections 4.11 and 12.07 of the Indenture provide that under certain circumstances the Issuers are required to cause Guarantors to execute and deliver to the Trustee a supplemental indenture pursuant to which the Guarantors shall unconditionally guarantee all the Issuers' Obligations under the Notes and the Indenture pursuant to a Subsidiary Guarantee on the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee and the Issuers are authorized to execute and deliver this Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guarantors, the Issuers and the Trustee mutually covenant and agree for the equal and ratable benefit of the holders of the Notes as follows:

1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined, except that the term "holders" in this Supplemental Indenture shall refer to the term "holders" as defined in the Indenture and the Trustee acting on behalf of and for the benefit of such holders. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular Section hereof.

2. Agreement to Guarantee. Each of the Guarantors hereby agrees, jointly and severally with all existing Guarantors (if any), to unconditionally guarantee the Issuers' Obligations under the Notes and the Indenture on the terms and subject to the conditions set forth in Article XII of the Indenture and to be bound by all other applicable provisions of the Indenture and the Notes and to perform all of the obligations and agreements of a Subsidiary Guarantor under the Indenture.

3. Notices. All notices or other communications to each of the Guarantors shall be given as provided in Section 13.02 of the Indenture.

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4. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

5. Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.**

6. Trustee Makes No Representation. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture or as to the statements made in the recitals.

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

8. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction thereof.

[Remainder of page intentionally left blank.]

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

EXELA INTERMEDIATE LLC

By: /s/ Ronald Cogburn  
 Name: Ronald Cogburn  
 Title: President

EXELA FINANCE INC.

By: /s/ Ronald Cogburn

Name: Ronald Cogburn

Title: President

[Signature Page to Supplemental Indenture]

**SOURCEHOV HOLDINGS, INC.  
SOURCEHOV LLC  
CORPSOURCE HOLDINGS, LLC  
SOURCECORP, INCORPORATED  
SOURCECORP BPS INC.  
SOURCECORP BPS NORTHERN CALIFORNIA INC.  
UNITED INFORMATION SERVICES, INC.  
ECONOMIC RESEARCH SERVICES, INC.  
SOURCECORP LEGAL INC.  
RUST CONSULTING, INC.  
SOURCEHOV HEALTHCARE, INC.  
SOURCEHOV TAX, INC.  
KINSELLA MEDIA LLC  
HOV SERVICES, LLC  
HOV ENTERPRISE SERVICES, INC.  
MERIDIAN CONSULTING GROUP, LLC  
RUSTIC CANYON III, LLC  
HOV SERVICES, INC.  
CHARTER LASON, INC.  
LASON INTERNATIONAL, INC.  
OMNI MANAGEMENT ACQUISITION CORP.  
SOURCECORP MANAGEMENT, INC.  
PANGEA ACQUISITIONS INC.  
BANCTEC GROUP LLC  
BANCTEC, INC.  
BANCTEC (PUERTO RICO), INC.  
DOCUDATA SOLUTIONS, L.C.  
BTC VENTURES, INC.  
RECOGNITION MEXICO HOLDING INC.  
BTC INTERNATIONAL HOLDINGS, INC.  
DFG2 HOLDINGS, LLC  
DFG2, LLC  
DFG UK, LLC  
HOVG, LLC  
HOVG SRL HOLDINGS, LLC  
MANAGED CARE PROFESSIONALS, LLC  
BANCTEC INTERMEDIATE HOLDING, INC.  
TRAC HOLDINGS, LLC**

each as a Subsidiary Guarantor

By: /s/ Shrikant Sortur

Name: Shrikant Sortur

Title: Senior Vice President Finance, Global

[Signature Page to Supplemental Indenture]

**FTS PARENT INC.  
TRANSCENTRA, INC.  
J & B SOFTWARE, INC.  
REGULUS HOLDING INC.  
REGULUS GROUP LLC  
REGULUS GROUP II LLC  
REGULUS AMERICA LLC  
REGULUS INTEGRATED SOLUTIONS LLC  
REGULUS TRI-STATE LLC  
REGULUS WEST LLC**

each as a Subsidiary Guarantor

By: /s/ Vik Negi  
Name: Vik Negi  
Title: Secretary

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**RC4 CAPITAL, LLC**

as a Subsidiary Guarantor

By: /s/ Ronald Cogburn  
Name: Ronald Cogburn  
Title: President

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[Signature Page to Supplemental Indenture]

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**NOVITEX HOLDINGS, INC.**  
**NOVITEX INTERMEDIATE, LLC**  
**NOVITEX ACQUISITION, LLC**  
**NOVITEX ENTERPRISE SOLUTIONS, INC.**  
**NOVITEX GOVERNMENT SOLUTIONS, LLC**

each as a Subsidiary Guarantor

By: /s/ Theresa Mohan  
Name: Theresa Mohan  
Title: Executive Vice President, General  
Counsel, Chief Human Resources Officer and Secretary

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**IBIS CONSULTING, INC.**  
**SIG-GP, L.L.C., A LIMITED LIABILITY COMPANY**  
**SERVICES INTEGRATION GROUP, L.P.**

By: SIG-GP, L.L.C., a Limited Liability Company,  
its general partner

each as a Subsidiary Guarantor

By: /s/ Theresa Mohan  
Name: Theresa Mohan  
Title: Executive Vice President, General Counsel and Secretary

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[Signature Page to Supplemental Indenture]

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**WILMINGTON TRUST, NATIONAL ASSOCIATION**, not in its  
individual capacity, but solely as Trustee

By: /s/ Jane Schweiger  
Name: Jane Schweiger  
Title: Vice President

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[Signature Page to Supplemental Indenture]

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**FIRST LIEN CREDIT AGREEMENT**

dated as of July 12, 2017

among

EXELA INTERMEDIATE HOLDINGS LLC,  
as Holdings,EXELA INTERMEDIATE LLC,  
as Borrower,

THE LENDERS PARTY HERETO

and

ROYAL BANK OF CANADA,  
as Administrative Agent and Collateral AgentRBC CAPITAL MARKETS(1),  
CREDIT SUISSE SECURITIES (USA) LLC,  
NATIXIS, NEW YORK BRANCH

and

KKR CAPITAL MARKETS LLC,  
as Joint Lead Arrangers and Joint Bookrunners

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(1) RBC Capital Markets is a brand name for the capital markets activities of Royal Bank of Canada and its affiliates.

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## FIRST LIEN CREDIT AGREEMENT

This **FIRST LIEN CREDIT AGREEMENT**, dated as of July 12, 2017 (this “**Agreement**”), is made by and among EXELA INTERMEDIATE HOLDINGS LLC, a Delaware limited liability company and a Wholly Owned Subsidiary (as hereinafter defined) of Parent (as hereinafter defined) (“**Holdings**”), EXELA INTERMEDIATE LLC, a Delaware limited liability company and a Wholly Owned Subsidiary of Holdings (the “**Borrower**”), the Lenders (as hereinafter defined) from time to time party hereto, ROYAL BANK OF CANADA, as administrative agent (in such capacity, the “**Administrative Agent**”) and as collateral agent (in such capacity, the “**Collateral Agent**”) for the Lenders, with RBC CAPITAL MARKETS(2), CREDIT SUISSE SECURITIES (USA) LLC, NATIXIS, NEW YORK BRANCH and KKR CAPITAL MARKETS LLC, as joint lead arrangers and joint bookrunners (in such capacities, each, a “**Joint Lead Arranger**” and together, the “**Joint Lead Arrangers**”).

WHEREAS, Quinpario Acquisition Corp. 2 (to be renamed Exela Technologies, Inc. upon consummation of the Business Combination), a Delaware corporation (“**Parent**”), Quinpario Merger Sub I, Inc., a Delaware corporation (“**SourceHOV Merger Sub**”), Quinpario Merger Sub II, Inc., a Delaware corporation (“**Novitex Merger Sub**”), Novitex Holdings, Inc., a Delaware corporation (“**Novitex**”), SourceHOV Holdings, Inc., a Delaware corporation (“**SourceHOV**” and together with Novitex, each a “**Company**” and, collectively, the “**Companies**”), Novitex Parent, L.P. (“**Novitex Parent**”), HOVS LLC and HandsOn Fund 4 I, LLC (collectively, the “**HCM Group**”) entered into the Business Combination Agreement (as hereinafter defined) pursuant to which (i) Novitex Merger Sub will merge with and into Novitex, with Novitex surviving as a Wholly Owned Subsidiary of the Borrower (the “**Novitex Merger**”) and (ii) SourceHOV Merger Sub will merge with and into SourceHOV, with SourceHOV surviving as a Wholly Owned Subsidiary of the Borrower (the “**SourceHOV Merger**”);

WHEREAS, in connection with the consummation of the transactions contemplated by the Business Combination Agreement, the Borrower has requested the Lenders to extend credit as set forth herein;

NOW, THEREFORE, the Lenders and the Issuing Banks (as hereinafter defined) are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

(2) RBC Capital Markets is a brand name for the capital markets activities of Royal Bank of Canada and its affiliates.

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## ARTICLE I DEFINITIONS

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

“**ABR**” shall mean, for any day, a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate in effect for such day plus 0.50%, (b) the Prime Rate in effect on such day and (c) the Adjusted Eurocurrency Rate for a one-month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1.00%; provided that, for the avoidance of doubt, the Eurocurrency Rate for any day shall be based on the rate determined on such day at approximately 11:00 a.m. (London time) by reference to the ICE Benchmark Administration Interest Settlement Rates (or the successor thereto if the ICE Benchmark Administration is no longer making a Eurocurrency Rate available) for deposits in Dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the ICE Benchmark Administration (or the successor thereto if the ICE



Benchmark Administration is no longer making a Eurocurrency Rate available) as an authorized vendor for the purpose of displaying such rates). Any change in such rate due to a change in the Prime Rate, the Federal Funds Rate or the Adjusted Eurocurrency Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Rate or the Adjusted Eurocurrency Rate, as the case may be.

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

“**ABR Loan**” shall mean any ABR Term Loan or any ABR Revolving Loan to the Borrower.

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

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

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

“**Additional Mortgage**” shall have the meaning assigned to such term in Section 5.11(c)(i).

“**Adjusted Eurocurrency Rate**” shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum equal to the greater of (x) (a) the Eurocurrency Rate in effect for such Interest Period divided by (b) one minus the Statutory Reserves applicable to such Eurocurrency Borrowing, if any; provided that if such interest rate shall be less than zero pursuant to this clause (x), such interest rate shall be deemed to be zero and (y) in the case of Eurocurrency Borrowings composed of Eurocurrency Term Loans, 1.00%

“**Adjustment Date**” shall have the meaning assigned to such term in the definition of “Pricing Grid.”

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“**Administrative Agent**” shall have the meaning assigned to such term in the preamble hereto, together with its successors and assigns.

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

“**Affiliate**” shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

“**Affiliate Lender**” shall have the meaning assigned to such term in Section 9.24(a).

“**Agent Parties**” shall have the meaning assigned to such term in Section 9.19(c).

“**Agents**” shall mean the Administrative Agent and the Collateral Agent.

“**AGNL Lease**” means the Lease Agreement, dated as of November 15, 2010, between AGNL Processing, L.L.C. and BancTec, Inc., as amended, restated or otherwise modified from time to time.

“**Agreement**” shall have the meaning assigned to such term in the preamble hereto, as may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“**All-in Yield**” shall mean, as to any Loans (or Pari Term Loans, if applicable), the yield thereon payable to all Lenders (or other lenders, as applicable) providing such Loans (or Pari Term Loans, if applicable) in the primary syndication thereof, as reasonably determined by the Administrative Agent in consultation with the Borrower, whether in the form of interest rate, margin, original issue discount, up-front fees, rate floors or otherwise; provided that original issue discount and up-front fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the life of such Loans (or Pari Term Loans, if applicable)); and provided, further, that “All-in Yield” shall not include arrangement, commitment, underwriting, structuring or similar fees and customary consent fees for an amendment paid generally to consenting lenders.

“**Alternate Currency**” shall mean (i) with respect to any Letter of Credit, Canadian Dollars, Euros, Pound Sterling and Australian Dollars and any other currency other than Dollars as may be acceptable to the Administrative Agent and the Issuing Bank with respect thereto in their sole discretion and (ii) with respect to any Loan, any currency other than Dollars that is approved in accordance with Section 1.06.

“**Alternate Currency Equivalent**” shall mean, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternate Currency as determined by the Administrative Agent or the applicable Issuing Bank, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternate Currency with Dollars.

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“**Alternate Currency Letter of Credit**” shall mean any Letter of Credit denominated in an Alternate Currency.

“**Alternate Currency Loan**” shall mean any Loan denominated in an Alternate Currency.

“**Anti-Corruption Laws**” shall have the meaning assigned to such term in Section 3.24.

“**Applicable Commitment Fee**” shall mean for any day (i) with respect to any Revolving Facility Commitments relating to Initial Revolving Facility Loans, 0.50% per annum; provided, however, that on and after the first Adjustment Date occurring after delivery of the financial statements and certificates required by Section 5.04 upon the completion of one full fiscal quarter of the Borrower after the Closing Date, the “Applicable Commitment Fee”

will be determined pursuant to the Pricing Grid, or (ii) with respect to any Other Revolving Facility Commitments, the “Applicable Commitment Fee” set forth in the applicable Incremental Assumption Agreement.

“**Applicable Date**” shall have the meaning assigned to such term in Section 9.09(f).

“**Applicable Margin**” shall mean for any day (i) with respect to any Term B Loan, 7.50% *per annum* in the case of any Eurocurrency Loan and 6.50% *per annum* in the case of any ABR Loan, (ii) with respect to any Initial Revolving Facility Loan, 7.00% per annum in the case of any Eurocurrency Loan and 6.00% per annum in the case of any ABR Loan; *provided, however*, that on and after the first Adjustment Date occurring after delivery of the financial statements and certificates required by Section 5.04 upon the completion of one full fiscal quarter of the Borrower after the Closing Date, the “Applicable Margin” with respect to an Initial Revolving Facility Loan will be determined pursuant to the Pricing Grid, and (iii) with respect to any Other Term Loan or Other Revolving Facility Loan, the “Applicable Margin” set forth in the Incremental Assumption Agreement relating thereto.

“**Applicable Percentage**” shall mean, (a) in respect of the Term B Loans, with respect to any Term B Lender at any time, the percentage (carried out to the ninth decimal place) of the Term B Loans represented by (i) such Term B Lender’s Term B Loan Commitment at such time and (ii) thereafter, the principal amount of such Term B Lender’s Term B Loans at such time, (b) in respect of the Other Term Loans, with respect to any Incremental Term Loan Lender at any time, the percentage (carried out to the ninth decimal place) of the Other Term Loans represented by (i) such Incremental Term Loan Lender’s Incremental Term Loan Commitment at such time and (ii) thereafter, the principal amount of such Incremental Term Loan Lender’s Other Term Loans at such time and (c) in respect of any Class of Revolving Facility Loans, with respect to any Revolving Facility Lender of such Class at any time, the percentage (carried out to the ninth decimal place) of the Revolving Facility Loans of such Class represented by such Revolving Facility Lender’s Revolving Facility Commitment at such time. If the commitment of any Revolving Facility Lender to make Revolving Facility Loans of any Class and the obligation of the Issuing Banks to make L/C Advances have been terminated pursuant to Section 7.01, or if the Revolving Facility Commitments of such Class have expired,

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then the Applicable Percentage of each Revolving Facility Lender in respect of such Class of Revolving Facility Loans shall be determined based on the relative amounts of such Revolving Facility Lender’s Revolving Facility Exposures of such Class in respect of the total Revolving Facility Exposure of such Class most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Acceptance pursuant to which such Lender becomes a party hereto, as applicable.

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

“**Asset Sale**” shall mean any Disposition (including any sale and leaseback of assets and any mortgage or lease of Real Property) to any person of, any asset or assets of the Borrower or any Subsidiary.

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

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

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

“**Available Free Cash Flow Amount**” shall mean, at any time of determination, an amount, not less than zero in the aggregate, determined on a cumulative basis equal to, without duplication:

(a) \$50,000,000, plus

(b) the Cumulative Retained Excess Cash Flow Amount on such date of determination, plus

(c) (i) the aggregate amount of proceeds received after the Closing Date and prior to such date of determination that would have constituted Net Proceeds pursuant to clause (a) of the definition thereof except for the operation of clause (x) or (y) of the second proviso thereof (the “**Below Threshold Asset Sale Proceeds**”) and (ii) the aggregate amount of any Declined Proceeds, plus

(d) the Cumulative Equity Proceeds Amount on such date of determination, plus

(e) the aggregate principal amount of any Indebtedness (including the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock) of the Borrower or any Subsidiary thereof issued after the Closing Date (other than Indebtedness issued to a Subsidiary), which has been converted into or exchanged for Qualified Equity Interests in the Borrower, Holdings or any Parent Entity; plus

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(f) in the event any Unrestricted Subsidiary has been redesignated as a Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into, the Borrower or any Subsidiary, the Fair Market Value (as determined in good faith by the Borrower) of the Investments of the Borrower or any Subsidiary in such Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable); plus

(g) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received by the Borrower or any Subsidiary in respect of any Investments made pursuant to Section 6.04(j)(Y) to the extent not otherwise applied pursuant to Section 6.04(j)(Z), minus

(h) the cumulative amount of Investments pursuant to Section 6.04(j)(Y) from and after the Closing Date and on or prior to such time, minus

(i) the cumulative amount of all dividends paid and distributions made pursuant to Section 6.06(h) from and after the Closing Date and on or prior to such time, minus

(j) the cumulative amount of the Available Free Cash Flow Amount immediately prior to the time of such determination used to repay, repurchase, redeem, acquire, cancel or terminate Indebtedness pursuant to Section 6.09(b)(i)(E) from and after the Closing Date and on or prior to such time (other than payments made with proceeds from the issuance of Equity Interests that were excluded from the Cumulative Equity Proceeds Amount);

provided, however, (A) for purposes of Section 6.06(h), the calculation of the Available Free Cash Flow Amount shall not include any Below Threshold Asset Sale Proceeds except to the extent they are used as contemplated in clauses (h) and (j) above, and (B) Available Free Cash Flow Amount shall only be increased pursuant to clause (b) above to the extent that Excess Cash Flow for any Excess Cash Flow Period exceeds the ECF Threshold Amount (or, with respect to any Excess Cash Flow Interim Period, a pro rata portion of such amount).

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

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

“**Bail-In Legislation**” shall mean, 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.

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

“**Board of Directors**” shall mean, as to any person, the board of directors or managers or other governing body, as applicable, of such person (or, if such person is owned or managed by a single entity, the board of directors or other governing body of such entity) or any duly authorized committee thereof.

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

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

“**Borrowing Minimum**” shall mean \$1,000,000.

“**Borrowing Multiple**” shall mean \$250,000.

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

“**Budget**” shall have the meaning assigned to such term in Section 5.04(e).

“**Business Combination**” shall mean, collectively, the Reorganization, the SourceHOV Merger and the Novitex Merger.

“**Business Combination Agreement**” shall mean the Business Combination Agreement, dated as of February 21, 2017, by and among Parent, SourceHOV Merger Sub, Novitex Merger Sub, Novitex, SourceHOV, Novitex Parent and HCM Group, and any other agreements or instruments contemplated thereby, in each case, as may be amended, amended and restated, supplemented, reaffirmed or otherwise modified from time to time.

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

“**Capital Expenditures**” shall mean, for any person in respect of any period, the aggregate of all expenditures incurred by such person during such period that, in accordance with GAAP, are or should be included in “*additions to property, plant or equipment*” or similar items reflected in the statement of cash flows of such person.

“**Capitalized Lease Obligations**” shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the

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footnotes thereto) in accordance with GAAP; provided that obligations of the Borrower or its Subsidiaries, or of a special purpose or other entity not consolidated with the Borrower and its Subsidiaries, either existing on the Closing Date or created thereafter that (a) initially were not included on the

consolidated balance sheet of the Borrower as capital lease obligations and were subsequently recharacterized as capital lease obligations or, in the case of such a special purpose or other entity becoming consolidated with the Borrower and its Subsidiaries were required to be characterized as capital lease obligations upon such consolidation, in either case, due to a change in accounting treatment or otherwise, or (b) did not exist on the Closing Date and were required to be characterized as capital lease obligations but would not have been required to be treated as capital lease obligations on the Closing Date had they existed at that time, shall for all purposes not be treated as Capitalized Lease Obligations or Indebtedness.

“**Capitalized Software Expenditures**” shall mean, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a person during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in accordance with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of such person and its subsidiaries.

“**Cash Collateralize**” shall mean to pledge and deposit with or deliver to the Collateral Agent, for the benefit of the Administrative Agent, any applicable Issuing Bank and the Lenders, as collateral for unreimbursed L/C Disbursements or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the Administrative Agent and each applicable Issuing Bank benefitting from such collateral shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) each applicable Issuing Bank. “**Cash Collateral**”, “**Cash Collateralization**” and “**Cash Collateralized**” shall have meanings correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“**Cash Interest Expense**” shall mean, with respect to any person on a consolidated basis for any period, Interest Expense for such period to the extent such amounts are paid in cash for such period, *less*, without duplication, the *sum* of (a) pay-in-kind Interest Expense or other noncash Interest Expense (including as a result of the effects of purchase accounting), (b) to the extent included in Interest Expense, the amortization of any financing fees paid by, or on behalf of, the Borrower or any Subsidiary, including such fees paid in connection with the Transactions or upon entering into a Permitted Securitization Financing, (c) the amortization of debt discounts, if any, fees or breakage costs in respect of Swap Agreements, (d) cash interest income of the Borrower and the Subsidiaries for such period and (e) any other expenses included in Interest Expense not paid in cash; *provided* that Cash Interest Expense shall exclude any one-time financing fees paid in connection with the Transactions or any other Indebtedness permitted to be incurred under this Agreement or upon entering into a Permitted Securitization Financing or one-time amendment fees paid in connection with any amendment of this Agreement or any other Indebtedness.

“**Cash Management Agreement**” shall mean any agreement to provide to Holdings, the Borrower or any Subsidiary cash management services for collections, treasury management services (including controlled disbursement, overdraft, automated clearing house

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fund transfer services, return items and interstate depository network services), any demand deposit, payroll, trust or operating account relationships, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

“**Cash Management Bank**” shall mean any person that, at the time it enters into a Cash Management Agreement (or on the Closing Date), is an Agent, a Joint Lead Arranger, a Lender or an Affiliate of any such person, in each case, in its capacity as a party to such Cash Management Agreement.

“**Casualty Event**” shall mean any involuntary loss of title or any involuntary loss of, or casualty or damage to, or destruction of, or any condemnation or other taking (including by any Governmental Authority) or similar proceeding of, any equipment, fixed assets, or real property (including any improvements thereon) of Borrower or any Restricted Subsidiary.

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

A “**Change in Control**” shall be deemed to occur if:

(a) any person, entity or “group” (within the meaning of Section 13(d) or 14(d) of the Exchange Act, but excluding any employee benefit plan of such person, entity or “group” and its subsidiaries and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), other than the Permitted Holders (or any holding company parent of the Borrower owned directly or indirectly by the Permitted Holders), shall at any time have acquired direct or indirect beneficial ownership (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) of voting power of the outstanding Voting Stock of the Borrower having more than the greater of (A) 35% of the ordinary voting power for the election of directors of the Borrower and (B) the percentage of the ordinary voting power for the election of directors of the Borrower owned in the aggregate, directly or indirectly, beneficially, by the Permitted Holders, unless in the case of this clause (a), the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the members of the Board of Directors of the Borrower; or

(b) a “Change in Control” (as defined in (i) the Senior Secured Notes Indenture until the discharge or the redemption of the same, (ii) any indenture or credit agreement in respect of Permitted Refinancing Indebtedness with respect to the Senior Secured Notes constituting Material Indebtedness or (iii) any indenture or credit agreement in respect of any Junior Financing constituting Material Indebtedness) shall have occurred; or

(c) Holdings shall fail to own, directly or indirectly, beneficially and of record, 100% of the issued and outstanding Equity Interests of the Borrower.

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For purposes of this definition, (i) no person or “group” will be deemed to have beneficial ownership of any securities that such person or “group” has the right to acquire or vote only upon the happening of any future event or contingency (including the passage of time) that has not yet occurred and (ii) the provisions of Rule 13d-3(b) shall be disregarded for all purposes of determining beneficial ownership.

“**Change in Law**” shall mean (a) the adoption of any law, rule or regulation after the Closing Date (or, if later, such date a Lender becomes a party to this Agreement), (b) any change in law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the

Closing Date (or, if later, such date a Lender becomes a party to this Agreement) or (c) compliance by any Lender or any Issuing Bank (or, for purposes of Section 2.15(b), by any Lending Office of such Lender or by such Lender's or Issuing Bank's holding company, if any) with any written request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date (or, if later, such date a Lender becomes a party to this Agreement); *provided, however*, for purposes of this Agreement, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America regulatory authorities, in each case pursuant to Basel III, shall in each case described in clauses (x) and (y) above, be deemed to be a Change in Law, regardless of the date enacted, adopted, issued or implemented, but only to the extent a Lender is imposing applicable increased costs or costs in connection with capital adequacy requirements similar to those described in clauses (a) and (b) of Section 2.15 generally on other borrowers of loans under United States of America cash flow term loan credit facilities.

“**Charges**” shall have the meaning assigned to such term in Section 9.10.

“**Claims Administration Arrangements**” shall mean any and all arrangements entered into by the Borrower or any of its Subsidiaries and any Claims Administration Bank whereby short-term loans (which loans shall be secured solely by Claim Administration Liens) are made by such Claims Administration Bank to the Borrower or any of its Subsidiaries; provided that the proceeds of such loans are deposited in one or more segregated deposit or securities accounts and are solely used to purchase Claims Administration Investments (which shall be held in such segregated accounts) and pay transaction costs in connection therewith.

“**Claims Administration Bank**” shall mean any third-party financial institution meeting the qualifications specified in clause (b) of the definition of “Permitted Investments” (or otherwise reasonably acceptable to the Administrative Agent) that is designated by the Borrower or any of its Subsidiaries to hold and distribute certain legal settlement funds administered by the Borrower or its Subsidiaries in connection with the Borrower's claims administration business.

“**Claims Administration Indebtedness**” shall mean Indebtedness for borrowed money of the Borrower or any of its Subsidiaries in favor of the Claims Administration Bank in respect of loans made pursuant to Claims Administration Arrangements.

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“**Claims Administration Investments**” shall mean Permitted Investments invested with proceeds of Claims Administration Indebtedness.

“**Claims Administration Liens**” shall mean Liens in favor of the Claims Administration Bank on Claims Administration Investments and related segregated deposit and securities accounts securing Claims Administration Indebtedness solely to the extent the amount of such Claims Administration Investment equals or exceeds the amount of such Claims Administration Indebtedness.

“**Class**” shall mean (a) when used in reference to any Loan or Borrowing, whether such Loan, or the Loans comprising such Borrowing, are Initial Revolving Facility Loans, Term B Loans, Other Revolving Facility Loans, Other Term Loans, Extended Revolving Loans, Refinancing Term Loans or Replacement Revolving Loans and (b) when used in reference to any Commitment, refers to whether such Commitment is in respect of a commitment to make Initial Revolving Facility Loans, Term B Loans, Other Revolving Facility Loans, Other Term Loans, Extended Revolving Loans, Refinancing Term Loans or Replacement Revolving Loans. Other Term Loans (together with the Incremental Term Loan Commitments in respect thereof), Other Revolving Facility Loans (together with the Incremental Revolving Facility Commitments in respect thereof), Extended Revolving Loans, Refinancing Term Loans and Replacement Revolving Loans that have different terms and conditions shall be construed to be in different Classes.

“**Class Loans**” shall have the meaning assigned to such term in Section 9.09(f).

“**Closing Date**” shall mean July 12, 2017.

“**Closing Date Material Adverse Effect**” shall mean any event, change, development or effect that, individually or in the aggregate with all other events, changes, developments or effects, has had, or would reasonably be expected to have, a material adverse effect upon (a) the assets, liabilities, condition (financial or otherwise), the business or results of operations of the Company Group, taken as a whole, or (b) the ability of the Company to consummate the transactions contemplated hereunder in accordance with the terms and subject to the conditions set forth herein; *provided* that the following shall not be taken into account in determining whether a “Closing Date Material Adverse Effect” shall have occurred: (i) any national, international or any foreign or domestic regional economic, financial, social or political conditions (including changes therein) or events in general, including the results of any primary or general elections, (ii) changes in any financial, debt, credit, capital or banking markets or conditions (including any disruption thereof), (iii) changes in interest, currency or exchange rates or the price of any commodity, security or market index, (iv) changes in legal or regulatory conditions, including changes or proposed changes in Law, GAAP or other accounting principles or requirements, or standards, interpretations or enforcement thereof, (v) changes that are generally applicable to the industries in which the Company Group operates or seasonal fluctuations in the Businesses, (vi) any change in the market price or trading volume of any securities or indebtedness of any member of the Company Group or any of their respective Affiliates (it being understood that the underlying causes of such change may, if they are not otherwise excluded from the definition of “Closing Date Material Adverse Effect”, be taken into account in determining whether a Closing Date Material Adverse Effect has occurred), (vii) any

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change in, or failure of the Company Group to meet, or the publication of any report regarding, any internal or public projections, forecasts, budgets or estimates of or relating to the Company Group for any period, including with respect to revenue, earnings, cash flow or cash position (it being understood that the underlying causes of such decline or failure may, if they are not otherwise excluded from the definition of “Closing Date Material Adverse Effect,” be taken into account in determining whether a Closing Date Material Adverse Effect has occurred), (viii) the occurrence, escalation, outbreak or worsening of any hostilities, war, police action, acts of terrorism or military conflicts, whether or not pursuant to the declaration of an emergency or war, (ix) the existence, occurrence or continuation of any force majeure events, including any earthquakes, floods, hurricanes, tropical storms, fires or other natural disasters or any national, international or regional calamity, (x) any Action arising from or relating to the Business Combination Agreement or the transactions contemplated by the Business Combination Agreement, (xi) the execution, announcement, performance or existence of the Business Combination Agreement, the identity of the parties hereto or any of their respective Affiliates, Representatives or financing sources, the taking or not taking of any action to the extent required by

the Business Combination Agreement or the pendency or contemplated consummation of the transactions contemplated by the Business Combination Agreement, including any actual or potential loss or impairment after the date of the Business Combination Agreement of any Contract or any Customer, supplier, landlord, partner, employee or other business relation due to any of the foregoing in this clause (it being understood that the factors giving rise to or contributing to any such adverse change under *clause (xi)* that are not otherwise excluded from the definition of "Closing Date Material Adverse Effect" may be deemed to constitute, or be taken into account in determining whether there has been or would be reasonably likely to have been, a Closing Date Material Adverse Effect), (xii) compliance by the Company Group with the terms of the Business Combination Agreement, including the failure to take any action restricted by the Business Combination Agreement (but excluding effects resulting from the Closing), (xiii) any actions taken, or not taken, with the consent, waiver or at the request of Parent, Novitex Merger Sub or SourceHOV Merger Sub or any action taken to the extent expressly permitted by the Business Combination Agreement, (xiv) any actions taken by Parent, Novitex Merger Sub, SourceHOV Merger Sub or any of their respective Affiliates or any of their respective Representatives or financing sources after the date of the Business Combination Agreement, (xv) any matters disclosed in the Disclosure Schedules, disclosed to Parent, Novitex Merger Sub or SourceHOV Merger Sub or any of their respective Affiliates or Representatives; *provided, however*, that with respect to each of *clauses (i)* through *(y)*, any event, development, occurrence, fact, condition, or change referred to above shall be taken into account in determining whether a Closing Date Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, development, occurrence, fact, condition, or change has a disproportionate effect on the Company Group compared to other participants in the industries in which the Company Group primarily conducts its business. Capitalized terms used in this definition of "Closing Date Material Adverse Effect," other than the definition of "Business Combination Agreement," shall have the same meaning set forth in the Business Combination Agreement as in effect on the date of the Business Combination Agreement.

"**Closing Date Mortgaged Properties**" shall have the meaning assigned to such term in the definition of "Mortgaged Properties."

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

"**Co-Investors**" shall mean each of (a) the Investors and the Investor Affiliates (excluding any of their portfolio companies) and (b) the Management Group.

"**Collateral**" shall mean all the "**Collateral**" as defined in any Security Document and shall also include the Mortgaged Properties and all other property that is or is intended to be subject to any Lien in favor of the Administrative Agent, the Collateral Agent or any sub-agent for the benefit of the Secured Parties pursuant to any Security Document.

"**Collateral Agent**" shall have the meaning assigned to such term in the *preamble* hereto, together with its successors and assigns.

"**Collateral Agreement**" shall mean the Collateral Agency and Security Agreement (First Lien), dated as of the Closing Date, as may be amended, amended and restated, supplemented, reaffirmed or otherwise modified from time to time, among the Borrower, each Subsidiary Loan Party and the Collateral Agent.

"**Collateral and Guarantee Requirement**" shall mean the requirement that (in each case subject to the last paragraph of *Section 4.02*, *Sections 5.11(d)*, *(e)* and *(g)* and *Schedule 5.13*):

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

(b) on the Closing Date, (i)(x) all outstanding Equity Interests of the Borrower and all other outstanding Equity Interests, in each case, directly owned by the Loan Parties, other than Excluded Securities, and (y) all Indebtedness owing to any Loan Party, other than Excluded Securities, shall have been, in each case, pledged pursuant to the Collateral Agreement or the Holdings Guarantee and Pledge Agreement, as applicable, and (ii) the Collateral Agent shall have received certificates or other instruments (if any) representing such Equity Interests (other than certificates or instruments issued by subsidiaries of the Borrower that are not received from the Companies on or prior to the Closing Date after using commercially reasonable efforts) and any notes or other instruments required to be delivered pursuant to the applicable Security Documents, together with stock powers, note powers or other instruments of transfer (if any) with respect thereto endorsed in blank;

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

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(d) after the Closing Date, (x) all outstanding Equity Interests of any person that becomes a Subsidiary Loan Party after the Closing Date and (y) subject to *Section 5.11(g)*, all Equity Interests directly acquired by the Borrower or a Subsidiary Loan Party (and any Equity Interests of the Borrower directly acquired by Holdings) after the Closing Date, other than Excluded Securities, shall have been pledged pursuant to the Collateral Agreement (or the Holdings Guaranty and Pledge Agreement, as applicable), together with stock powers or other instruments of transfer (if any) with respect thereto endorsed in blank;

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

(f) within (x) 90 days after the Closing Date with respect to each Closing Date Mortgaged Property set forth on Schedule 1.01(e) (or on such later date as the Administrative Agent may agree in its reasonable discretion) and (y) within the time periods set forth in Section 5.11 with respect to Mortgaged Properties encumbered pursuant to said Section 5.11, the Collateral Agent shall have received (i) counterparts of each Mortgage to be entered into with respect to each such Mortgaged Property duly executed and delivered by the applicable Loan Party and suitable for recording or filing in all filing or recording offices that the Administrative Agent may reasonably deem necessary or desirable in order to create a valid and enforceable Lien subject to no other Liens except Permitted Liens, at the time of recordation thereof, (ii) with respect to the Mortgage encumbering each such Mortgaged Property, opinions of counsel regarding the enforceability, due authorization, execution and delivery of the Mortgages and such other matters customarily covered in real estate counsel opinions as the Administrative Agent may reasonably request, in form and substance reasonably acceptable to the Administrative Agent, (iii) with respect to each such Mortgaged Property, the Flood Documentation and (iv) such other documents as the Administrative Agent may reasonably request that are available to the Borrower without material expense with respect to any such Mortgage or Mortgaged Property;

(g) within (x) 90 days after the Closing Date with respect to each Closing Date Mortgaged Property set forth on Schedule 1.01(e) (or on such later date as the Administrative Agent may agree in its reasonable discretion) and (y) within the time periods set forth in Section 5.11 with respect to Mortgaged Properties encumbered pursuant to said Section 5.11, the Collateral Agent shall have received (i) a policy or policies or marked up unconditional binders of title insurance with respect to properties located in the United States of America, or a date down and modification endorsement, if

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available, paid for by the Borrower at a premium payable based upon the lesser of the appraised value of the Mortgaged Property and the principal amount of the Loans secured by such Mortgaged Property, issued by a nationally recognized title insurance company insuring the Lien of each Mortgage as a valid Lien on the Mortgaged Property described therein, free of any other Liens except Permitted Liens, together with such customary endorsements, coinsurance and reinsurance as the Administrative Agent may reasonably request and which are available at commercially reasonable rates in the jurisdiction where the applicable Mortgaged Property is located and (ii) a survey of each Mortgaged Property located in the United States of America (including all improvements, easements and other customary matters thereon reasonably required by the Administrative Agent), as applicable, for which all necessary fees (where applicable) have been paid, which is (A) complying in all material respects with the minimum detail requirements of the American Land Title Association and American Congress of Surveying and Mapping as such requirements are in effect on the date of preparation of such survey and (B) sufficient for such title insurance company to remove all standard survey exceptions from the title insurance policy relating to such Mortgaged Property and to issue the customary and available survey related endorsements or otherwise reasonably acceptable to the Administrative Agent;

(h) the Collateral Agent shall have received evidence of the insurance required by the terms of Section 5.02 hereof; and

(i) after the Closing Date, the Collateral Agent shall have received (i) such other Security Documents as may be required to be delivered pursuant to Section 5.11 or the Collateral Agreement, and (ii) upon reasonable request by the Administrative Agent, evidence of compliance with any other requirements of Section 5.11.

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

“**Commitments**” shall mean with respect to any Lender, such Lender’s Revolving Facility Commitment and Term Facility Commitment.

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

“**Communications**” shall have the meaning assigned to such term in Section 9.19(a)(i).

“**Company**” shall have the meaning assigned to such term in the recitals hereto.

“**Conduit Lender**” shall mean any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this

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Agreement with respect to its Conduit Lender; provided, further, that no Conduit Lender shall (a) be entitled to receive any greater amount pursuant to Sections 2.15, 2.16, 2.17 or 9.05 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender unless the designation of such Conduit Lender is made with the prior written consent of the Borrower (not to be unreasonably withheld or delayed), which consent shall specify that it is being made pursuant to the proviso in the definition of “Conduit Lender” and provided that the designating Lender provides such information as the Borrower reasonably requests in order for the Borrower to determine whether to provide its consent, or (b) be deemed to have any Commitment.

“**Consolidated Debt**” at any date shall mean the sum of (without duplication) all Indebtedness (other than letters of credit or bank guarantees, to the extent undrawn, Cash Collateralized or backstopped) consisting of Indebtedness for borrowed money, Capitalized Lease Obligations and Disqualified Stock of the Borrower and the Subsidiaries determined on a consolidated basis on such date in accordance with GAAP.

“**Consolidated Net Income**” shall mean, with respect to any person for any period, the aggregate of the Net Income of such person and its subsidiaries for such period, on a consolidated basis; provided, however, that, without duplication,

(i) any net after-tax extraordinary, nonrecurring or unusual gains or losses or income or expense or charge (less all fees and expenses relating thereto), any severance, relocation or other restructuring expenses, any expenses related to any New Project or any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternative uses, fees, expenses or charges relating to facility closing costs, facility rebranding costs, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, acquisition integration costs, facility opening costs, project and contract start-up costs, business optimization costs, recruiting costs, signing, retention or completion bonuses, and expenses or charges related to any offering of Equity Interests or debt securities of the Borrower, Holdings or any Parent Entity, any Investment, acquisition, Disposition, recapitalization or incurrence, issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and any fees, expenses, charges or change in control payments related to the Transactions (including any costs relating to auditing prior periods, any transition-related expenses, and Transaction Expenses incurred before, on or after the Closing Date), in each case, shall be excluded,

(ii) any net after-tax income or loss from Disposed of, abandoned, closed or discontinued operations or fixed assets and any net after-tax gain or loss on the Dispositions of Disposed of, abandoned, closed or discontinued operations or fixed assets shall be excluded,

(iii) any net after-tax gain or loss (less all fees and expenses or charges relating thereto) attributable to business Dispositions or asset Dispositions other than in the ordinary course of business (as determined in good faith by the management of the Borrower) shall be excluded,

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(iv) any net after-tax income or loss (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Swap Agreements or other derivative instruments shall be excluded,

(v) (A) the Net Income for such period of any person that is not a subsidiary of such person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent person or a subsidiary thereof (other than an Unrestricted Subsidiary of such referent person) in respect of such period and (B) the Net Income for such period shall include any dividend, distribution or other payment in cash (or to the extent converted into cash) received by the referent person or a subsidiary thereof (other than an Unrestricted Subsidiary of such referent person) from any person in excess of, but without duplication of, the amounts included in subclause (A),

(vi) the cumulative effect of a change in accounting principles during such period shall be excluded,

(vii) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such person and its subsidiaries and including the effects of adjustments to (A) deferred rent, (B) Capitalized Lease Obligations or other obligations or deferrals attributable to capital spending funds with suppliers or (C) any other deferrals of income) in component amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,

(viii) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments arising pursuant to GAAP, shall be excluded,

(ix) any noncash compensation charge or expenses realized or resulting from stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded,

(x) accruals and reserves that are established or adjusted within twelve months after the Closing Date and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded,

(xi) noncash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretation shall be excluded,

(xii) any gain, loss, income, expense or charge resulting from the application of any LIFO method shall be excluded,

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(xiii) any noncash charges for deferred tax asset valuation allowances shall be excluded,

(xiv) any currency translation gains and losses related to currency remeasurements of Indebtedness, and any net loss or gain resulting from Swap Agreements for currency exchange risk, shall be excluded,

(xv) any deductions attributable to minority interests shall be excluded,

(xvi) (A) the noncash portion of "straight-line" rent expense shall be excluded, (B) the cash portion of "straight-line" rent expense which exceeds the amount expensed in respect of such rent expense shall be included, (C) the noncash amortization of tenant allowances shall be excluded, (D) cash received from landlords for tenant allowances shall be included and (E) to the extent not already included in Net Income, the cash portion of sublease rentals received shall be included (for the avoidance of doubt, the net effect of the adjustments in this clause (xvi) as well as any related adjustments pursuant to clause (vii) above shall be to compute rent expense and rental income on a cash basis for purposes of determining Consolidated Net Income),

(xvii) (A) to the extent covered by insurance and actually reimbursed, or, so long as such person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (x) not denied by the applicable carrier in writing within 180 days and (y) in fact reimbursed within 365 days following the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded; and (B) amounts estimated in good faith to be received from insurance in respect of lost revenues or earnings in



respect of liability or casualty events or business interruption shall be included (with a deduction for amounts actually received up to such estimated amount to the extent included in Net Income in a future period),

(xviii) without duplication, an amount equal to the amount of distributions actually made to any parent or equity holder of such person in respect of such period in accordance with Section 6.06(b)(v) shall be included as though such amounts had been paid as income taxes directly by such person for such period,

(xix) Capitalized Software Expenditures shall be excluded, and

(xx) any other costs, expenses or charges resulting from facility closures or sales, including income (or losses) from such facility closures or sales, shall be excluded.

“**Consolidated Total Assets**” shall mean, as of any date of determination, the total assets of the Borrower and the consolidated Subsidiaries without giving effect to any impairment or amortization of the amount of intangible assets since the Closing Date, determined on a consolidated basis in accordance with GAAP, as set forth on the consolidated balance sheet of the Borrower as of the last day of the fiscal quarter most recently ended for which financial statements have been (or were required to be) delivered pursuant to Sections 4.02(l), 5.04(a) or 5.04(b), as applicable, calculated on a Pro Forma Basis after giving effect to any acquisition or

Disposition of a person or assets that may have occurred on or after the last day of such fiscal quarter.

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

“**Credit Event**” shall have the meaning assigned to such term in Article IV.

“**Cumulative Equity Proceeds Amount**” shall mean, at any time of determination, an amount equal to, without duplication:

(a) 100% of the aggregate net proceeds (determined in a manner consistent with the definition of “Net Proceeds”) (including cash and the Fair Market Value (as determined in good faith by the Borrower) of tangible assets other than cash) received by the Borrower after the Closing Date from the issue or sale of Equity Interests of the Borrower to Holdings (excluding, without duplication, Excluded Contributions, Excluded Equity Proceeds, Permitted Cure Securities (including the Cure Amount) and Disqualified Stock) including Equity Interests of Holdings (other than Disqualified Stock) issued upon conversion of Indebtedness or Disqualified Stock to the extent the Borrower had received the Net Proceeds of such Indebtedness or Disqualified Stock, plus

(b) 100% of the aggregate amount of contributions to the capital of the Borrower by Holdings or any Parent Entity received in cash and the Fair Market Value (as determined in good faith by the Borrower) of tangible assets other than cash after the Closing Date (other than Excluded Contributions, Excluded Equity Proceeds, Permitted Cure Securities (including the Cure Amount) and Disqualified Stock).

“**Cumulative Retained Excess Cash Flow Amount**” shall mean, at any date of determination, an amount (which shall not be less than zero in the aggregate) determined on a cumulative basis equal to:

(a) the aggregate cumulative sum of the Retained Percentage of Excess Cash Flow for each Excess Cash Flow Period; plus

(b) for each Excess Cash Flow Interim Period ended prior to such date but as to which the corresponding Excess Cash Flow Period has not ended, an amount equal to the Retained Percentage of the Excess Cash Flow for such Excess Cash Flow Interim Period; plus

(c) an amount (which may be negative) equal to (i) the Retained Percentage of Year To Date Excess Cash Flow for such Excess Cash Flow Period minus (ii) the aggregate of all amounts, if any, added pursuant to clause (b) above during any Excess Cash Flow Period.

“**Cure Amount**” shall have the meaning assigned to such term in Section 7.03.

“**Cure Right**” shall have the meaning assigned to such term in Section 7.03.

“**Current Assets**” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis at any date of determination, the sum of (a) all assets (other than cash and Permitted Investments or other cash equivalents) that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Borrower and the Subsidiaries as current assets at such date of determination, other than amounts related to current or deferred Taxes based on income or profits and (b) gross accounts receivable comprising part of the Securitization Assets subject to such Permitted Securitization Financing.

“**Current Liabilities**” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis at any date of determination, all liabilities that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Borrower and the Subsidiaries as current liabilities at such date of determination, other than (a) the current portion of any Indebtedness, (b) accruals of Interest Expense (excluding Interest Expense that is due and unpaid), (c) accruals for current or deferred Taxes based on income or profits, (d) accruals, if any, of transaction costs resulting from the Transactions, (e) accruals of any costs or expenses related to (i) severance or termination of employees prior to the Closing Date or (ii) bonuses, pension and other post-retirement benefit obligations, and (f) accruals for add-backs to EBITDA included in clauses (a)(iv), (a)(v) and (a)(vii) of the definition of such term.

**“Debt Fund Affiliate Lender”** shall mean entities managed by any of the Investors or funds advised by the Investors’ affiliated management companies that are primarily engaged in, or advise funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course and for which no personnel making investment decisions in respect of any equity fund which has a direct or indirect equity investment in Holdings, the Borrower or the Subsidiaries has the right to make any investment decisions.

**“Debt Service”** shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis for any period, Cash Interest Expense for such period *plus* scheduled principal amortization of Consolidated Debt for such period.

**“Debtor Relief Laws”** shall mean the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States of America or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

**“Declined Proceeds”** shall have the meaning assigned to such term in Section 2.10(c)(i).

**“Declining Lender”** shall have the meaning assigned to such term in Section 2.10(c)(i).

**“Deemed Date”** shall have the meaning assigned to such term in Section 6.01.

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

**“Defaulting Lender”** shall mean, subject to Section 2.23(b), any Lender that (a) has failed to (i) fund all or any portion of its 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 (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or any Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-In Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.23(b)) upon delivery of written notice of such determination to the Borrower, each Issuing Bank and each Lender.

**“Designated Noncash Consideration”** shall mean the Fair Market Value (as determined in good faith by the Borrower) of noncash consideration received by the Borrower or one of its Subsidiaries in connection with an Asset Sale that is so designated as Designated Noncash Consideration pursuant to a certificate of a Responsible Officer of the Borrower, setting forth the basis of such valuation, less the amount of cash or cash equivalents received in connection with a subsequent disposition of such Designated Noncash Consideration.

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**“Dispose”** or **“Disposed of”** shall mean to convey, sell, lease, sell and leaseback, assign, farm-out, transfer or otherwise dispose of any property, business or asset, and **“Disposition”** and **“Disposal”** shall have meanings correlative thereto.

**“Disqualified Stock”** shall mean, with respect to any person, any Equity Interests of such person that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Loan Obligations that are accrued and payable and the termination of the Commitments), (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 Stock, in each case, prior to the date that is 91 days after the Latest Maturity Date in effect at the time of issuance thereof (*provided* that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock). Notwithstanding the foregoing: (i) any Equity Interests issued to any employee or to any plan for the benefit of employees of the Borrower or the Subsidiaries or by any such plan to such employees shall not constitute Disqualified Stock solely because they may be required to be repurchased by the Borrower in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability and (ii) any class of Equity Interests of such person that by its terms authorizes such person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Stock shall not be deemed to be Disqualified Stock.

**“Dividends”** shall have the meaning assigned to such term in Section 6.06.

“Dollar” and “\$” shall mean lawful money of the United States of America.

“Dollar Equivalent” shall mean, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date or other applicable date of determination) for the purchase of Dollars with such currency.

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

“EBITDA” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis for any period, the Consolidated Net Income of the Borrower and the Subsidiaries for such period *plus* (a) the sum of (in each case without duplication and to the extent the respective amounts described in *subclauses (i)* through *(xiv)* of this *clause (a)*) reduced

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such Consolidated Net Income (and were not excluded therefrom) for the respective period for which EBITDA is being determined):

- (i) provision for Taxes based on income, profits or capital of the Borrower and the Subsidiaries for such period, including, without limitation, state, franchise and similar taxes and foreign withholding taxes (including penalties and interest related to taxes or arising from tax examinations),
- (ii) Interest Expense (and to the extent not included in Interest Expense, (x) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock or Disqualified Stock and (y) costs of surety bonds in connection with financing activities) of the Borrower and the Subsidiaries for such period,
- (iii) depreciation and amortization expenses of the Borrower and the Subsidiaries for such period including, without limitation, the amortization of intangible assets, deferred financing fees, capitalized contract incentives, Capitalized Software Expenditures and amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits,
- (iv) business optimization expenses and other restructuring charges or reserves (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility closure, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges) and Pre-Opening Expenses,
- (v) any other noncash charges; *provided* that, for purposes of this *subclause (v)* of this *clause (a)*, any noncash charges or losses shall be treated as cash charges or losses in any subsequent period during which cash disbursements attributable thereto are made (but excluding, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period),
- (vi) the amount of management, consulting, monitoring, transaction, advisory and similar fees and related expenses paid to the Investors or any Investor Affiliate (or any accruals related to such fees and related expenses) during such period not in contravention of this Agreement,
- (vii) any expenses or charges (other than depreciation or amortization expense as described in the preceding *clause (iii)*) related to any issuance of Equity Interests, Investment, acquisition, New Project, Disposition, loan origination, recapitalization or the incurrence, modification or repayment of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful), including (w) such fees, expenses or charges related to the Senior Secured Notes and this Agreement, (x) any amendment or other modification of the Obligations or other Indebtedness and (y) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Permitted Securitization Financing,

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- (viii) the amount of loss or discount on sale of assets to a Special Purpose Securitization Subsidiary in connection with a Permitted Securitization Financing, including amortization of loan origination costs and amortization of portfolio discounts,
- (ix) any costs or expense incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of the Borrower or a Subsidiary Loan Party (other than contributions received from the Borrower or another Subsidiary Loan Party) or net cash proceeds of an issuance of Equity Interests of the Borrower (other than Disqualified Stock),
- (x) any payment for termination fees in respect of the termination of the HandsOn Management Agreements and payments in connection therewith, including any net present value of future payments,
- (xi) the amount of any loss attributable to a New Project, until the date that is 12 months after the date of completing the construction, acquisition, assembling or creation of such New Project, as the case may be; *provided* that (A) such losses are reasonably identifiable and factually supportable and certified by a Responsible Officer of the Borrower and (B) losses attributable to such New Project after 12 months from the date of completing such construction, acquisition, assembling or creation, as the case may be, shall not be included in this *clause (xi)*,
- (xii) with respect to any joint venture that is not a Subsidiary and solely to the extent relating to any net income referred to in *clause (v)* of the definition of “Consolidated Net Income,” an amount equal to the proportion of those items described in *clauses (i)* and *(ii)* above relating to such joint venture corresponding to the Borrower’s and the Subsidiaries’ proportionate share of such joint venture’s Consolidated Net Income (determined as if such joint venture were a Subsidiary),

(xiii) [reserved], and

(xiv) all adjustments of the nature used in connection with the calculation of “Further Adjusted EBITDA” as set forth in “Summary Unaudited Pro Forma Financial and Other Information of Exela” under “Summary” in the Senior Secured Notes Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such period,

*minus* (b) the sum of (without duplication and to the extent the amounts described in this *clause (b)*) increased such Consolidated Net Income for the respective period for which EBITDA is being determined) noncash items increasing Consolidated Net Income of the Borrower and the Subsidiaries for such period (but excluding the recognition of deferred revenue or any such items (A) in respect of which cash was received in a prior period or will be received in a future period or (B) which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced EBITDA in any prior period).

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Notwithstanding anything to the contrary contained herein and subject to adjustments permitted hereunder with respect to acquisitions, Dispositions and other transactions occurring following the Closing Date and/or pursuant to the definition of “Pro Forma Basis,” for purposes of determining EBITDA under this Agreement, EBITDA for the fiscal quarter ended June 30, 2016 shall be deemed to be \$83,129,000 million, EBITDA for the fiscal quarter ended September 30, 2016 shall be deemed to be \$83,614,000 million, EBITDA for the fiscal quarter ended December 31, 2016 shall be deemed to be \$89,054,000 million and EBITDA for the fiscal quarter ended March 31, 2017 shall be deemed to be \$97,571,000 million.

“*ECF Threshold Amount*” shall have the meaning assigned to such term in *Section 2.11(c)*.

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

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

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

“*EMU Legislation*” shall mean the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“*environment*” shall mean ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, and natural resources such as flora and fauna.

“*Environmental Laws*” shall mean all applicable laws (including common law), rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions or binding agreements issued, promulgated or entered into by or with any Governmental Authority relating to the environment, the prevention, abatement or elimination of pollution, preservation or reclamation of natural resources, the generation, management (including handling, treatment, labeling, storage, and transportation), Release or threatened Release of, or exposure to, any Hazardous Material, or to human health and safety (to the extent related to exposure to Hazardous Materials).

“*Equity Contribution*” shall mean, in connection with the consummation of the Business Combination, the contribution by Parent, directly or indirectly, of at least \$275,000,000 to the Borrower in the form of common equity, or other Equity Interests on terms reasonably acceptable to the Administrative Agent (it being understood that contributions in the form of perpetual preferred stock are acceptable to the Administrative Agent so long as such perpetual preferred stock does not include a cash dividend feature); *provided* that no less than

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\$175,000,000 of the Equity Contribution shall be in the form of common equity; *provided, further*, that the Investors shall directly or indirectly (whether by contract or otherwise) control not less than 60% of the voting and economic interests in Parent on the Closing Date after giving effect to the Transactions.

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

“*ERISA*” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder.

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

“*ERISA Event*” shall mean (a) any Reportable Event; (b) the failure of any Plan to meet the minimum funding standard of Section 412 or 430 of the Code or Section 302 or 303 of ERISA, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure to make any required contribution to a Multiemployer Plan; (d) the incurrence by Holdings, the Borrower, a Subsidiary or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by Holdings, the Borrower, a Subsidiary or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention, or the institution

by the PBGC of proceedings, to terminate any Plan or to appoint a trustee to administer any Plan; (f) the incurrence by Holdings, the Borrower, a Subsidiary or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (g) the receipt by Holdings, the Borrower, a Subsidiary or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from Holdings, the Borrower, a Subsidiary or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, in “critical” or “endangered” status within the meaning of Section 432 of the Code or Section 305 of ERISA; or (h) the imposition of liability on Holdings, the Borrower, a Subsidiary or an ERISA Affiliate pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA.

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

“**Euro**” shall mean the lawful currency of the Participating Member States introduced in accordance with the EMU Legislation.

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“**Eurocurrency Borrowing**” shall mean a Borrowing comprised of Eurocurrency Loans.

“**Eurocurrency Loan**” shall mean any Eurocurrency Term Loan or Eurocurrency Revolving Loan.

“**Eurocurrency Rate**” shall mean for any Interest Period as to any Eurocurrency Loan, (i) the rate per annum determined by the Administrative Agent to be the offered rate which appears on the page of the Reuters Screen which displays the London interbank offered rate administered by ICE Benchmark Administration Limited (such page currently being the LIBOR01 page) for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time), two Business Days prior to the commencement of such Interest Period, or (ii) in the event the rate referenced in the preceding clause (i) does not appear on such page or service or if such page or service shall cease to be available, the rate determined by the Administrative Agent to be the offered rate on such other page or other service which displays the Eurocurrency Rate for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period; *provided* that if Eurocurrency Rates are quoted under either of the preceding clauses (i) or (ii), but there is no such quotation for the Interest Period elected, the Eurocurrency Rate shall be equal to the Interpolated Rate; and *provided, further*, that if any such rate determined pursuant to the preceding clauses (i) or (ii) is below zero, the Eurocurrency Rate will be deemed to be zero.

“**Eurocurrency Revolving Borrowing**” shall mean a Borrowing comprised of Eurocurrency Revolving Loans.

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

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

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

“**Excess Cash Flow**” shall mean, with respect to the Borrower and the Subsidiaries on a consolidated basis for any Excess Cash Flow Period, EBITDA of the Borrower and the Subsidiaries on a consolidated basis for such Excess Cash Flow Period, *minus*, without duplication, (A):

(a) Debt Service for such Excess Cash Flow Period (provided that with respect to any such amounts to be paid after the close of such Excess Cash Flow Period, any amount so deducted shall not be deducted again in a subsequent Excess Cash Flow Period), reduced by the aggregate principal amount of voluntary prepayments of Consolidated Debt (other than prepayments of the Loans) that would otherwise constitute scheduled principal amortization during such Excess Cash Flow Period;

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(b) the amount of any voluntary prepayment permitted hereunder of term Indebtedness (other than any Term Loans and Other First Lien Debt) during such Excess Cash Flow Period, in each case to the extent not financed, or intended to be financed, using the proceeds of, without duplication, the incurrence of Indebtedness, the sale or issuance of any Equity Interests, any Cumulative Equity Proceeds Amount or any Net Proceeds not otherwise required to prepay the Loans pursuant to Section 2.11 or the definition of the term “Net Proceeds,” in each case, to the extent that the amount of such prepayment is not already reflected in Debt Service;

(c) (i) Capital Expenditures by the Borrower and the Subsidiaries on a consolidated basis during such Excess Cash Flow Period that are paid in cash and (ii) the aggregate consideration paid in cash during such Excess Cash Flow Period in respect of Permitted Business Acquisitions and other Investments permitted hereunder (excluding Permitted Investments, intercompany Investments in Subsidiaries and Investments made pursuant to Section 6.04(j)(Y)), in each case, to the extent not financed with the proceeds of, without duplication, the incurrence of Indebtedness, the sale or issuance of any Equity Interests, any component of Available Free Cash Flow Amount (which, in the case of Cumulative Retained Excess Cash Flow Amount, only to the extent attributable to a time prior to such Excess Cash Flow Period) or any Net Proceeds not otherwise required to prepay the Loans pursuant to Section 2.11 or the definition of the term “Net Proceeds” (*less* any amounts received in respect thereof as a return of capital);

(d) Capital Expenditures that the Borrower or any Subsidiary shall, during such Excess Cash Flow Period, become obligated to make but that are not made during such Excess Cash Flow Period; *provided* that (i) any amount so deducted that will be paid after the close of such Excess Cash Flow Period shall not be deducted again in a subsequent Excess Cash Flow Period, and (ii) the Borrower shall deliver a certificate to the Administrative Agent not later than the date that financial statements are required to be delivered after the end of such Excess Cash Flow Period pursuant to Section 5.04(a) or (b), signed by a Responsible Officer of the Borrower and certifying that such Capital Expenditures and the delivery of the related equipment will be made in the following Excess Cash Flow Period; *provided, further*, that if any such Capital Expenditures so deducted are either (A) not so made in the following Excess Cash Flow Period or (B) made in the following Excess Cash Flow Period with the proceeds of, without duplication, the incurrence of Indebtedness, the sale or issuance of any Equity Interests, any component of Available Free Cash Flow

Amount (which, in the case of Cumulative Retained Excess Cash Flow Amount, only to the extent attributable to a time prior to such Excess Cash Flow Period) or any Net Proceeds not otherwise required to prepay the Loans pursuant to Section 2.11 or the definition of the term “Net Proceeds,” the amount of such Capital Expenditures not so made or so financed shall be added to the calculation of Excess Cash Flow in such following Excess Cash Flow Period;

(e) Taxes paid in cash by Holdings, the Borrower and the Subsidiaries on a consolidated basis during such Excess Cash Flow Period or that will be paid within nine months after the close of such Excess Cash Flow Period and for which reserves have been established, including income tax expense and withholding tax expense incurred in connection with cross-border transactions involving the Foreign Subsidiaries; provided

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that any amount so deducted that will be paid after the close of such Excess Cash Flow Period shall not be deducted again in a subsequent Excess Cash Flow Period;

(f) an amount equal to any increase in Working Capital of the Borrower and the Subsidiaries for such Excess Cash Flow Period;

(g) cash expenditures made in respect of Swap Agreements during such Excess Cash Flow Period, to the extent not reflected in the computation of EBITDA or Cash Interest Expense;

(h) permitted dividends or distributions or repurchases of its Equity Interests paid in cash by the Borrower to Holdings during such Excess Cash Flow Period and permitted dividends paid by any Subsidiary to any person other than the Borrower or any of the Subsidiaries during such Excess Cash Flow Period, in each case in accordance with Section 6.06 (other than any permitted dividends or distributions made under Section 6.06(h));

(i) without duplication of any exclusions to the calculation of Consolidated Net Income or EBITDA, amounts paid in cash during such Excess Cash Flow Period on account of (A) items that were accounted for as noncash reductions of Net Income in determining Consolidated Net Income or as noncash reductions of Consolidated Net Income in determining EBITDA of the Borrower and the Subsidiaries in a prior Excess Cash Flow Period and (B) reserves or accruals established in purchase accounting;

(j) to the extent not deducted in the computation of Net Proceeds in respect of any asset disposition or condemnation giving rise thereto, the amount of any mandatory prepayment of Indebtedness (other than Indebtedness created hereunder or under any other Loan Document), together with any interest, premium or penalties required to be paid (and actually paid) in connection therewith to the extent that the income or gain realized from the transaction giving rise to such Net Proceeds exceeds the aggregate amount of all such mandatory prepayments and Capital Expenditures made with such Net Proceeds, and

(k) the amount related to items that were added to or not deducted from Net Income in calculating Consolidated Net Income or were added to or not deducted from Consolidated Net Income in calculating EBITDA to the extent such items represented a cash payment (which had not reduced Excess Cash Flow upon the accrual thereof in a prior Excess Cash Flow Period), or an accrual for a cash payment, by the Borrower and the Subsidiaries or did not represent cash received by the Borrower and the Subsidiaries, in each case on a consolidated basis during such Excess Cash Flow Period,

plus, without duplication, (B):

(a) an amount equal to any decrease in Working Capital of the Borrower and the Subsidiaries for such Excess Cash Flow Period;

(b) all proceeds received during such Excess Cash Flow Period of Capitalized Lease Obligations, purchase money Indebtedness, Sale and Lease-Back Transactions

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pursuant to Section 6.03 and any other Indebtedness, in each case to the extent used to finance any Capital Expenditure (other than Indebtedness under this Agreement to the extent there is no corresponding deduction to Excess Cash Flow above in respect of the use of such Borrowings);

(c) all amounts referred to in clause (A)(c) or (A)(d) above to the extent funded with, without duplication, (i) the proceeds of the sale or issuance of Equity Interests of, or capital contributions to, the Borrower after the Closing Date, (ii) any amount that would have constituted Net Proceeds under clause (a) of the definition of the term “Net Proceeds” if not so spent or (iii) any component of Available Free Cash Flow Amount (which, in the case of Cumulative Retained Excess Cash Flow Amount, only to the extent attributable to a time prior to such Excess Cash Flow Period), in each case to the extent there is a corresponding deduction from Excess Cash Flow above;

(d) to the extent any permitted Capital Expenditures referred to in clause (A)(d) above and the delivery of the related equipment do not occur in the following Excess Cash Flow Period specified in the certificate of the Borrower provided pursuant to clause (A)(d) above, the amount of such Capital Expenditures that were not so made in such following Excess Cash Flow Period;

(e) cash payments received in respect of Swap Agreements during such Excess Cash Flow Period to the extent (i) not included in the computation of EBITDA or (ii) such payments do not reduce Cash Interest Expense;

(f) any extraordinary or nonrecurring gain realized in cash during such Excess Cash Flow Period, except to the extent such gain consists of Net Proceeds subject to Section 2.11(b);

(g) to the extent deducted in the computation of EBITDA, cash interest income; and

(h) the amount related to items that were deducted from or not added to Net Income in connection with calculating Consolidated Net Income or were deducted from or not added to Consolidated Net Income in calculating EBITDA to the extent either (x) such items represented cash received by the Borrower or any Subsidiary or (y) such items do not represent cash paid by the Borrower or any Subsidiary, in each case on a consolidated basis during such Excess Cash Flow Period;

provided that, for purposes of calculating Cumulative Retained Excess Cash Flow Amount for any Excess Cash Flow Interim Period, Excess Cash Flow Period as used in this definition shall be deemed to be Excess Cash Flow Interim Period.

“**Excess Cash Flow Interim Period**” shall mean (x) during any Excess Cash Flow Period, any one, two or three quarter period (taken as one accounting period) (a) commencing on the later of (i) the end of the immediately preceding Excess Cash Flow Period and (ii) if applicable, the end of any prior Excess Cash Flow Interim Period occurring during the same Excess Cash Flow Period and (b) ending on the last day of the most recently ended fiscal quarter (other than the last day of the fiscal year) during such Excess Cash Flow Period for which

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financial statements are available and (y) during the period from the Closing Date until the beginning of the first Excess Cash Flow Period, any period commencing on the Closing Date and ending on the last day of the most recently ended fiscal quarter for which financial statements are available.

“**Excess Cash Flow Period**” shall mean (a) the fiscal year of the Borrower ending on December 31, 2018 and (b) each fiscal year of the Borrower ended thereafter.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“**Excluded Contributions**” shall mean cash, Permitted Investments or other assets (valued at their Fair Market Value as determined in good faith by the Borrower) received by the Borrower after the Closing Date from:

(a) contributions in respect of its common stock, and

(b) the sale (other than to a Subsidiary of the Borrower or pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Borrower or any of its Subsidiaries) of Qualified Equity Interests of the Borrower to Holdings,

in each case, as designated as Excluded Contributions pursuant to an Officer’s Certificate executed by a Responsible Officer of the Borrower; provided that, notwithstanding anything to the contrary, Excluded Contributions shall not include any amounts included in Cumulative Equity Proceeds Amount, any Excluded Equity Proceeds and any Permitted Cure Securities (including the Cure Amount).

“**Excluded Equity Proceeds**” shall mean, during any fiscal year, the net proceeds (determined in a manner consistent with the definition of “Net Proceeds”) received by Holdings or any Parent Entity during such fiscal year from the sales and issuance of its Qualified Equity Interests so long as (a) all such proceeds are contributed in cash to the Borrower, (b) none of such proceeds are included in Cumulative Equity Proceeds Amount (or otherwise in the calculation of Available Free Cash Flow Amount), Excluded Contributions or Cure Amount, and (c) such Equity Interests are not Permitted Cure Securities.

“**Excluded Indebtedness**” shall mean all Indebtedness permitted to be incurred under Section 6.01 (as amended or waived from time to time).

“**Excluded Property**” shall have the meaning assigned to such term in Section 5.11(g).

“**Excluded Securities**” shall mean any of the following:

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

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Parties under the Security Documents are likely to be excessive in relation to the value to be afforded thereby;

(b) in the case of any pledge of voting Equity Interests of any CFC or FSHCO (in each case, that is owned directly by the Borrower or a Subsidiary Loan Party) to secure the Obligations, any voting Equity Interest of such CFC or FSHCO in excess of 65% of the outstanding voting Equity Interests;

(c) any Equity Interests or Indebtedness to the extent the pledge thereof would be prohibited by any Requirement of Law;

(d) any Equity Interests of any person that is not a Wholly Owned Subsidiary to the extent (A) that a pledge thereof to secure the Obligations is prohibited by (i) any applicable organizational documents, joint venture agreement or shareholder agreement or (ii) any other contractual obligation with an unaffiliated third party not in violation of Section 6.09(b) binding on such assets on the Closing Date or on the date of acquisition thereof and not entered into in contemplation thereof (other than in connection with the incurrence of Indebtedness of the type contemplated by Section 6.01(i)), (B) any organizational documents, joint venture agreement or shareholder agreement (or other contractual obligation referred to in subclause (A)(ii) above) prohibits such a pledge without the consent of any other party; provided that this clause (B) shall not apply if (1) such other party is a Loan Party or a Wholly Owned Subsidiary or (2) consent has been obtained to consummate such pledge (it being understood that the foregoing shall not be deemed to obligate the Borrower or any Subsidiary to obtain, or to seek to obtain, any such consent) and shall only apply for so long as such organizational documents, joint venture agreement or shareholder agreement or replacement or renewal

thereof is in effect, or (C) a pledge thereof to secure the Obligations would give any other party (other than a Loan Party or a Wholly Owned Subsidiary) to any organizational documents, joint venture agreement or shareholder agreement governing such Equity Interests (or other contractual obligation referred to in subclause (A)(ii), above) the right to terminate its obligations thereunder;

- (e) any Equity Interests of any Immaterial Subsidiary, any Unrestricted Subsidiary or any Special Purpose Securitization Subsidiary;
- (f) any Equity Interests of any Subsidiary of, or other Equity Interests owned by, a Foreign Subsidiary that is a CFC or FSHCO;
- (g) any Equity Interests of any Subsidiary to the extent that the pledge of such Equity Interests could reasonably be expected to result in material adverse tax consequences to the Borrower or any Subsidiary as determined in good faith by the Borrower in consultation with the Administrative Agent;
- (h) any Equity Interests or Indebtedness that are set forth on Schedule 1.01(a) to this Agreement or that have been identified on or prior to the Closing Date in writing to the Agent by a Responsible Officer of the Borrower and agreed to by the Administrative Agent in writing;

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(i) (x) any Equity Interests owned by Holdings, other than Equity Interests in the Borrower and (y) any Indebtedness owned by Holdings to the extent permitted to be incurred under Section 6.08; and

(j) any Margin Stock.

“**Excluded Subsidiary**” shall mean any of the following (except as otherwise provided in clause (b) of the definition of “Subsidiary Loan Party”):

- (a) each Immaterial Subsidiary,
- (b) each Domestic Subsidiary that is not a Wholly Owned Subsidiary (for so long as such Subsidiary remains a non-Wholly Owned Subsidiary),
- (c) each Domestic Subsidiary that is prohibited from Guaranteeing the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a Governmental Authority to Guarantee the Obligations (unless such consent, approval, license or authorization has been received); provided that, for the avoidance of doubt, such Domestic Subsidiary shall have no obligation to seek such consent, approval, license or authorization,
- (d) each Domestic Subsidiary that is prohibited by any applicable contractual requirement from Guaranteeing or granting Liens to secure the Obligations on the Closing Date or at the time such Subsidiary becomes a Subsidiary not in violation of Section 6.09(c) (and for so long as such restriction or any replacement or renewal thereof is in effect),
- (e) any Special Purpose Securitization Subsidiary,
- (f) any Foreign Subsidiary (i) that is a CFC or (ii) FSHCO,
- (g) any Domestic Subsidiary (i) that is a FSHCO or (ii) that is a direct or indirect Subsidiary of a CFC,
- (h) any other Domestic Subsidiary with respect to which, (x) the Administrative Agent and the Borrower reasonably agree that the cost or other consequences of providing a Guarantee of or granting Liens required by the Security Documents to secure the Obligations are likely to be excessive in relation to the value to be afforded thereby or (y) providing such a Guarantee or granting such Liens would result in material adverse tax consequences as determined in good faith by the Borrower in consultation with the Administrative Agent, and
- (i) each Unrestricted Subsidiary.

“**Excluded Swap Obligation**” shall mean, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule,

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regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation, unless otherwise agreed between the Administrative Agent and the Borrower. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“**Excluded Taxes**” shall mean, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, the following taxes, including interest, penalties or other additions thereto:

(a) income taxes imposed on (or measured by) its net income or franchise taxes imposed on (or measured by) its net income by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, including, in the case of each of the foregoing, any political subdivision thereof,

(b) any branch profits taxes or any similar tax imposed by any jurisdiction described in clause (a) above,



(c) any withholding tax that is attributable to a Lender's failure to comply with Section 2.17(e),

(d) any United States of America federal withholding tax pursuant to a law that is in effect and would apply to amounts payable hereunder by or on account of the Borrower at the time such Lender becomes a party to this Agreement (or designates a new Lending Office), other than pursuant to an assignment request by the Borrower under Section 2.19, and

(e) any United States of America withholding tax that is imposed as a result of such recipient's failure to comply with the requirements to establish an exemption from such withholding tax pursuant to FATCA.

except, in the case of clause (d) above, to the extent that (i) such Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts or indemnification payments from a Loan Party with respect to any such withholding tax pursuant to Section 2.17 or (ii) such withholding tax shall have resulted from the making of any payment to a location other than the office designated by the Administrative Agent or such Lender for the receipt of payments of the applicable type.

**"Existing Class Loans"** shall have the meaning assigned to such term in Section 9.09(f).

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**"Existing Credit Agreements"** shall mean, collectively, (i) the First Lien Credit Agreement, dated as of October 31, 2014, among SourceHOV, SourceHOV LLC, the lenders party thereto, Morgan Stanley Bank, N.A., as an L/C Issuer, and Morgan Stanley Senior Funding, Inc., as administrative agent and collateral agent, (ii) the Second Lien Credit Agreement, dated as of October 31, 2014, among SourceHOV, SourceHOV LLC, the lenders party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent and collateral agent, (iii) the Credit Agreement, dated as of April 29, 2016, among FTS Parent Inc., the lenders party thereto and Bank of America, N.A., as administrative agent, (iv) the Credit Agreement, dated as of June 30, 2016, among TransCentra, Inc. and Opus Bank, (v) the First Lien Credit Agreement, dated as of October 1, 2013, among Novitex Intermediate, LLC, Novitex Acquisition, LLC, the lenders party thereto, and Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral agent, and (vi) the Second Lien Credit Agreement, dated as of October 1, 2013, among Novitex Intermediate, LLC, Novitex Acquisition, LLC, the lenders party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral agent, in each case, as amended, restated, supplemented or otherwise modified prior to the Closing Date.

**"Existing Roll-Over Letters of Credit"** shall mean those letters of credit or bank guarantees issued and outstanding as of the Closing Date and set forth on Schedule 1.01(c), which shall each be deemed to constitute a Letter of Credit issued hereunder on the Closing Date.

**"Extended Revolving Facility Commitment"** shall have the meaning assigned to such term in Section 2.20(e).

**"Extended Revolving Loans"** shall have the meaning assigned to such term in Section 2.20(e).

**"Extended Term Loan"** shall have the meaning assigned to such term in Section 2.20(e).

**"Extending Lender"** shall have the meaning assigned to such term in Section 2.20(e).

**"Extension"** shall have the meaning assigned to such term in Section 2.20(e).

**"Facility"** shall mean a category of Commitments and extensions of credits thereunder. For purposes hereof, each of the following comprises a separate Facility: (a) the Revolving Facility Commitments established on the Closing Date and the extensions of credit thereunder and (b) the Term B Loan Commitments and the Term B Loans.

**"Fair Market Value"** shall mean, with respect to any asset, group of assets or property, on any date of determination, the price that could be negotiated in an arm's-length transaction between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction.

**"FATCA"** shall mean Sections 1471 through 1474 of the Code as of the Closing Date (or any amended or successor provisions that are substantively similar and not materially

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more onerous to comply with), any regulations thereunder or official interpretations thereof and 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 applicable intergovernmental agreements, treaties or conventions entered into in connection with the implementation of the foregoing.

**"Federal Funds Rate"** shall mean, for any day, the rate *per annum* equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

**"Fee Letter"** shall mean the Fee Letter, dated as of February 21, 2017, by and among Parent, Royal Bank of Canada, RBC Capital Markets, LLC, Credit Suisse AG, Cayman Islands Branch, Credit Suisse Securities (USA) LLC, Natixis, New York Branch, Natixis Securities Americas LLC, KKR Capital Markets LLC and KKR Corporate Lending LLC, as such Fee Letter may be amended, restated, supplemented or otherwise modified from time to time by the parties thereto or any replacement fee letter entered into between the Borrower and the Administrative Agent from time to time.

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

“**Financial Covenant**” shall mean the covenant of the Borrower set forth in Section 6.11.

“**Financial Officer**” of any person shall mean the Chief Financial Officer, principal accounting officer, Treasurer, Assistant Treasurer, Controller or other officer with reasonably equivalent duties of such person.

“**First Lien/Second Lien Intercreditor Agreement**” shall mean an intercreditor agreement substantially in the form of Exhibit D hereto, or such other customary form reasonably acceptable to the Administrative Agent and the Borrower, in each case, as such document may be amended, restated, supplemented or otherwise modified from time to time.

“**Flood Documentation**” shall mean, with respect to each Mortgaged Property located in the United States of America or any territory thereof, (i) a completed “life-of-loan” Federal Emergency Management Agency standard flood hazard determination (to the extent a Mortgaged Property is located in a Special Flood Hazard Area, together with a notice about Special Flood Hazard Area status and flood disaster assistance duly executed by the Borrower and the applicable Loan Party relating thereto) and (ii) evidence of flood insurance as required by Section 5.02(c) hereof and the applicable provisions of the Security Documents, each of

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which shall (A) be endorsed or otherwise amended to include a “standard” or “New York” lender’s loss payable or mortgagee endorsement (as applicable), (B) name the Collateral Agent, on behalf of the Secured Parties, as additional insured and loss payee/mortgagee, (C) identify the address of each property located in a Special Flood Hazard Area, the applicable flood zone designation and the flood insurance coverage and deductible relating thereto and (D) be otherwise in form and substance reasonably satisfactory to the Administrative Agent.

“**Flood Insurance Laws**” shall mean, collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

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

“**Fronting Exposure**” shall mean, at any time there is a Defaulting Lender, with respect to any Issuing Bank, such Defaulting Lender’s Applicable Percentage of the outstanding Letter of Credit obligations other than Letter of Credit obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized or backstopped in accordance with the terms hereof.

“**FSHCO**” shall mean any Subsidiary that owns no material assets other than the Equity Interests of one or more Foreign Subsidiaries that are CFCs and/or of one or more FSHCOs.

“**GAAP**” shall mean generally accepted accounting principles in effect from time to time in the United States of America, applied on a consistent basis, subject to the provisions of Section 1.02; *provided* that any reference to the application of GAAP in Sections 3.13(a), 3.20, 5.03, 5.07 and 6.02(e), to a Foreign Subsidiary (and not as a consolidated Subsidiary of the Borrower) shall mean generally accepted accounting principles in effect from time to time in the jurisdiction of organization of such Foreign Subsidiary.

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

“**Guarantee**” of or by any person (the “**guarantor**”) shall mean (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable by another person (the “**primary obligor**”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary

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obligor to pay such Indebtedness or other obligation or (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness or other obligation of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of the guarantor securing any Indebtedness or other obligation (or any existing right, contingent or otherwise, of the holder of Indebtedness or other obligation to be secured by such a Lien) of any other person, whether or not such Indebtedness or other obligation is assumed by the guarantor; *provided, however*, that the term “Guarantee” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or Disposition of assets permitted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such person in good faith.

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

“**Guarantors**” shall mean the Loan Parties other than the Borrower.

“**HandsOn Management Agreement**” shall mean the SourceHOV Consulting Agreement and any other management agreement existing on the date hereof among investment funds managed by Affiliates of HandsOn Global Management, LLC, on the one hand, and the Borrower and/or any of its Subsidiaries, on the other.

“**Hazardous Materials**” shall mean all pollutants, contaminants, wastes, chemicals, materials, substances and constituents that are subject to regulation or can give rise to liability under any Environmental Law, including explosive or radioactive substances, petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, and radon gas.

“**HCM Group**” shall have the meaning assigned to such term in the recitals hereto.

“**Holdings**” shall have the meaning assigned to such term in the *preamble* hereto.

“**Holdings Guarantee and Pledge Agreement**” shall mean the Holdings Guarantee and Pledge Agreement (First Lien), dated as of the Closing Date, as may be amended, amended and restated, supplemented, reaffirmed or otherwise modified from time to time, between Holdings and the Collateral Agent.

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

“**Immaterial Subsidiary**” shall mean any Subsidiary that (a) did not, as of the last day of the fiscal quarter of the Borrower most recently ended for which financial statements have been (or were required to be) delivered pursuant to *Sections 4.02(l), 5.04(a) or 5.04(b)*, have assets with a value in excess of 5% of the Consolidated Total Assets or revenues representing in excess of 5% of total revenues of the Borrower and the Subsidiaries on a consolidated basis as of

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such date, and (b) taken together with all other Immaterial Subsidiaries as of such date, did not have assets with a value in excess of 10% of the Consolidated Total Assets or revenues representing in excess of 10% of total revenues of the Borrower and the Subsidiaries on a consolidated basis as of such date; *provided* that the Borrower may elect in its sole discretion to exclude as an Immaterial Subsidiary any Subsidiary that would otherwise meet the definition thereof. Each Immaterial Subsidiary as of the Closing Date shall be set forth in *Schedule 1.01(b)*, and the Borrower shall update such Schedule from time to time after the Closing Date as necessary to reflect all Immaterial Subsidiaries at such time (the selection of Subsidiaries to be added to or removed from such Schedule to be made as the Borrower may determine).

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

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

(i) the excess (if any) of (a) \$225,000,000 over (b) the sum of (x) the aggregate outstanding principal amount of all Incremental Term Loans and Incremental Revolving Facility Commitments, in each case incurred or established after the Closing Date and outstanding at such time pursuant to *Section 2.20* utilizing this *clause (i)* (other than Incremental Term Loans and Incremental Revolving Facility Commitments in respect of Refinancing Term Loans, Extended Term Loans, Extended Revolving Facility Commitments or Replacement Revolving Facility Commitments, respectively) and (y) the aggregate principal amount of Indebtedness outstanding pursuant to *Section 6.01(y)* at such time that was incurred utilizing this *clause (i)*; *plus*

(ii) any amounts so long as immediately after giving effect to the establishment of the commitments in respect thereof (or, at the option of the Borrower, immediately after giving effect to the incurrence of the Incremental Loans thereunder) utilizing this *clause (ii)* (and assuming such Incremental Revolving Facility Commitments established at such time utilizing this *clause (ii)* are fully drawn unless such commitments have been drawn or have otherwise been terminated), (a) in the case of Incremental Loans secured by Liens on the Collateral that rank pari passu in right of security with the Liens on the Collateral securing the Term B Loans or the Initial Revolving Facility Loans, the Net First Lien Leverage Ratio on a Pro Forma Basis is not greater than 3.75 to 1.00 and (b) in the case of Incremental Loans secured by Liens on the Collateral that rank junior in right of security to the Liens on the Collateral securing the Term B Loans and the Initial Revolving Facility Loans, the Net Secured Leverage Ratio on a Pro Forma Basis is not greater than 4.00 to 1.00; *provided* that, for purposes of this *clause (ii)*, net cash proceeds of Incremental Loans incurred at such time shall not be netted against the applicable amount of Consolidated Debt for purposes of such calculation of the Net First Lien Leverage Ratio or the Net Secured Leverage Ratio at such time; *plus*

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(iii) the aggregate amount of all voluntary prepayments of Term B Loans outstanding on the Closing Date and Revolving Facility Loans pursuant to *Section 2.11(a)* (and accompanied by a reduction of Revolving Facility Commitments pursuant to *Section 2.08(b)*) in the case of a prepayment of Revolving Facility Loans) made prior to such time except to the extent funded with the proceeds of long-term Indebtedness (other than revolving Indebtedness);

*provided* that, for the avoidance of doubt, (A) amounts may be established or incurred utilizing *clause (ii)* above prior to utilizing *clause (i)* or *(iii)* above and (B) any calculation of the Net First Lien Leverage Ratio or the Net Secured Leverage Ratio on a Pro Forma Basis pursuant to *clause (ii)* above may be determined, at the option of the Borrower, without giving effect to any simultaneous establishment or incurrence of any amounts utilizing *clause (i)* or *(iii)* above.

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

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

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

“**Incremental Revolving Facility Commitment**” shall mean the commitment of any Lender, established pursuant to Section 2.20, to make Incremental Revolving Facility Loans to the Borrower.

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

“**Incremental Revolving Facility Loans**” shall mean (i) Revolving Facility Loans made by one or more Revolving Facility Lenders to the Borrower pursuant to an Incremental Revolving Facility Commitment to make additional Initial Revolving Facility Loans and (ii) to the extent permitted by Section 2.20 and provided for in the relevant Incremental Assumption Agreement, Other Revolving Facility Loans (including in the form of Extended Revolving Loans or Replacement Revolving Loans, as applicable), or (iii) any of the foregoing.

“**Incremental Term Borrowing**” shall mean a Borrowing comprised of Incremental Term Loans.

“**Incremental Term Facility**” shall mean any Class of Incremental Term Loan Commitments and the Incremental Term Loans made thereunder.

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

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“**Incremental Term Loan Commitment**” shall mean the commitment of any Lender, established pursuant to Section 2.20, to make Incremental Term Loans to the Borrower.

“**Incremental Term Loan Installment Date**” shall have, with respect to any Class of Incremental Term Loans established pursuant to an Incremental Assumption Agreement, the meaning assigned to such term in Section 2.10(a)(ii).

“**Incremental Term Loans**” shall mean (i) Term Loans made by one or more Lenders to the Borrower pursuant to Section 2.01(c) consisting of additional Term B Loans and (ii) to the extent permitted by Section 2.20 and provided for in the relevant Incremental Assumption Agreement, Other Term Loans (including in the form of Extended Term Loans or Refinancing Term Loans, as applicable), or (iii) any of the foregoing..

“**Indebtedness**” of any person shall mean, if and to the extent (other than with respect to clause (i)) the same would constitute indebtedness or a liability on a balance sheet prepared in accordance with GAAP, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person, (d) all obligations of such person issued or assumed as the deferred purchase price of property or services (other than such obligations accrued in the ordinary course), to the extent that the same would be required to be shown as a long term liability on a balance sheet prepared in accordance with GAAP, (e) all Capitalized Lease Obligations of such person, (f) all net payments that such person would have to make in the event of an early termination, on the date Indebtedness of such person is being determined, in respect of outstanding Swap Agreements, (g) the principal component of all obligations, contingent or otherwise, of such person as an account party in respect of letters of credit, (h) the principal component of all obligations of such person in respect of bankers’ acceptances, (i) all Guarantees by such person of Indebtedness described in clauses (a) to (h) above and (j) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of any Disqualified Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Stock); provided that Indebtedness shall not include (A) trade and other ordinary-course payables, accrued expenses, and intercompany liabilities arising in the ordinary course of business, (B) prepaid or deferred revenue, (C) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase prices of an asset to satisfy unperformed obligations of the seller of such asset, (D) Obligations under or in respect of Permitted Securitization Financings, (E) earn-out obligations until such obligations become a liability on the balance sheet of such person in accordance with GAAP, (F) obligations in respect of Third Party Funds, (G) in the case of the Borrower and its Subsidiaries, (I) all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business and (II) intercompany liabilities in connection with the cash management, tax and accounting operations of the Borrower and the Subsidiaries, (H) obligations under or in respect of the Business Combination Agreement or (I) any Claims Administration Indebtedness of such person (except to the extent that any such Claims Administration Indebtedness exceeds the Claims Administration Investments of such person). The Indebtedness of any person shall include the Indebtedness of any partnership in

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which such person is a general partner, other than to the extent that the instrument or agreement evidencing such Indebtedness expressly limits the liability of such person in respect thereof.

“**Indemnified Taxes**” shall mean all Taxes other than Excluded Taxes and Other Taxes.

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

“**Ineligible Institution**” shall mean (i) the persons identified as “Disqualified Lenders” in writing to the Joint Lead Arrangers by Parent on or prior to February 21, 2017 and (ii) the persons as may be identified in writing to the Administrative Agent by the Borrower from time to time thereafter (in the case of this clause (ii), solely in respect of bona fide business competitors of the Borrower (in the good faith determination of the Borrower)), by delivery of a notice thereof to the Administrative Agent setting forth such person or persons (or the person or persons previously identified to the Administrative Agent that are to be no longer considered “Ineligible Institutions”) which designations shall not apply retroactively to disqualify any persons that have previously acquired an assignment or participation in the Loans.

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

“**Information Memorandum**” shall mean the Confidential Information Memorandum, dated June 15, 2017, as modified or supplemented prior to the Closing Date.

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

“**Intellectual Property**” shall have the meaning assigned to such term in the Collateral Agreement.

“**Intercreditor Agreement**” shall have the meaning assigned to such term in Section 9.21.

“**Interest Coverage Ratio**” shall mean, on any date, the ratio of (a) EBITDA to (b) Cash Interest Expense, in each case, for the Test Period most recently ended as of such date, all determined on a consolidated basis in accordance with GAAP; provided that the Interest Coverage Ratio shall be determined for the relevant Test Period on a Pro Forma Basis.

“**Interest Election Request**” shall mean a request by the Borrower to convert or continue a Term Borrowing or Revolving Facility Borrowing in accordance with Section 2.07 and substantially in the form of Exhibit B or another form approved by the Administrative Agent.

“**Interest Expense**” shall mean, with respect to any person for any period, the sum of (a) gross interest expense of such person for such period on a consolidated basis, including the portion of any payments or accruals with respect to Capitalized Lease Obligations allocable to interest expense and excluding amortization of deferred financing fees and original issue

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discount, debt issuance costs, commissions, fees and expenses, expensing of any bridge, commitment or other financing fees and noncash interest expense attributable to movement in mark to market of obligations in respect of Swap Agreements or other derivatives (in each case permitted hereunder) under GAAP, and (b) capitalized interest of such person, minus interest income for such period. For purposes of the foregoing, gross interest expense shall be determined after giving effect to any net payments made or received and costs incurred by the Borrower and the Subsidiaries with respect to Swap Agreements, and interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“**Interest Payment Date**” shall mean, (a) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months’ duration been applicable to such Borrowing and, in addition, the date of any refinancing or conversion of such Borrowing with or to a Borrowing of a different Type and (b) with respect to any ABR Loan, the last Business Day of each calendar quarter (being the last Business Day of March, June, September and December of each year).

“**Interest Period**” shall mean, as to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing or on the last day of the immediately preceding Interest Period applicable to such Borrowing, as applicable, and ending on the numerically corresponding day (or, if there is no numerically corresponding day, on the last day) in the calendar month that is 1, 2, 3 or 6 months thereafter (or 12 months, if at the time of the relevant Borrowing, all relevant Lenders make interest periods of such length available or any shorter period), as the Borrower may elect; provided, however, that if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period.

“**Interpolated Rate**” means, in relation to the Eurocurrency Rate, the rate which results from interpolating on a linear basis between:

(a) the applicable Eurocurrency Rate for the longest period (for which that Eurocurrency Rate is available) which is less than the Interest Period of that Loan; and

(b) the applicable Eurocurrency Rate for the shortest period (for which that Eurocurrency Rate is available) which exceeds the Interest Period of that Loan,

each as of approximately 11:00 a.m. (London, England time) two Business Days prior to the commencement of such Interest Period of that Loan.

“**Investment**” shall have the meaning set forth in Section 6.04.

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“**Investor**” shall mean, collectively, investment funds managed by Affiliates of Apollo Global Management, LLC, investment funds managed by Affiliates of HandsOn Global Management, LLC, and other co-investors in the Equity Interests of Parent as of the Closing Date.

“**Investor Affiliates**” shall mean each Affiliate of the Investors that is neither a “portfolio company” (which means a company actively engaged in providing goods or services to unaffiliated customers), whether or not controlled, nor a company controlled by a “portfolio company”.

“**ISP**” shall mean, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“**Issuer Documents**” shall have the meaning set forth in Section 2.05(a).

“**Issuing Bank**” shall mean, as the context may require, (i) each Revolving Facility Lender, (ii) for purposes of the Existing Roll-Over Letters of Credit, the Issuing Banks set forth on Schedule 1.01(c) and (iii) each other Issuing Bank designated pursuant to Section 2.05(k), in each case in its capacity as an issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.05(j); *provided* that, in the case of *clause (iii)* above, the L/C Commitment with respect to each Issuing Bank shall be reduced on a ratable basis by the amount of the L/C Commitment allocated to such new Issuing Bank. An Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “**Issuing Bank**” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

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

“**Joint Lead Arrangers**” shall have the meaning assigned to such term in the preamble hereto.

“**Junior Financing**” shall mean any Indebtedness that is subordinated in right of payment to the Loan Obligations.

“**Junior Liens**” shall mean Liens on the Collateral that are junior to the Liens thereon securing the Term B Loans (and other Loan Obligations that are pari passu with the Term B Loans) pursuant to a Permitted Junior Intercreditor Agreement (it being understood that Junior Liens are not required to be pari passu with other Junior Liens, and that Indebtedness secured by Junior Liens may have Liens that are senior in priority to, pari passu with, or junior in priority to, other Liens constituting Junior Liens).

“**Laws**” shall mean, collectively, all international, foreign, federal, state and local statutes, treaties, rules, regulations, ordinances, codes and binding administrative or judicial precedents or authorities, including the binding interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof,

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and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of any Governmental Authority, in each case having the force of law.

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

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

“**L/C Commitment**” shall mean, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit pursuant to Section 2.05. The initial aggregate amount of the L/C Commitments of all Issuing Banks is \$45,000,000 (calculated, in the case of Alternate Currency Letters of Credit, based on the Dollar Equivalent thereof) or such larger amount not to exceed the Revolving Facility Commitment as the Administrative Agent and the Issuing Banks may agree or such smaller amount as the Borrower and the Administrative Agent and the Issuing Banks shall agree. The L/C Commitment with respect to each Revolving Facility Lender shall be no greater than its pro rata allocation with respect to the aggregate L/C Commitment in accordance with its Applicable Percentage.

“**L/C Disbursement**” shall mean a payment or disbursement made by an Issuing Bank pursuant to a Letter of Credit.

“**L/C Exposure**” of any Class shall mean, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit applicable to such Class at such time (calculated, in the case of Alternate Currency Letters of Credit, based on the Dollar Equivalent thereof) and (b) the aggregate amount of all L/C Disbursements applicable to such Class that have not yet been reimbursed by or on behalf of the Borrower at such time (calculated, in the case of Alternate Currency Letters of Credit, based on the Dollar Equivalent thereof). The L/C Exposure of any Class of any Revolving Facility Lender at any time shall be its Applicable Percentage of the total L/C Exposure applicable to such Class at such time.

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

“**Latest Maturity Date**” shall mean, at any date of determination, the latest of the latest Revolving Facility Maturity Date and the latest Term Facility Maturity Date, in each case then in effect on such date of determination.

“**Lender**” shall mean each financial institution listed on Schedule 2.01 (other than any such person that has ceased to be a party hereto pursuant to an Assignment and Acceptance in accordance with Section 9.04), as well as any person that becomes a “Lender” hereunder pursuant to Section 9.04 or Section 2.20, including, in respect of Letters of Credit, each Issuing Bank.

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

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“**Letter of Credit**” shall mean any letter of credit or bank guarantee issued pursuant to Section 2.05, including any Alternate Currency Letter of Credit. Each Existing Roll-Over Letter of Credit shall be deemed to constitute a Letter of Credit issued hereunder on the Closing Date for all purposes of the Loan Documents.

“**Letter of Credit Application**” shall mean an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by any applicable Issuing Bank.

“**Lien**” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, security interest or similar monetary encumbrance in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention

agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

“**Loan Documents**” shall mean this Agreement, the Letters of Credit, the Subsidiary Guarantee Agreement, the Security Documents, each Incremental Assumption Agreement, any Intercreditor Agreement, any Note issued under Section 2.09(e), and solely for the purposes of Sections 4.02(g) and 7.01(c) hereof, the Fee Letter.

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

“**Loan Parties**” shall mean Holdings, the Borrower and the Subsidiary Loan Parties.

“**Loans**” shall mean the Term Loans and the Revolving Facility Loans.

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“**Local Time**” shall mean New York City time; provided that, with respect to any Alternate Currency Loan, “Local Time” shall mean the local time of the applicable Lending Office.

“**Majority Lenders**” of any Facility shall mean, at any time, Lenders under such Facility having Loans and unused Commitments representing more than 50% of the sum of all Loans outstanding under such Facility and unused Commitments under such Facility at such time (subject to the last paragraph of Section 9.09(b)).

“**Management Group**” shall mean the group consisting of the directors, executive officers and other management personnel of the Borrower, Holdings or any Parent Entity, as the case may be, on the Closing Date after giving effect to the Transactions together with (a) any new directors whose election by such Boards of Directors or whose nomination for election by the shareholders of the Borrower, Holdings or any Parent Entity, as the case may be, was approved by a vote of a majority of the directors of the Borrower, Holdings or any Parent Entity, as the case may be, then still in office who were either directors on the Closing Date after giving effect to the Transactions or whose election or nomination was previously so approved and (b) executive officers and other management personnel of the Borrower, Holdings or any Parent Entity, as the case may be, hired at a time when the directors on the Closing Date after giving effect to the Transactions together with the directors so approved constituted a majority of the directors of the Borrower, Holdings or any Parent Entity, as the case may be.

“**Margin Stock**” shall have the meaning assigned to such term in Regulation U.

“**Material Adverse Effect**” shall mean a material adverse effect on the business, property, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole, or the validity or enforceability of any of the Loan Documents or the rights and remedies of the Administrative Agent and the Lenders thereunder.

“**Material Indebtedness**” shall mean Indebtedness (other than Loans and Letters of Credit) of any one or more of the Borrower or any Subsidiary in an aggregate principal amount exceeding \$75,000,000; provided that in no event shall any Permitted Securitization Financing be considered Material Indebtedness.

“**Material Real Property**” shall mean any parcel or parcels of Real Property located in the United States of America now or hereafter owned in fee by the Borrower or any Subsidiary Loan Party and having a Fair Market Value (on a per-property basis) (as determined in good faith by the Borrower) in excess of \$10,000,000 as of (x) the Closing Date, for Real Property now owned, as determined by the Pledgor in good faith or (y) the date of acquisition, for Real Property acquired after the Closing Date, as determined by the purchase price; provided that “Material Real Property” shall not include (i) any Real Property in respect of which the Borrower or a Subsidiary Loan Party does not own the land in fee simple or (ii) any Real Property which the Borrower or a Subsidiary Loan Party leases to a third party.

“**Material Subsidiary**” shall mean any Subsidiary other than an Immaterial Subsidiary.

“**Maximum Rate**” shall have the meaning assigned to such term in Section 9.10.

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“**Moody’s**” shall mean Moody’s Investors Service, Inc. and its successors and assigns.

“**Mortgaged Properties**” shall mean the Material Real Properties owned in fee by the Borrower or any Subsidiary Loan Party that are identified as such on Schedule 1.01(e) (the “**Closing Date Mortgaged Properties**”) and each additional Material Real Property encumbered by a Mortgage pursuant to Section 5.11.

“**Mortgages**” shall mean any Additional Mortgage and the mortgages, debentures, hypothecs, deeds of trust, deeds to secure debt, assignments of leases and rents, and other security documents delivered pursuant to Section 5.11, amended, amended and restated, supplemented, reaffirmed or otherwise modified from time to time, with respect to Mortgaged Properties, each in form and substance reasonably satisfactory to the Administrative Agent and the Borrower.

“**Multiemployer Plan**” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which Holdings, the Borrower or any Subsidiary or any ERISA Affiliate (other than one considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Code Section 414) is making or accruing an obligation to make contributions, or has within any of the preceding six plan years made or accrued an obligation to make contributions.

“**Net First Lien Leverage Ratio**” shall mean, on any date, the ratio of (A) (i) the sum of, without duplication, (x) the aggregate principal amount of any Consolidated Debt consisting of Loan Obligations outstanding as of the last day of the Test Period most recently ended as of such date (other than Loan Obligations secured only by Junior Liens) and (y) the aggregate principal amount of any other Consolidated Debt of the Borrower and its Subsidiaries outstanding as of the last day of such Test Period that is then secured by Liens on the Collateral that are Other First Liens less (ii) without duplication, the Unrestricted Cash and unrestricted Permitted Investments of the Borrower and its Subsidiaries as of the last day of such Test Period to (B) EBITDA for such Test Period, all determined on a consolidated basis in accordance with GAAP; provided that the Net First Lien Leverage Ratio shall be determined for the relevant Test Period on a Pro Forma Basis.

“**Net Income**” shall mean, with respect to any person, the net income (loss) of such person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“**Net Proceeds**” shall mean:

(a) 100% of the cash proceeds actually received by the Borrower or any of its Subsidiaries (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise and including casualty insurance settlements and condemnation awards, but only as and when received) from any Asset Sale under Section 6.05(h), or any Casualty Event, in each case, net of (i) attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, required debt payments and

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required payments of other obligations relating to the applicable asset (other than pursuant hereto), other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) Taxes paid or payable (in the good faith determination of the Borrower) as a result thereof (including, without duplication, the amount of any distributions in respect thereof pursuant to Section 6.06(b)(iii) or Section 6.06(b)(v)), (iii) the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any taxes deducted pursuant to clause (i) or (ii) above) (x) related to any of the applicable assets and (y) retained by the Borrower or any of the Subsidiaries including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be cash proceeds of such Asset Sale or Casualty Event occurring on the date of such reduction) and (iv) payments made to holders of minority interests in Subsidiaries that are joint ventures as a result of such Asset Sale; provided that the Borrower or any Subsidiary may deliver a certificate of a Responsible Officer of the Borrower to the Administrative Agent promptly after receipt of any such proceeds setting forth the Borrower’s or such Subsidiary’s intention to use, or to commit to use, any portion of such proceeds, to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of the Borrower and the Subsidiaries or to make investments in Permitted Business Acquisitions or Investments permitted by Section 6.04 or to reimburse the cost of any of the foregoing incurred on or after the date on which the Asset Sale or Casualty Event giving rise to such proceeds was contractually committed, in each case, if such certificate shall have been delivered, within twelve months of such receipt, such portion of such proceeds shall not constitute Net Proceeds except to the extent (A) not so used (or committed to be used) within such twelve-month period or (B) if committed to be used within such twelve-month period, not so used within 18 months of such receipt); provided, further, that (x) no net cash proceeds realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such net cash proceeds shall exceed \$2,500,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds) and (y) no net cash proceeds shall constitute Net Proceeds in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed \$5,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds); provided, still further, that pending such reinvestment, such proceeds may be applied to temporarily reduce outstanding Revolving Facility Loans; and

(b) 100% of the cash proceeds from the incurrence, issuance or sale by the Borrower or any of its Subsidiaries of any Indebtedness (other than Excluded Indebtedness), net of all taxes and fees (including investment banking fees), commissions, costs and other expenses, in each case incurred in connection with such incurrence, issuance or sale.

For purposes of calculating the amount of Net Proceeds, fees, commissions and other costs and expenses payable to Holdings or the Borrower or any Affiliate of either of them shall be disregarded, except for financial advisory fees customary in type and amount paid to Affiliates of the Investors.

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“**Net Secured Leverage Ratio**” shall mean, on any date, the ratio of (A) (i) the sum of, without duplication, (x) the aggregate principal amount of any Consolidated Debt consisting of Loan Obligations outstanding as of the last day of the Test Period most recently ended as of such date and (y) the aggregate principal amount of any other Consolidated Debt of the Borrower and its Subsidiaries outstanding as of the last day of such Test Period that is then secured by Liens on the Collateral less (ii) without duplication, the Unrestricted Cash and unrestricted Permitted Investments of the Borrower and its Subsidiaries as of the last day of such Test Period, to (B) EBITDA for such Test Period, all determined on a consolidated basis in accordance with GAAP; provided that the Net Secured Leverage Ratio shall be determined for the relevant Test Period on a Pro Forma Basis.

“**Net Total Leverage Ratio**” shall mean, on any date, the ratio of (A) (i) the aggregate principal amount of any Consolidated Debt of the Borrower and its Subsidiaries outstanding as of the last day of the Test Period most recently ended as of such date less (ii) without duplication, the Unrestricted Cash and unrestricted Permitted Investments of the Borrower and its Subsidiaries as of the last day of such Test Period, to (B) EBITDA for such



Test Period, all determined on a consolidated basis in accordance with GAAP; *provided* that the Net Total Leverage Ratio shall be determined for the relevant Test Period on a Pro Forma Basis.

“**New Class Loans**” shall have the meaning assigned to such term in Section 9.09(f).

“**New Project**” shall mean (x) each contract or project with respect to new customers and any expansions of contracts or projects with respect to existing customers and (y) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market.

“**Non-Consenting Lender**” shall have the meaning assigned to such term in Section 2.19(c).

“**Note**” shall have the meaning assigned to such term in Section 2.09(e).

“**Novitex**” shall have the meaning assigned to such term in the recitals hereto.

“**Novitex Merger**” shall have the meaning assigned to such term in the recitals hereto.

“**Novitex Merger Sub**” shall have the meaning assigned to such term in the recitals hereto.

“**Novitex Parent**” shall have the meaning assigned to such term in the recitals hereto.

“**Obligations**” shall mean, collectively, (a) the Loan Obligations, (b) obligations in respect of any Secured Cash Management Agreement and (c) obligations in respect of any Secured Swap Agreement.

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“**OFAC**” shall have the meaning provided in Section 3.23(b).

“**Other First Lien Debt**” shall mean obligations secured by Other First Liens.

“**Other First Liens**” shall mean Liens on the Collateral that are pari passu with the Liens thereon securing the Term B Loans (and other Loan Obligations that are pari passu with the Term B Loans) pursuant to a Permitted Pari Passu Intercreditor Agreement.

“**Other Revolving Facility Commitments**” shall mean Incremental Revolving Facility Commitments to make Other Revolving Facility Loans.

“**Other Revolving Facility Loans**” shall have the meaning assigned to such term in Section 2.20(a).

“**Other Taxes**” shall mean any and all present or future stamp, documentary or similar taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, from the receipt or perfection of a security interest under, or otherwise with respect to, the Loan Documents, and any and all interest and penalties related thereto.

“**Other Term Loans**” shall have the meaning assigned to such term in Section 2.20(a) (including in the form of Extended Term Loans or Refinancing Term Loans, as applicable).

“**Parent**” shall have the meaning assigned to such term in the recitals hereto, together with its successors and assigns.

“**Parent Entity**” shall mean any direct or indirect parent of the Borrower.

“**Pari First Lien Intercreditor Agreement**” shall mean the Pari First Lien Intercreditor Agreement, dated as of the date hereof, by and among Royal Bank of Canada, as Collateral Agent (as defined therein), Royal Bank of Canada, as Administrative Agent (as defined therein), Royal Bank of Canada, as Initial Other Authorized Representative (as defined therein), and each additional Authorized Representative (as defined therein) from time to time party thereto, as such document may be amended, restated, supplemented or otherwise modified from time to time.

“**Pari Term Loans**” shall have the meaning assigned to such term in Section 6.02.

“**Pari Yield Differential**” shall have the meaning assigned to such term in Section 6.02.

“**Participant**” shall have the meaning assigned to such term in Section 9.04(d)(i).

“**Participant Register**” shall have the meaning assigned to such term in Section 9.04(d)(ii).

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“**Participating Member State**” shall mean each state so described in any EMU Legislation.

“**PBGC**” shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“**Perfection Certificate**” shall mean the Perfection Certificate with respect to the Loan Parties, in a form reasonably satisfactory to the Administrative Agent, as the same may be supplemented from time to time to the extent required by Section 5.04(f).

**“Permitted Business Acquisition”** shall mean any acquisition of all or substantially all the assets of, or all or substantially all the Equity Interests (other than directors’ qualifying shares) not previously held by the Borrower and its Subsidiaries in, or merger, consolidation or amalgamation with, a person or division, line of business or individual facility of a person (or any subsequent investment made in a person or division, line of business or individual facility previously acquired in a Permitted Business Acquisition), if immediately after giving effect thereto: (i) no Event of Default under clause (b), (c), (h) or (i) of Section 7.01 shall have occurred and be continuing or would result therefrom, provided, however, that with respect to a proposed acquisition pursuant to an executed acquisition agreement, at the option of the Borrower, the determination of whether such an Event of Default shall exist shall be made solely at the time of the execution of the acquisition agreement related to such Permitted Business Acquisition; (ii) all transactions related thereto shall be consummated in all material respects in accordance with applicable laws; (iii) [reserved]; (iv) any acquired or newly formed Subsidiary shall not be liable for any Indebtedness except for Indebtedness permitted by Section 6.01; (v) to the extent required by Section 5.11, any person acquired in such acquisition, if acquired by the Borrower or a Domestic Subsidiary, shall be merged into the Borrower or a Subsidiary Loan Party or become upon consummation of such acquisition a Subsidiary Loan Party; and (vi) the aggregate cash consideration in respect of such acquisitions and investments by the Borrower or a Subsidiary Loan Party in assets that are not owned by the Borrower or Subsidiary Loan Parties or in Equity Interests in persons that are not Subsidiary Loan Parties or do not become Subsidiary Loan Parties, in each case upon consummation of such acquisition, shall not exceed, the greater of (x) \$40,000,000 and (y) 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period (excluding for purposes of the calculation in this clause (vi), (A) any such assets or Equity Interests that are no longer owned by the Borrower or any of its Subsidiaries and (B) acquisitions and investments made at a time when, immediately after giving effect thereto, the Net Total Leverage Ratio on a Pro Forma Basis would not exceed 2.72 to 1.00, which acquisitions and investments shall be permitted under this clause (vi) without regard to such calculation).

**“Permitted Cure Security”** shall mean Equity Interests of the Borrower, Holdings or any Parent Entity issued pursuant to the Cure Right other than Disqualified Stock.

**“Permitted Holder Group”** shall have the meaning assigned to such term in the definition of “Permitted Holders.”

**“Permitted Holders”** shall mean (i) the Co-Investors (and each person to whom any Co-Investor transfers Equity Interests of the Borrower, Holdings or any Parent Entity in

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connection with the primary equity syndication following the Closing Date), (ii) any person that has no material assets other than the Equity Interests of the Borrower, Holdings or any Parent Entity and that, directly or indirectly, holds or acquires beneficial ownership of 100% on a fully diluted basis of the voting Equity Interests of the Borrower, and of which no other person or “group” (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Closing Date), other than any of the other Permitted Holders specified in clause (i) and this clause (ii), beneficially owns more than 50% on a fully diluted basis of the voting Equity Interests thereof and (iii) any “group” (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act as in effect on the Closing Date) the members of which include any of the other Permitted Holders specified in clause (i) and clause (ii) and that, directly or indirectly, hold or acquire beneficial ownership of the voting Equity Interests of the Borrower (a “**Permitted Holder Group**”), so long as (1) each member of the Permitted Holder Group has voting rights proportional to the percentage of ownership interests held or acquired by such member and (2) no person or other “group” (other than the other Permitted Holders specified in clause (i) and clause (ii)) beneficially owns more than 50% on a fully diluted basis of the voting Equity Interests held by the Permitted Holder Group.

**“Permitted Investments”** shall mean:

(a) direct obligations of the United States of America or any member of the European Union or any agency thereof or obligations guaranteed by the United States of America or any member of the European Union or any agency thereof, in each case with maturities not exceeding two years from the date of acquisition thereof;

(b) time deposit accounts, certificates of deposit, money market deposits, banker’s acceptances and other bank deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company that is organized under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America having capital, surplus and undivided profits in excess of \$250,000,000 and whose long-term debt, or whose parent holding company’s long-term debt, is rated A (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act));

(c) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above;

(d) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than an Affiliate of the Borrower) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of P 1 (or higher) according to Moody’s or A 1 (or higher) according to S&P (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act));

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(e) securities with maturities of two years or less from the date of acquisition, issued or fully guaranteed by any State, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A by Moody’s (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act));

(f) shares of mutual funds whose investment guidelines restrict 95% of such funds’ investments to those satisfying the provisions of clauses (a) through (e) above;

(g) money market funds that (i) comply with the criteria set forth in Rule 2a 7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody’s and (iii) have portfolio assets of at least \$5,000,000,000;

(h) time deposit accounts, certificates of deposit, money market deposits, banker's acceptances and other bank deposits in an aggregate face amount not in excess of 0.5% of the total assets of the Borrower and the Subsidiaries, on a consolidated basis, as of the end of the Borrower's most recently completed fiscal year; and

(i) instruments equivalent to those referred to in *clauses (a) through (h)* above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States of America to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction.

**"Permitted Junior Intercreditor Agreement"** shall mean, with respect to any Liens on Collateral that are intended to be junior to any Liens securing the Term B Loans (and other Loan Obligations that are pari passu with the Term B Loans) (including, for the avoidance of doubt, junior Liens pursuant to *Section 2.20(b)(ii)* or (y)), either (as the Borrower shall elect) (x) the First Lien/Second Lien Intercreditor Agreement if such Liens secure "Second Lien Obligations" (as defined therein), (y) another intercreditor agreement not materially less favorable to the Lenders vis-à-vis such junior Liens than the First Lien/Second Lien Intercreditor Agreement (as determined by the Borrower in good faith) or (z) another intercreditor agreement the terms of which are consistent with market terms governing security arrangements for the sharing of liens on a junior basis at the time such intercreditor agreement is proposed to be established in light of the type of Indebtedness to be secured by such liens, as determined by the Administrative Agent and the Borrower in the exercise of reasonable judgment.

**"Permitted Liens"** shall have the meaning assigned to such term in *Section 6.02*.

**"Permitted Loan Purchase"** shall have the meaning assigned to such term in *Section 9.04(i)*.

**"Permitted Loan Purchase Assignment and Acceptance"** shall mean an assignment and acceptance entered into by a Lender as an Assignor and Holdings, the Borrower or any of the Subsidiaries as an Assignee, as accepted by the Administrative Agent (if required by *Section 9.04*) in the form of *Exhibit G* or such other form as shall be approved by the

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Administrative Agent and the Borrower (such approval not to be unreasonably withheld or delayed).

**"Permitted Pari Passu Intercreditor Agreement"** shall mean, with respect to any Liens on Collateral that are intended to be pari passu with the Liens securing the Term B Loans (and other Loan Obligations that are pari passu with the Term B Loans), either (as the Borrower shall elect) (x) the Pari First Lien Intercreditor Agreement, (y) another intercreditor agreement not materially less favorable to the Lenders vis-à-vis such pari passu Liens than the Pari First Lien Intercreditor Agreement (as determined by the Borrower in good faith) or (z) another intercreditor agreement the terms of which are consistent with market terms governing security arrangements for the sharing of liens on a pari passu basis at the time such intercreditor agreement is proposed to be established in light of the type of Indebtedness to be secured by such liens, as determined by the Administrative Agent and the Borrower in the exercise of reasonable judgment.

**"Permitted Refinancing Indebtedness"** shall mean any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to **"Refinance"**), the Indebtedness being Refinanced (or previous refinancings thereof constituting Permitted Refinancing Indebtedness); *provided* that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Refinanced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions, expenses, plus an amount equal to any existing commitment unutilized thereunder and letters of credit undrawn thereunder), (b) except with respect to *Section 6.01(i)*, (i) the final maturity date of such Permitted Refinancing Indebtedness is on or after the earlier of (x) the final maturity date of the Indebtedness being Refinanced and (y) the Latest Maturity Date in effect at the time of incurrence thereof and (ii) the Weighted Average Life to Maturity of such Permitted Refinancing Indebtedness is greater than or equal to the lesser of (i) the Weighted Average Life to Maturity of the Indebtedness being Refinanced and (ii) the Weighted Average Life to Maturity of the Class of Term Loans then outstanding with the greatest remaining Weighted Average Life to Maturity, (c) if the Indebtedness being Refinanced is subordinated in right of payment to the Loan Obligations under this Agreement, such Permitted Refinancing Indebtedness shall be subordinated in right of payment to such Loan Obligations on terms in the aggregate not materially less favorable to the Lenders as those contained in the documentation governing the Indebtedness being Refinanced, (d) no Permitted Refinancing Indebtedness shall have obligors that are not (or would not have been) obligated with respect to the Indebtedness being so Refinanced (except that a Loan Party may be added as an additional obligor) and (e) if the Indebtedness being Refinanced is secured by Liens on any Collateral (whether senior to, equally and ratably with, or junior to the Liens on such Collateral securing the Loan Obligations or otherwise), such Permitted Refinancing Indebtedness may be secured by such Collateral (including any Collateral pursuant to after-acquired property clauses to the extent any such Collateral secured (or would have secured) the Indebtedness being Refinanced) on terms in the aggregate that are substantially similar to, or not materially less favorable to the Secured Parties than, the Indebtedness being refinanced or on terms otherwise permitted by *Section 6.02*.

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**"Permitted Securitization Documents"** shall mean all documents and agreements evidencing, relating to or otherwise governing a Permitted Securitization Financing.

**"Permitted Securitization Financing"** shall mean one or more transactions pursuant to which (i) Securitization Assets or interests therein are sold to or transferred or financed by one or more Special Purpose Securitization Subsidiaries, and (ii) such Special Purpose Securitization Subsidiaries finance (or refinance) their acquisition of such Securitization Assets or interests therein, or the financing thereof, by selling or borrowing against Securitization Assets (including conduit and warehouse financings) and any Swap Agreements entered into in connection with such Securitization Assets; *provided* that recourse to the Borrower or any Subsidiary (other than the Special Purpose Securitization Subsidiaries) in connection with such transactions shall be limited to the extent customary (as determined by the Borrower in good faith) for similar transactions in the applicable jurisdictions (including, to the extent applicable, in a manner consistent with the delivery of a "true sale"/"absolute transfer" opinion with respect to any transfer by the Borrower or any Subsidiary (other than a Special Purpose Securitization Subsidiary)).

“**person**” shall mean any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company or government, individual or family trusts, or any agency or political subdivision thereof.

“**Plan**” shall mean any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code and in respect of which Holdings, the Borrower, any Subsidiary or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“**Platform**” shall have the meaning assigned to such term in Section 9.19(b).

“**Pledged Collateral**” shall have the meaning assigned to such term in the Collateral Agreement.

“**Pre-Opening Expenses**” shall mean, with respect to any fiscal period, the amount of expenses (other than interest expense) incurred with respect to facilities which are classified as “pre-opening expenses” (or any similar or equivalent caption) on the applicable financial statements of the Borrower and the Subsidiaries for such period, prepared in accordance with GAAP.

“**Prepayment or Reduction Notice**” means a notice by the Borrower to prepay or reduce Loans, which, when in writing, shall be substantially in the form of Exhibit F (or such other form as the Administrative Agent may approve).

“**Pricing Grid**” shall mean, with respect to the Revolving Facility Loans and Revolving Facility Commitments, the tables set forth below:

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### Pricing Grid for Revolving Facility Loans

Net First Lien Leverage Ratio	Applicable Margin for Eurocurrency Loans	Applicable Margin for ABR Loans
Greater than 3.25 to 1.00	7.00%	6.00%
Less than or equal to 3.25 to 1.00 but greater than 2.75 to 1.00	6.75%	5.75%
Less than or equal to 2.75 to 1.00	6.50%	5.50%

### Pricing Grid for Revolving Facility Commitments

Net First Lien Leverage Ratio	Applicable Commitment Fee
Greater than 3.25 to 1.00	0.50%
Less than or equal to 3.25 to 1.00	0.375%

For the purposes of the Pricing Grid, changes in the Applicable Margin and the Applicable Commitment Fee resulting from changes in the Net First Lien Leverage Ratio shall become effective on the date (the “**Adjustment Date**”) that is three Business Days after the date on which the relevant financial statements are delivered to the Administrative Agent pursuant to Section 5.04 for each fiscal quarter commencing with the first full fiscal quarter of the Borrower ended after the Closing Date, and shall remain in effect until the next Adjustment Date. Following the first Adjustment Date commencing with the first full fiscal quarter of the Borrower ended after the Closing Date, the Applicable Margin and the Applicable Commitment Fee shall be determined by reference to the Net First Lien Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding the applicable Adjustment Date as reflected in the applicable compliance certificate delivered to the Administrative Agent pursuant to Section 5.04(c). If any financial statements referred to above are not delivered within the time periods specified in Section 5.04, then, at the option of the Administrative Agent or the Required Lenders, until the date that is three Business Days after the date on which such financial statements are delivered, the pricing level that is set forth in clause (ii) of the definition of the term “Applicable Margin” and set forth in clause (i) of the definition of the term “Applicable Commitment Fee”, as applicable, shall apply as of the first Business Day after the date on which such financial statements were to have been delivered but were not delivered. Each determination of the Net First Lien Leverage Ratio pursuant to the Pricing Grid shall be made in a manner consistent with the determination thereof pursuant to Section 6.11.

Notwithstanding anything to the contrary contained above in this definition or elsewhere in this Agreement, if it is subsequently determined that the Net First Lien Leverage Ratio set forth in any compliance certificate delivered to the Administrative Agent pursuant to Section 5.04(c) is inaccurate as a result of any fraud, intentional misrepresentation or willful misconduct of the Borrower or any officer thereof and the result is that the Lenders received

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interest or fees for any period based on an Applicable Margin or an Applicable Commitment Fee that is less than that which would have been applicable had the Net First Lien Leverage Ratio been accurately determined, then, for all purposes of this Agreement, the “Applicable Margin” or the “Applicable Commitment Fee” for any day occurring within the period covered by such compliance certificate shall retroactively be deemed to be the relevant percentage as based upon the accurately determined Net First Lien Leverage Ratio for such period, and any shortfall in the interest or fees theretofore paid by the Borrower for the relevant period pursuant to this Agreement as a result of the miscalculation of the Net First Lien Leverage Ratio shall be deemed to be (and shall be) due and payable under the relevant provisions of this Agreement, as applicable, at the time the interest or fees for such period were required to be paid pursuant to said Section (and shall remain due and payable until paid in full, together with all amounts owing under Section 2.13, in accordance with the terms of this Agreement), but shall be paid for the ratable account of the Lenders at the time that such determination is made.

“**primary obligor**” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“**Prime Rate**” shall mean the rate of interest *per annum* determined from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City and notified to the Borrower.

“**Pro Forma Closing Balance Sheet**” shall have the meaning assigned to such term in Section 3.05(b).

**“Pro Forma Basis”** shall mean, as to any person, for any events as described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred on the first day of the four consecutive fiscal quarter period ended on or before the occurrence of such event (the **“Reference Period”**): (i) pro forma effect shall be given to any Disposition, any acquisition, Investment, capital expenditure, construction, repair, replacement, improvement, development, disposition, merger, amalgamation, consolidation (including the Transactions) (or any similar transaction or transactions not otherwise permitted under Section 6.04 or 6.05 that require a waiver or consent of the Required Lenders and such waiver or consent has been obtained), any dividend, distribution or other similar payment, any designation of any Subsidiary as an Unrestricted Subsidiary and any Subsidiary Redesignation, New Project, and any restructurings of the business of the Borrower or any of its Subsidiaries that the Borrower or any of the Subsidiaries has determined to make and/or made and in the good faith determination of a Responsible Officer of the Borrower are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and similar operational and other cost savings, which adjustments the Borrower determines are reasonable as set forth in a certificate of a Financial Officer of the Borrower (the foregoing, together with any transactions related thereto or in connection therewith, the **“relevant transactions”**), in each case that occurred during the Reference Period (or, in the case of determinations made pursuant to Section 2.20 or Article VI (other than Section 6.11), occurring during the Reference Period or thereafter and through and including the date upon which the relevant transaction is consummated), (ii) in making any determination on a

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Pro Forma Basis, (x) all Indebtedness (including Indebtedness issued, incurred or assumed as a result of, or to finance, any relevant transactions and for which the financial effect is being calculated, whether incurred under this Agreement or otherwise, but excluding normal fluctuations in revolving Indebtedness incurred for working capital purposes and amounts outstanding under any Permitted Securitization Financing, in each case not to finance any acquisition) issued, incurred, assumed or permanently repaid during the Reference Period (or, in the case of determinations made pursuant to Section 2.20 or Article VI (other than Section 6.11), occurring during the Reference Period or thereafter and through and including the date upon which the relevant transaction is consummated) shall be deemed to have been issued, incurred, assumed or permanently repaid at the beginning of such period, (y) Interest Expense of such person attributable to interest on any Indebtedness, for which pro forma effect is being given as provided in the preceding clause (x), bearing floating interest rates shall be computed on a pro forma basis as if the rates that would have been in effect during the period for which pro forma effect is being given had been actually in effect during such periods, and (z) in giving effect to clause (i) above with respect to each New Project which commences operations and records not less than one full fiscal quarter’s operations during the Reference Period, the operating results of such New Project shall be annualized on a straight line basis during such period, taking into account any seasonality adjustments determined by the Borrower in good faith, and (iii) (A) any Subsidiary Redesignation then being designated, effect shall be given to such Subsidiary Redesignation and all other Subsidiary Redesignations after the first day of the relevant Reference Period and on or prior to the date of the respective Subsidiary Redesignation then being designated, collectively, and (B) any designation of a Subsidiary as an Unrestricted Subsidiary, effect shall be given to such designation and all other designations of Subsidiaries as Unrestricted Subsidiaries after the first day of the relevant Reference Period and on or prior to the date of the then applicable designation of a Subsidiary as an Unrestricted Subsidiary, collectively.

In the event that EBITDA or any financial ratio is being calculated for purposes of determining whether Indebtedness or any Lien relating thereto may be incurred or whether any Investment may be made, the Borrower may elect pursuant to a certificate of a Responsible Officer delivered to the Administrative Agent to treat all or any portion of the commitment relating thereto as being incurred at the time of such commitment, in which case any subsequent incurrence of Indebtedness under such commitment shall not be deemed, for purposes of this calculation, to be an incurrence at such subsequent time.

Pro forma calculations made pursuant to the definition of the term “Pro Forma Basis” shall be determined in good faith by a Responsible Officer of the Borrower and may include adjustments to reflect (1) operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to result from any relevant pro forma event (including, to the extent applicable, the Transactions) and (2) all adjustments of the type used in connection with the calculation of “Further Adjusted EBITDA” as set forth in the “Summary Unaudited Pro Forma Financial and Other Information of Exela” portion of the “Summary” section of the Senior Secured Notes Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such Reference Period; provided that for all purposes of determining EBITDA hereunder (i) adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving

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effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)) and (ii) actions resulting in operating expense reductions and other operating improvements, synergies or cost savings are, in each case, required to be taken or commenced or expected to be taken or commenced (in the good faith determination of the Borrower) within 24 months after the date any such transaction is consummated; provided that the limitations set forth in clauses (i) and (ii) shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions or otherwise pursuant to clause (2) above, and information and calculations supporting them in reasonable detail.

For purposes of this definition, any amount in a currency other than Dollars will be converted to Dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

**“Pro Forma Compliance”** shall mean, at any date of determination, that the Borrower and its Subsidiaries shall be in compliance, on a Pro Forma Basis after giving effect on a Pro Forma Basis to the relevant transactions (including the assumption, the issuance, incurrence and permanent repayment of Indebtedness), with the Financial Covenant recomputed as at the last day of the most recently ended fiscal quarter of the Borrower and its Subsidiaries for which the financial statements and certificates required pursuant to Section 5.04 have been delivered.

**“Pro Rata Extension Offers”** shall have the meaning assigned to such term in Section 2.20(e).

**“Pro Rata Share”** shall have the meaning assigned to such term in Section 9.09(f).

**“Projections”** shall mean the projections of the Borrower and the Subsidiaries included in the Information Memorandum and any other projections and any forward-looking statements (including statements with respect to booked business) of such entities furnished to the Lenders, the Joint

“**Public Lender**” shall have the meaning assigned to such term in Section 9.19(b).

“**Qualified Equity Interests**” shall mean any Equity Interests other than Disqualified Stock.

“**Rate**” shall have the meaning assigned to such term in the definition of the term “Type.”

“**Real Property**” shall mean, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee or leased by any Loan Party, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof.

“**Receivables Assets**” shall mean accounts receivable (including any bills of exchange) and related assets and property from time to time originated, acquired or otherwise owned by the Borrower or any Subsidiary.

“**Reference Period**” shall have the meaning assigned to such term in the definition of the term “Pro Forma Basis.”

“**Refinance**” shall have the meaning assigned to such term in the definition of the term “Permitted Refinancing Indebtedness,” and “**Refinancing**” and “**Refinanced**” shall have a meaning correlative thereto.

“**Refinancing Effective Date**” shall have the meaning assigned to such term in Section 2.20(j).

“**Refinancing Notes**” shall mean any secured or unsecured notes or loans issued by the Borrower or any Subsidiary Loan Party (whether under an indenture, a credit agreement or otherwise) and the Indebtedness represented thereby; *provided* that (a) (i) 100% of the Net Proceeds of such Refinancing Notes that are secured on a *pari passu* basis with the Term B Loans are used to permanently reduce Loans and/or replace Commitments substantially simultaneously with the issuance thereof or (ii) 90% of the Net Proceeds of any other Refinancing Notes are used to permanently reduce Loans and/or replace Commitments substantially simultaneously with the issuance thereof; (b) the principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Loans so reduced and/or Commitments so replaced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (c) the final maturity date of such Refinancing Notes is on or after the Term Facility Maturity Date or the Revolving Facility Maturity Date, as applicable, of the Term Loans so reduced or the Revolving Facility Commitments so replaced; (d) the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Term Loans so reduced or the Revolving Facility Commitments so replaced, as applicable; (e) in the case of Refinancing Notes in the form of notes issued under an indenture, the terms thereof do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the Term Facility Maturity Date of the Term Loans so reduced or the Revolving Facility Maturity Date of the Revolving Facility Commitments so replaced, as applicable (other than customary offers to repurchase or mandatory prepayment provisions upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default); (f) the other terms of such Refinancing Notes (other than interest rates, fees, floors, funding discounts and redemption or prepayment premiums and other pricing terms), taken as a whole, are substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than the terms, taken as a whole, applicable to the Term B Loans (except for covenants or other provisions applicable only to periods after the Latest Maturity Date in effect at the time such Refinancing Notes are issued or are otherwise reasonably acceptable to the Administrative Agent), as determined by the Borrower in good faith (or, if more restrictive, the Loan Documents are amended to contain such more restrictive terms to the extent required to satisfy the foregoing standard); (g) there shall be no obligor in respect of such Refinancing Notes that is not a Loan Party; and (h) Refinancing Notes that are secured by Collateral shall be subject

to the provisions of a Permitted Pari Passu Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable.

“**Refinancing Term Loans**” shall have the meaning assigned to such term in Section 2.20(j).

“**Register**” shall have the meaning assigned to such term in Section 9.04(b)(iv).

“**Regulation T**” shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“**Regulation U**” shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“**Regulation X**” shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“**Related Fund**” shall mean, with respect to any Lender that is a fund that invests in bank or commercial loans and similar extensions of credit, any other fund that invests in bank or commercial loans and similar extensions of credit and is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity (or an Affiliate of such entity) that administers, advises or manages such Lender.

“**Related Parties**” shall mean, with respect to any specified person, such person’s Controlled or Controlling Affiliates and the partners, directors, officers, employees, agents, trustees, advisors, controlling persons and members of such person and of such person’s Controlled or Controlling Affiliates.

“**Related Sections**” shall have the meaning assigned to such term in Section 6.04.

“**Release**” shall mean any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, emanating or migrating in, into, onto or through the environment, and “**Released**” shall have a meaning correlative thereto.

“**Reorganization**” shall mean, collectively, (i) the formation of the Borrower by Parent and contribution of 100% of the equity interests of SourceHOV Merger Sub and Novitex Merger Sub to the Borrower and (ii) the formation of Holdings by Parent and the contribution of 100% of the equity interests of the Borrower to Holdings.

“**Replacement Revolving Facilities**” shall have the meaning assigned to such term in Section 2.20(l).

“**Replacement Revolving Facility Commitments**” shall have the meaning assigned to such term in Section 2.20(l).

“**Replacement Revolving Facility Effective Date**” shall have the meaning assigned to such term in Section 2.20(l).

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“**Replacement Revolving Loans**” shall have the meaning assigned to such term in Section 2.20(l).

“**Reportable Event**” shall mean any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30-day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Plan (other than a Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code).

“**Required Amount of Loans**” shall have the meaning assigned to such term in the definition of the term “Required Lenders.”

“**Required Lenders**” shall mean, at any time, Lenders having (a) Loans outstanding, (b) L/C Exposure and (c) Available Unused Commitments that, taken together, represent more than 50% of the sum of (x) all Loans outstanding, (y) L/C Exposure and (z) the total Available Unused Commitments at such time; provided that (i) the Loans, L/C Exposure and Available Unused Commitment of any Defaulting Lender shall be disregarded in determining Required Lenders at any time and (ii) the portion of any Term Loans held by Debt Fund Affiliate Lenders in the aggregate in excess of 49.9% of the Required Amount of Loans shall be disregarded in determining Required Lenders at any time. For purposes of the foregoing, “**Required Amount of Loans**” shall mean, at any time, the amount of Loans required to be held by Lenders in order for such Lenders to constitute “**Required Lenders**” (without giving effect to the foregoing clause (ii)).

“**Required Percentage**” shall mean, with respect to an Excess Cash Flow Period (or Excess Cash Flow Interim Period, as applicable), 75%; provided that, if the Net First Lien Leverage Ratio calculated as of the end of any Excess Cash Flow Period (or Excess Cash Flow Interim Period, as applicable) is (a) less than or equal to 3.25 to 1.00 but greater than 2.75 to 1.00, the Required Percentage shall be 50%, (b) less than or equal to 2.75 to 1.00 but greater than 2.50 to 1.00, the Required Percentage shall be 25% and (c) less than or equal to 2.50 to 1.00, the Required Percentage shall be 0%.

“**Required Prepayment Lenders**” shall mean, at any time, the holders of more than 50% of the aggregate unpaid principal amount of the Term Loans at such time (subject to the last paragraph of Section 9.09(b)).

“**Required Revolving Facility Lenders**” shall mean, at any time, Revolving Facility Lenders having (a) Revolving Facility Loans outstanding, (b) L/C Exposures and (d) Available Unused Commitments that, taken together, represent more than 50% of the sum of (x) all Revolving Facility Loans outstanding, (y) all L/C Exposures and (z) the total Available Unused Commitments at such time; provided that the Revolving Facility Loans, L/C Exposures and Available Unused Commitment of any Defaulting Lender shall be disregarded in determining Required Revolving Facility Lenders at any time.

“**Requirement of Law**” shall mean, as to any person, any law, treaty, rule, regulation, statute, order, ordinance, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed by any

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Governmental Authority, in each case applicable to or binding upon such person or any of its property or assets or to which such person or any of its property or assets is subject.

“**Responsible Officer**” of any person shall mean any executive officer or Financial Officer of such person and any other officer or similar official thereof responsible for the administration of the obligations of such person in respect of this Agreement or any other duly authorized employee or signatory of such person.

“**Retained Percentage**” shall mean, with respect to any Excess Cash Flow Period (or Excess Cash Flow Interim Period), (a) 100% minus (b) the Required Percentage with respect to such Excess Cash Flow Period (or Excess Cash Flow Interim Period).

“**Revaluation Date**” shall mean (a) with respect to any Alternate Currency Letter of Credit, each of the following: (i) each date of issuance, extension or renewal of an Alternate Currency Letter of Credit, (ii) each date of an amendment of any Alternate Currency Letter of Credit having the effect of increasing the amount thereof, (iii) each date of any payment by the applicable Issuing Bank under any Alternate Currency Letter of Credit, and (iv) such additional dates as the Administrative Agent or the applicable Issuing Bank shall determine or the Required Lenders shall require and (b) with respect to any Alternate Currency Loans, each of the following: (i) each date of a Borrowing of Eurocurrency Revolving Loans denominated in an Alternate Currency, (ii) each date of a continuation of a Eurocurrency Revolving Loan denominated in an Alternate Currency pursuant to Section 2.07 and (iii) such additional dates as the Administrative Agent shall determine or the Majority Lenders under the Revolving Facility shall require.

“**Revolving Availability Period**” shall mean, with respect to any Class of Revolving Facility Commitments, the period from and including the Closing Date (or, if later, the effective date for such Class of Revolving Facility Commitments) to but excluding the earlier of the Revolving Facility Maturity Date for such Class and the date of termination of the Revolving Facility Commitments of such Class.

“**Revolving Facility**” shall mean the Revolving Facility Commitments of any Class and the extensions of credit made hereunder by the Revolving Facility Lenders of such Class and, for purposes of Section 9.09(b), shall refer to all such Revolving Facility Commitments as a single Class.

“**Revolving Facility Borrowing**” shall mean a Borrowing comprised of Revolving Facility Loans of the same Class.

“**Revolving Facility Commitment**” shall mean, with respect to any Revolving Facility Lender, such Lender’s commitment to make Revolving Facility Loans pursuant to Section 2.01(b), expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Facility Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) reduced or increased from time to time pursuant to assignments by or to such Lender under Section 9.04 and (c) increased (or replaced) as provided under Section 2.20. The initial amount of each Lender’s Revolving Facility Commitment is set forth on Schedule 2.01, or in the Assignment and Acceptance or

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Incremental Assumption Agreement pursuant to which such Lender shall have assumed its Revolving Facility Commitment (or Incremental Revolving Facility Commitment), as applicable. The aggregate amount of the Lenders’ Revolving Facility Commitments as of the Closing Date is \$100,000,000. On the Closing Date, there is only one Class of Revolving Facility Commitments. After the Closing Date, additional Classes of Revolving Facility Commitments may be added or created pursuant to Incremental Assumption Agreements.

“**Revolving Facility Exposure**” shall mean, at any time, with respect to any Class of Revolving Facility Commitments, the sum of the aggregate principal amount of the Revolving Facility Loans of such Class outstanding at such time (calculated, in the case of Alternate Currency Loans, based on the Dollar Equivalent thereof) and the aggregate L/C Exposure applicable to such Class at such time. The Revolving Facility Exposure of any Lender at any time shall be the product of (x) such Lender’s Applicable Percentage of the applicable Class and (y) the aggregate Revolving Facility Exposure of such Class of all Lenders, collectively, at such time.

“**Revolving Facility Lender**” shall mean a Lender with a Revolving Facility Commitment or with outstanding Revolving Facility Exposure, or an Incremental Revolving Facility Lender.

“**Revolving Facility Loans**” shall mean a Loan made by a Revolving Facility Lender pursuant to Section 2.01(b) and Other Revolving Facility Loans. Each Revolving Facility Loan shall be a Eurocurrency Loan or an ABR Loan.

“**Revolving Facility Maturity Date**” shall mean, as the context may require, (a) with respect to the Revolving Facility in effect on the Closing Date, July 12, 2022 and (b) with respect to any other Classes of Revolving Facility Commitments, the maturity dates specified therefor in the applicable Incremental Assumption Agreement.

“**S&P**” shall mean Standard & Poor’s Ratings Group, Inc. and its successors and assigns.

“**Sale and Lease-Back Transaction**” shall have the meaning assigned to such term in Section 6.03.

“**Sanctions**” shall have the meaning assigned to such term in Section 3.23(b).

“**Sanctions Laws**” shall have the meaning assigned to such term in Section 3.23(b).

“**SEC**” shall mean the Securities and Exchange Commission or any successor thereto.

“**Secured Cash Management Agreement**” shall mean any Cash Management Agreement that is entered into by and between any Loan Party and any Cash Management Bank, or any Guarantee by any Loan Party of any Cash Management Agreement entered into by and between any Subsidiary and any Cash Management Bank, in each case to the extent that such Cash Management Agreement or such Guarantee, as applicable, is not otherwise designated in

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writing by the Borrower and such Cash Management Bank to the Administrative Agent to not be included as a Secured Cash Management Agreement.

“**Secured Parties**” shall mean, collectively, the Administrative Agent, the Collateral Agent, each Lender, each Issuing Bank, each Swap Bank that is party to any Secured Swap Agreement, each Cash Management Bank that is party to any Secured Cash Management Agreement and each sub-agent appointed pursuant to Section 8.05 by the Administrative Agent with respect to matters relating to the Loan Documents or by the Collateral Agent with respect to matters relating to any Security Document.

“**Secured Swap Agreement**” shall mean any Swap Agreement that is entered into by and between any Loan Party or any Subsidiary and any Swap Bank, or any Guarantee by any Loan Party of any Swap Agreement entered into by and between any Subsidiary and any Swap Bank, in each case to the extent that such Swap Agreement or such Guarantee, as applicable, is not otherwise designated in writing by the Borrower and such Swap Bank to the Administrative Agent to not be included as a Secured Swap Agreement. Notwithstanding the foregoing, for all purposes of the Loan Documents, any Guarantee of, or grant of any Lien to secure, any obligations in respect of a Secured Swap Agreement by a Guarantor shall not include any Excluded Swap Obligations.

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

“**Securitization Assets**” shall mean any of the following assets (or interests therein) from time to time originated, acquired or otherwise owned by the Borrower or any Subsidiary or in which the Borrower or any Subsidiary has any rights or interests, in each case, without regard to where such assets or interests are located: (a) Receivables Assets, (b) franchise fees, royalties and other similar payments made related to the use of trade names and other Intellectual Property, business support, training and other services, (c) revenues related to distribution and merchandising of the products of the Borrower and its Subsidiaries, (d) Intellectual Property rights relating to the generation of any of the types of assets listed in this definition, (e) parcels of or interests in real



property, together with all easements, hereditaments and appurtenances thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof, (f) any Equity Interests of any Special Purpose Securitization Subsidiary or any Subsidiary of a Special Purpose Securitization Subsidiary and any rights under any limited liability company agreement, trust agreement, shareholders agreement, organizational or formation documents or other agreement entered into in furtherance of the organization of such entity, and (g) any other assets and property (or proceeds of such assets or property) to the extent customarily included in securitization transactions of the relevant type in the applicable jurisdictions (as determined by the Borrower in good faith).

“**Security Documents**” shall mean the Mortgages, the Collateral Agreement, the Holdings Guarantee and Pledge Agreement, the IP Security Agreements (as defined in the Collateral Agreement) and each of the other security agreements, mortgages and other instruments and documents executed and delivered pursuant to any of the foregoing or pursuant to Section 5.11, in each case, as may be amended, amended and restated, supplemented, reaffirmed or otherwise modified from time to time in accordance with the terms hereof and thereof.

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“**Senior Secured Notes Offering Memorandum**” shall mean the Offering Memorandum dated June 28, 2017 in respect of the Senior Secured Notes.

“**Senior Secured Note Documents**” shall mean the Senior Secured Notes Indenture and the other “Note Documents” under and as defined in the Senior Secured Notes Indenture, as each such document may be amended, restated, supplemented or otherwise modified from time to time.

“**Senior Secured Notes**” shall mean the 10.000% First-Priority Senior Secured Notes of the Borrower due 2023 issued on the Closing Date pursuant to the Senior Secured Notes Indenture.

“**Senior Secured Notes Indenture**” shall mean the indenture governing the Senior Secured Notes, as such document may be amended, restated, supplemented or otherwise modified from time to time.

“**Similar Business**” shall mean any business or activity of the Borrower or any of its Subsidiaries currently conducted or proposed as of the Closing Date, or any business or activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof, or is complementary, incidental, ancillary or related thereto.

“**SourceHOV**” shall have the meaning assigned to such term in the recitals hereto.

“**SourceHOV Consulting Agreement**” means, collectively, (i) the Consulting Agreement, dated April 30, 2013, between SourceHOV Holdings, Inc. and Solaris Investment L.P., (ii) the Consulting Agreement, dated April 30, 2013, between SourceHOV Holdings, Inc. and a designee of HandsOn3, LLC and (iii) the Consulting Agreement, dated July 27, 2015, between TransCentra, Inc. and HandsOn Global Management, LLC.

“**SourceHOV Merger**” shall have the meaning assigned to such term in the recitals hereto.

“**SourceHOV Merger Sub**” shall have the meaning assigned to such term in the recitals hereto.

“**Special Flood Hazard Area**” shall have the meaning assigned to such term in Section 5.02(c).

“**Special Purpose Securitization Subsidiary**” shall mean (i) a direct or indirect Subsidiary of the Borrower established in connection with a Permitted Securitization Financing for the acquisition of Securitization Assets or interests therein, and which is organized in a manner (as determined by the Borrower in good faith) intended to reduce the likelihood that it would be substantively consolidated with Holdings, the Borrower or any of the Subsidiaries (other than Special Purpose Securitization Subsidiaries) in the event Holdings, the Borrower or any such Subsidiary becomes subject to a proceeding under the U.S. Bankruptcy Code (or other insolvency law) and (ii) any subsidiary of a Special Purpose Securitization Subsidiary.

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“**Spot Rate**” shall mean, in relation to the conversion of one currency into another currency, the spot rate of exchange for such conversion as quoted by the Bank of Canada at the close of business on the Banking Day that such conversion is to be made (or, if such conversion is to be made before close of business on such Banking Day, then at approximately close of business on the immediately preceding Banking Day), and, in either case, if no such rate is quoted, the spot rate of exchange quoted for wholesale transactions by the Agent in Toronto, Ontario on the Banking Day such conversion is to be made in accordance with its normal practice.

“**Standby Letters of Credit**” shall have the meaning assigned to such term in Section 2.05(g).

“**Statutory Reserves**” shall mean the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board and any other banking authority, domestic or foreign, to which the Administrative Agent or any Lender (including any branch, Affiliate or other fronting office making or holding a Loan) is subject for Eurocurrency Liabilities (as defined in Regulation D of the Board). Eurocurrency Loans shall be deemed to constitute Eurocurrency Liabilities (as defined in Regulation D of the Board) 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. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“**subsidiary**” shall mean, with respect to any person (herein referred to as the “**parent**”), any corporation, partnership, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“**Subsidiary**” shall mean, unless the context otherwise requires, a subsidiary of the Borrower. Notwithstanding the foregoing (and except for purposes of the definition of “Unrestricted Subsidiary” contained herein) an Unrestricted Subsidiary shall be deemed not to be a Subsidiary of the Borrower or any of its Subsidiaries for purposes of this Agreement.

“**Subsidiary Guarantee Agreement**” shall mean the Subsidiary Guarantee Agreement (First Lien) dated as of the Closing Date, as may be amended, amended and restated, supplemented, reaffirmed or otherwise modified from time to time, between each Subsidiary Loan Party and the Collateral Agent.

“**Subsidiary Loan Party**” shall mean (a) each Wholly Owned Domestic Subsidiary of the Borrower that is not an Excluded Subsidiary and (b) any other Subsidiary of the Borrower (that is not an Excluded Subsidiary) that may be designated by the Borrower (by way of delivering to the Collateral Agent a supplement to the Collateral Agreement and a supplement to the Subsidiary Guarantee Agreement, in each case, duly executed by such Subsidiary) in its sole discretion from time to time to be a guarantor in respect of the Obligations

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and the obligations in respect of the Loan Documents, whereupon such Subsidiary shall be obligated to comply with the other requirements of Section 5.11(d) as if it were newly acquired.

“**Subsidiary Redesignation**” shall have the meaning assigned to such term in the definition of “Unrestricted Subsidiary” contained in this Section 1.01.

“**Swap Agreement**” shall mean any agreement with respect to any swap, forward, future or derivative transaction, or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, or credit spread transaction, repurchase transaction, reserve repurchase transaction, securities lending transaction, weather index transaction, spot contracts, fixed price physical delivery contracts, or any similar transaction or any combination of these transactions, in each case of the foregoing, whether or not exchange traded; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of Holdings, the Borrower or any of the Subsidiaries shall be a Swap Agreement.

“**Swap Bank**” shall mean an Agent, a Joint Lead Arranger, a Lender or an Affiliate of any such person and any person that, at the time it entered into a Swap Agreement was an Agent, a Joint Lead Arranger, a Lender or an Affiliate of any such person, in each case, in its capacity as a party to such Swap Agreement, regardless of whether any such person shall thereafter cease to be an Agent, a Joint Lead Arranger, a Lender or an Affiliate of any such person.

“**Swap Obligation**” shall mean, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“**Taxes**” shall mean any and all present or future taxes, duties, levies, imposts, assessments, deductions, withholdings or other similar charges imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

“**Term B Borrowing**” shall mean any Borrowing comprised of Term B Loans.

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

“**Term B Facility Maturity Date**” shall mean July 12, 2023.

“**Term B Lender**” shall mean a Lender (including an Incremental Term Lender) with a Term B Loan Commitment or an outstanding Term B Loan.

“**Term B Loan Commitment**” shall mean, with respect to each Lender, the commitment of such Lender to make Term B Loans hereunder. The amount of each Lender’s Term B Loan Commitment as of the Closing Date is set forth on Schedule 2.01. The aggregate amount of the Term B Loan Commitments as of the Closing Date is \$350,000,000.

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

“**Term B Loans**” shall mean (a) the term loans made by the Lenders to the Borrower pursuant to Section 2.01(a), and (b) any Incremental Term Loans in the form of Term B Loans made by the Incremental Term Lenders to the Borrower pursuant to Section 2.01(c).

“**Term Borrowing**” shall mean any Term B Borrowing or any Incremental Term Borrowing.

“**Term Facility**” shall mean the Term B Facility and/or any or all of the Incremental Term Facilities.

“**Term Facility Commitment**” shall mean the commitment of a Lender to make Term Loans, including Term B Loans and/or Other Term Loans.

“**Term Facility Maturity Date**” shall mean, as the context may require, (a) with respect to the Term B Facility in effect on the Closing Date, the Term B Facility Maturity Date and (b) with respect to any other Class of Term Loans, the maturity dates specified therefor in the applicable Incremental Assumption Agreement.

“**Term Loan Installment Date**” shall mean any Term B Loan Installment Date or any Incremental Term Loan Installment Date.

“**Term Loans**” shall mean the Term B Loans and/or the Incremental Term Loans.

“**Term Yield Differential**” shall have the meaning assigned to such term in Section 2.20(b)(vii).

“**Termination Date**” shall mean the date on which (a) all Commitments shall have been terminated, (b) the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document shall have been paid in full (other than in respect of contingent indemnification and expense reimbursement claims not then due) and (c) all Letters of Credit (other than those that have been Cash Collateralized) have been cancelled or have expired and all amounts drawn or paid thereunder have been reimbursed in full.

“**Test Period**” shall mean, on any date of determination, the period of four consecutive fiscal quarters of the Borrower then most recently ended (taken as one accounting period) for which financial statements have been (or were required to be) delivered pursuant to Section 5.04(a) or 5.04(b); provided that prior to the first date financial statements have been delivered pursuant to Section 5.04(a) or 5.04(b), the Test Period in effect shall be the four fiscal quarter period ending March 31, 2017.

“**Third Party Funds**” shall mean any segregated accounts or funds, or any portion thereof, received by Borrower or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon Borrower or one or more of its Subsidiaries to collect and remit those funds to such third parties.

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“**Trade Letters of Credit**” shall have the meaning assigned to such term in Section 2.05(a).

“**Transaction Documents**” shall mean the Business Combination Agreement, the Loan Documents and the Senior Secured Note Documents, in each case as amended from time to time in accordance with the terms hereof and thereof.

“**Transaction Expenses**” shall mean any fees or expenses incurred or paid by the Borrower or any of its Subsidiaries or any of their Affiliates in connection with the Transactions, this Agreement and the other Loan Documents, the Business Combination Agreement, the Senior Secured Note Documents, the transactions contemplated hereby and thereby.

“**Transactions**” shall mean, collectively, the transactions to occur pursuant to the Transaction Documents, including (a) the consummation of the Business Combination; (b) the Equity Contribution, (c) the execution, delivery and performance of the Loan Documents, the creation of Liens pursuant to the Security Documents and the initial borrowings hereunder; (d) the execution, delivery and performance of the Senior Secured Notes Documents, the creation of Liens pursuant to the Senior Secured Notes Documents and the issuance of the Senior Secured Notes thereunder; (e) the repayment in full of, and the termination of all obligations and commitments under, the Existing Credit Agreements; (f) the professional services provided in connection therewith, including legal and auditing services; and (g) the payment of all fees and expenses in connection therewith to be paid on, prior to or subsequent to the Closing Date and owing in connection with the foregoing.

“**Type**” shall mean, when used in respect of any Loan or Borrowing, the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term “**Rate**” shall include the Adjusted Eurocurrency Rate and ABR.

“**Unfunded Pension Liability**” shall mean, as of the most recent valuation date for the applicable Plan, the excess of (1) the Plan’s actuarial present value (determined on the basis of reasonable assumptions employed by the independent actuary for such Plan for purposes of Section 412 of the Code or Section 302 of ERISA) of its benefit liabilities (as defined in Section 4001(a)(16) of ERISA) over (2) the fair market value of the assets of such Plan.

“**Uniform Commercial Code**” shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that, at any time, if by reason of mandatory provisions of law any or all of the perfection or priority of the Secured Party’s security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “Uniform Commercial Code” shall mean the Uniform Commercial Code as in effect, at such time, in such other jurisdiction for purposes of the provisions relating to such perfection or priority and for purposes of definitions relating to such provisions.

“**Unreimbursed Amount**” shall have the meaning assigned to such term in Section 2.05(c).

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“**Unrestricted Cash**” shall mean cash or cash equivalents of the Borrower or any of its Subsidiaries that would not appear as “restricted” on a consolidated balance sheet of the Borrower or any of its Subsidiaries.

“**Unrestricted Subsidiary**” shall mean (1) any Subsidiary of the Borrower identified on Schedule 1.01(d), (2) any other Subsidiary of the Borrower, whether now owned or acquired or created after the Closing Date, that is designated by the Borrower as an Unrestricted Subsidiary hereunder by written notice to the Administrative Agent; provided that the Borrower shall only be permitted to so designate a new Unrestricted Subsidiary after the Closing Date so long as (a) no Default or Event of Default has occurred and is continuing or would result therefrom, (b) immediately after giving effect to such designation, the Borrower shall be in Pro Forma Compliance with the Financial Covenant as of the last day of the then most recently ended Test Period, (c) such Unrestricted Subsidiary shall be capitalized (to the extent capitalized by the Borrower or any of its Subsidiaries) through Investments as permitted by, and in compliance with, Section 6.04, and any prior or concurrent Investments in such Subsidiary by the Borrower or any of its Subsidiaries shall be deemed to have been made under Section 6.04, and (d) without duplication of clause (c), any net assets owned by such Unrestricted Subsidiary at the time of the initial designation thereof shall be treated as Investments pursuant to Section 6.04; and (3) any subsidiary of an Unrestricted Subsidiary. The Borrower may designate any Unrestricted Subsidiary to be a Subsidiary for purposes of this Agreement (each, a “**Subsidiary Redesignation**”); provided that (i) no Default or Event of Default has occurred and is continuing or would result therefrom and (ii) the Borrower shall have delivered to the Administrative Agent an officer’s certificate executed by a Responsible Officer of the Borrower, certifying to the best of such officer’s knowledge, compliance with the requirement of preceding clause (i).

“**UCP**” shall mean, with respect to any Letter of Credit, the “Uniform Customs and Practice for Documentary Credits” published by the International Chamber of Commerce (or such later version thereof as may be in effect at the time of issuance).

“**U.S.A. Patriot Act**” shall mean the U.S.A. Patriot Act, Title III of Pub.L. 107-56 (signed into law October 26, 2001).

“**U.S. Dollars**” or “**\$**” shall mean lawful money of the United States of America.

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

“**Voting Stock**” shall mean, with respect to any person, such person’s Equity Interests having the right to vote for the election of directors of such person under ordinary circumstances.

“**Weighted Average Life to Maturity**” shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse

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between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“**Wholly Owned Domestic Subsidiary**” shall mean a Wholly Owned Subsidiary that is also a Domestic Subsidiary.

“**Wholly Owned Subsidiary**” of any person shall mean a subsidiary of such person, all of the Equity Interests of which (other than directors’ qualifying shares or nominee or other similar shares required pursuant to applicable law) are owned by such person or another Wholly Owned Subsidiary of such person. Unless the context otherwise requires, “Wholly Owned Subsidiary” shall mean a Subsidiary of the Borrower that is a Wholly Owned Subsidiary of the Borrower.

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

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

“**Write-Down and Conversion Powers**” shall mean, 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.

“**Year To Date Excess Cash Flow**” shall mean, at any time of determination with respect to any Excess Cash Flow Period, the Excess Cash Flow for the period commencing on the end of the immediately preceding Excess Cash Flow Period and ending on, as applicable, the last day of the most recent Excess Cash Flow Interim Period during such Excess Cash Flow Period or the last day of such Excess Cash Flow Period.

SECTION 1.02 Terms Generally. The definitions set forth or referred to in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” All references herein to *Articles*, *Sections*, *Exhibits* and *Schedules* shall be deemed references to *Articles* and *Sections* of, and *Exhibits* and *Schedules* to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, any reference in this Agreement to any Loan Document or other document or agreement shall mean such document as amended, restated, supplemented or otherwise modified from time to time. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect

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from time to time; *provided* 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 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, 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. Notwithstanding any changes in GAAP after the Closing Date, any lease of the Borrower or the Subsidiaries, or of a special purpose or other entity not consolidated with the Borrower and its Subsidiaries at the time of its incurrence of such lease, that would be characterized as an operating lease under GAAP in effect on the Closing Date (whether such lease is entered into before or after the Closing Date) shall not constitute Indebtedness or a Capitalized Lease Obligation of the Borrower or any Subsidiary under this Agreement or any other Loan Document as a result of such changes in GAAP.

SECTION 1.03 Effectuation of Transactions. Each of the representations and warranties of the Borrower contained in this Agreement (and all corresponding definitions) are made after giving effect to the Transactions (or such portion thereof as shall be consummated as of the date of the applicable representation or warranty), unless the context otherwise requires.

SECTION 1.04 Exchange Rates; Currency Translation.

(a) The Administrative Agent shall determine the Spot Rate as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Alternate Currency Letters of Credit and Alternate Currency Loans. Such Spot Rate shall become effective as of such Revaluation Date and shall be the Spot Rate employed in converting any amounts between the Dollars and each Alternate Currency until the next Revaluation Date to occur. Except for purposes of financial statements delivered by Loan Parties hereunder or calculating financial ratios hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as determined by the Administrative Agent in accordance with this Agreement. No Default or Event of Default shall arise as a result of any limitation or threshold set forth in U.S. Dollars in Article VI or clause (f) or (j) of Section 7.01 being exceeded solely as a result of changes in currency exchange rates from those rates applicable on the first day of the fiscal quarter in which such determination occurs or in respect of which such determination is being made.

(b) Wherever in this Agreement in connection with a Borrowing, conversion, continuation or prepayment of a Eurocurrency Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Borrowing, Eurocurrency Loan or Letter of Credit is denominated in an Alternate Currency, such amount shall be the Alternate Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternate Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the applicable Issuing Bank, as applicable.

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SECTION 1.05 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall at all times be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

SECTION 1.06 Additional Alternate Currencies for Loans.

(a) The Borrower may from time to time request that Eurocurrency Revolving Loans be made in a currency other than Dollars; provided that such requested currency is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars. Such request shall be subject to the approval of the Administrative Agent.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., 20 Business Days prior to the date of the desired Credit Event (or such other time or date as may be agreed by the Administrative Agent, in its sole discretion). The Administrative Agent shall promptly notify each Revolving Facility Lender thereof. Each Revolving Facility Lender shall notify the Administrative Agent, not later than 11:00 a.m., 10 Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Eurocurrency Revolving Loans in such requested currency.

(c) Any failure by a Revolving Facility Lender to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Revolving Facility Lender to permit Eurocurrency Revolving Loans to be made in such requested currency. If the Administrative Agent and all the Revolving Facility Lenders consent to making Eurocurrency Revolving Loans in such requested currency, the Administrative Agent shall so notify the Borrower and such currency shall thereupon be deemed for all purposes to be an Alternate Currency hereunder for purposes of any Borrowings of Eurocurrency Revolving Loans. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.06, the Administrative Agent shall promptly so notify the Borrower.

SECTION 1.07 Change of Currency.

(a) Each obligation of the Borrower to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption (in accordance with the EMU Legislation). If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any Borrowing in the currency of such member state

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is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Borrowing, at the end of the then current Interest Period.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

SECTION 1.08 Timing of Payment or Performance. Except as otherwise expressly provided herein, when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day.

SECTION 1.09 Times of Day. Unless otherwise specified herein, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 2.01 Commitments. Subject to the terms and conditions set forth herein:

- (a) each Lender agrees to make Term B Loans to the Borrower in U.S. Dollars on the Closing Date from its U.S. Lending Office in a principal amount not to exceed its Term B Loan Commitment;
- (b) each Revolving Facility Lender agrees from time to time during the Revolving Availability Period to make Revolving Facility Loans of a Class in U.S. Dollars to the Borrower from its U.S. Lending Office in an aggregate principal amount that will not result in such Lender's Revolving Facility Exposure of such Class exceeding such Lender's Revolving Facility Commitment of such Class;
- (c) each Lender having an Incremental Term Loan Commitment agrees, subject to the terms and conditions set forth in the applicable Incremental Assumption Agreement, to make Incremental Term Loans to the Borrower to the Borrower, in an aggregate principal amount not to exceed its Incremental Term Loan Commitment; and
- (d) within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Facility Loans. Amounts repaid in respect of Term B Loans may not be reborrowed.

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SECTION 2.02 Loans and Borrowings.

- (a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class; provided, however, that Revolving Facility Loans of any Class shall be made by the Revolving Facility Lenders of such Class ratably in accordance with their respective Applicable Percentages on the date such Loans are made hereunder. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.
- (b) Subject to Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any ABR Loan or Eurocurrency Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement and such Lender shall not be entitled to any amounts payable under Section 2.15 or 2.17 solely in respect of increased costs or taxes resulting from such exercise and existing at the time of such exercise.
- (c) At the commencement of each Interest Period for any Eurocurrency Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. At the time that (i) each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Revolving Facility Commitments or that is required to finance the reimbursement of an L/C Disbursement as contemplated by Section 2.05(e). Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of (i) 10 Eurocurrency Borrowings outstanding under each of the Term B Loans or any Other Term Loans at any time and (ii) 10 Eurocurrency Borrowings outstanding under each of the Revolving Facility or any Other Revolving Facility Loans at any time.
- (d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing of any Class if the Interest Period requested with respect thereto would end after the Revolving Facility Maturity Date or the Term Facility Maturity Date for such Class, as applicable.

SECTION 2.03 Requests for Borrowings. To request a Revolving Facility Borrowing and/or a Term Borrowing, the Borrower shall notify the Administrative Agent of such request (as provided in Section 9.01) by telephone (a) in the case of a Eurocurrency Borrowing, not later than 12:00 p.m., Local Time, three Business Days before the date of the proposed Borrowing, (b) in the case of an ABR Term Loan Borrowing, not later than 12:00 p.m., Local Time, one Business Day before the date of the proposed Borrowing, and (c) in the case of an ABR Revolving Borrowing, not later than 11:00 a.m., Local Time, on the Business Day of the proposed Borrowing; provided that (i) to request a Eurocurrency Borrowing or ABR Borrowing on the Closing Date, the Borrower shall notify the Administrative Agent of such request in writing not later than 12:00 p.m., Local Time, one Business Day prior to the Closing Date (or

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such later time as the Administrative Agent may agree), (ii) any such notice of an ABR Revolving Borrowing to finance the reimbursement of an L/C Disbursement as contemplated by Section 2.05(e) may be given not later than 11:00 a.m., Local Time, on the date of the proposed Borrowing and (iii) any such notice of a borrowing under an Incremental Revolving Facility Commitment or an Incremental Term Borrowing may be given at such time as provided in the applicable Incremental Assumption Agreement. Each such telephonic Borrowing Request shall be irrevocable (other than in the case of any notice given in respect of the Closing Date, which may be conditioned upon the consummation of the Business Combination or, in the case of notice given in respect of Incremental Term Loan Commitments or Incremental Revolving Facility Commitments, which may be conditioned as provided in the applicable Incremental Assumption Agreement) and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Borrowing Request signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the Class of such Borrowing;
- (ii) the aggregate amount of the requested Borrowing;

- (iii) the date of such Borrowing, which shall be a Business Day;
- (iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;
- (v) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period";
- (vi) in the case of a Eurocurrency Revolving Borrowing, the currency in which such Borrowing is to be denominated (which shall be Dollars or an Alternate Currency); and
- (vii) the location and number of the Borrower's account to which funds are to be disbursed.

If no election as to the currency of any Revolving Facility Borrowing is made, then the requested Borrowing shall be made in Dollars. If no election as to the Type of Revolving Facility Borrowing is specified, then the requested Revolving Facility Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04      [Reserved].

SECTION 2.05      Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of one or more letters of credit or bank guarantees in Dollars or any Alternate Currency in the form of (x) trade letters of credit or bank guarantees in support of trade obligations of the Borrower and its Subsidiaries incurred in the ordinary course of business (such letters of credit or bank guarantees issued for such purposes, "**Trade Letters of Credit**") and (y) standby letters of credit issued for any other lawful purposes of the Borrower and its Subsidiaries (such letters of credit issued for such purposes, "**Standby Letters of Credit**"; each such letter of credit or bank guarantee, issued hereunder, a "**Letter of Credit**" and collectively, the "**Letters of Credit**") for its own account or for the account of any Subsidiary; *provided* that no Issuing Bank shall be required to issue any Trade Letters of Credit or any other type of Letter of Credit that is not a Standby Letter of Credit unless it agrees to do so in its sole discretion. Subject to the terms and conditions set forth herein, (i) each Issuing Bank agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.05, from time to time on any Business Day during the applicable Revolving Availability Period, to issue Letters of Credit for the account of the Borrower or its Subsidiaries, and to amend Letters of Credit previously issued by it, in accordance with subsection (b) below, and to honor drawings of Letters of Credit; and (ii) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; *provided* that after giving effect to any issuance of any Letter of Credit, (x) the total Revolving Facility Exposure of any Class shall not exceed the total Revolving Facility Commitments of such Class, (y) the Revolving Facility Exposure of any Lender of any Class shall not exceed such Lender's respective Revolving Facility Commitment of such Class, and (z) the L/C Exposure shall not exceed the aggregate L/C Commitments. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the issuance or amendment of such Letter of Credit so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's 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. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of Letter of Credit Application or other agreement submitted by the Borrower to, or entered into by the Borrower with, an Issuing Bank relating to any Letter of Credit (collectively, the "**Issuer Documents**"), the terms and conditions of this Agreement shall control.

(b) Notice of Issuance, Amendment, Renewal, Extension. (i) Each Letter of Credit shall be issued or amended (other than an automatic extension in accordance with clause (i) of this Section 2.05), 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 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and the applicable Issuing Bank may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for 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 stated amount and currency (which may be Dollars or

any Alternate Currency) thereof; (C) the expiry date thereof (and any "evergreen" renewals, if any, including the terms 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 purpose and nature of the requested Letter of Credit; and (H) such other matters as such Issuing Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank: (w) the Letter of Credit to be amended; (x) the proposed date of amendment thereof (which shall be a Business Day); (y) the nature of the proposed amendment; and (z) such other matters as such Issuing Bank may require. Additionally, the Borrower shall furnish to the applicable Issuing Bank and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such Issuing Bank or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower. Unless the applicable Issuing Bank has received written notice from any Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Section 4.01 shall not then be satisfied, then, subject to the terms and conditions hereof, such applicable Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or the applicable Subsidiary or enter into the applicable amendment, as the

case may be, in each case in accordance with such Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank or confirming bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; 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. Not later than 11:00 a.m. on the date of any payment by the applicable Issuing Bank under a Letter of Credit (each such date, an "**Honor Date**"), the Borrower shall reimburse the applicable Issuing Bank through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the applicable Issuing Bank by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "**Unreimbursed Amount**"), and the amount of such Lender's Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a

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Borrowing of ABR Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of ABR Loans, but subject to the amount of the unutilized portion of the Commitments and the conditions set forth in Section 4.01 (other than the delivery of a Borrowing Request). Any notice given by the applicable Issuing Bank or the Administrative Agent pursuant to this Section 2.05(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.05(c)(i) make funds available to the Administrative Agent (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable Issuing Bank in an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.05(c)(iii), each Lender that so makes funds available shall be deemed to have made an ABR Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of ABR Loans because the conditions set forth in Section 4.01 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate specified in Section 2.13. In such event, each Lender's payment to the Administrative Agent for the account of the applicable Issuing Bank pursuant to Section 2.05(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.05.

(iv) Until each Lender funds its Loan or L/C Advance pursuant to this Section 2.05(c) to reimburse applicable Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of the applicable Issuing Bank.

(v) Each Lender's obligation to make Loans or L/C Advances to reimburse the applicable Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.05(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the applicable Issuing Bank, the Borrower or any other person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Loans pursuant to this Section 2.05(c) is subject to the conditions set forth in Section 4.01 (other than delivery by the Borrower of a Borrowing Request). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to

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reimburse the applicable Issuing Bank for the amount of any payment made by the Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any 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 Section 2.05(c) by the time specified in Section 2.05(c)(ii), then, without limiting the other provisions of this Agreement, the applicable 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 the applicable Issuing Bank at a rate *per annum* equal to the greater of the Federal Funds Rate and a rate determined by the applicable Issuing Bank in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the applicable 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 Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable Issuing Bank submitted to any 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) At any time after the applicable Issuing Bank has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.05(c), if the Administrative Agent receives for the account of the applicable Issuing Bank any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the



Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of any Issuing Bank pursuant to Section 2.05(c) (i) is required to be returned under any of the circumstances described in Section 9.07 (including pursuant to any settlement entered into by the applicable Issuing Bank in its discretion), each Lender shall pay to the Administrative Agent for the account of the applicable Issuing Bank its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Loan 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 L/C Borrowing

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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, this Agreement, or any other Loan Document;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any person for whom any such beneficiary or any such transferee may be acting), the applicable Issuing Bank or any other person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (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 the applicable Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the applicable Issuing Bank under such Letter of Credit to any person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or
- (v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary.

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 immediately notify the applicable Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against the applicable Issuing Bank and its correspondents unless such notice is given as aforesaid.

(f) Role of the Issuing Banks. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, no Issuing Bank shall have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the person executing or delivering any such document. Neither any Issuing Bank, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any Issuing Bank shall be liable to any Lender for

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(i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. Neither any Issuing Bank, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any Issuing Bank shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.05(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against an Issuing Bank, and such Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Bank's willful misconduct or gross negligence or such Issuing Bank's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, any 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, no Issuing Bank shall 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.

(g) Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued, the rules of the ISP or UCP shall apply to each Standby Letter of Credit.

(h) Certain Conditions. No Issuing Bank shall be under any obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the applicable Issuing Bank from issuing the Letter of Credit, or any Law applicable to the applicable Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the applicable Issuing Bank shall prohibit, or request that the applicable Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the applicable Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which the applicable Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the applicable Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the applicable Issuing Bank in good faith deems material to it;

(ii) the issuance of the Letter of Credit would violate one or more policies of the applicable Issuing Bank applicable to letters of credit generally;

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(iii) an Alternate Currency Letter of Credit if such Issuing Bank does not otherwise issue letters of credit in such Alternate Currency; or

(iv) any Lender is at that time a Defaulting Lender, unless the applicable Issuing Bank has entered into arrangements, including the delivery of Cash Collateral, reasonably satisfactory to the applicable 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 2.23(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other Letter of Credit obligations as to which the applicable Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(i) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year (unless otherwise agreed upon by the Borrower and the Issuing Banks in their sole discretion) after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year (unless otherwise agreed upon by the Borrower and the Issuing Banks in their sole discretion) after such renewal or extension) and (ii) the date that is five Business Days prior to the applicable Revolving Facility Maturity Date; provided that any Letter of Credit with a one-year tenor may provide for the automatic renewal or extension thereof for additional one-year periods (which, in no event, shall extend beyond the applicable date referred to in clause (ii) of this Section 2.05(i)); provided, further, that if such Issuing Bank consents in its sole discretion, the expiration date on any Letter of Credit may extend beyond the date referred to in clause (ii) above, provided that if any such Letter of Credit is outstanding or is issued under the Revolving Facility Commitments of any Class after the date that is five Business Days prior to the Revolving Facility Maturity Date for such Class the Borrower shall backstop or provide Cash Collateral pursuant to documentation reasonably satisfactory to the Administrative Agent and the relevant Issuing Bank in an amount equal to the face amount of each such Letter of Credit on or prior to the date that is five Business Days prior to such Revolving Facility Maturity Date or, if later, such date of issuance.

(j) Replacement of an Issuing Bank. An Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank 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 shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the replaced 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 of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of such Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement but shall not be required to issue additional Letters of Credit.

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(k) Additional Issuing Banks. From time to time, the Borrower may by notice to the Administrative Agent designate any Lender (in addition to the initial Issuing Banks), each of which agrees (in its sole discretion) to act in such capacity and each of which is reasonably satisfactory to the Administrative Agent as an Issuing Bank. Each such additional Issuing Bank shall execute a counterpart of this Agreement upon the approval of the Administrative Agent (which approval shall not be unreasonably withheld) and shall thereafter be an Issuing Bank hereunder for all purposes.

(l) Issuing Bank Agreements. Unless otherwise requested by the Administrative Agent, each Issuing Bank shall report in writing to the Administrative Agent (i) on the first Business Day of each month, the daily activity (set forth by day) in respect of Letters of Credit during the immediately preceding month, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) on or prior to each Business Day on which such Issuing Bank expects to issue, amend, renew or extend any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the aggregate face amount of the Letters of Credit to be issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension occurred (and whether the amount thereof changed), it being understood that such Issuing Bank shall not permit any issuance, renewal, extension or amendment resulting in an increase in the amount of any Letter of Credit to occur without first obtaining written (or, with respect to any Issuing Bank, if the Administrative Agent so agrees with respect to such Issuing Bank, telephonic) confirmation from the Administrative Agent that it is then permitted under this Agreement, (iii) on each Business Day on which such Issuing Bank makes any L/C Disbursement in respect of any Letter of Credit issued, the date of such L/C Disbursement and the amount of such L/C Disbursement, (iv) on any Business Day on which the Borrower fails to reimburse an L/C Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount of such L/C Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request.

SECTION 2.06 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, Local Time, in the case of any Borrowing of Eurocurrency Loans (or by 4:00 p.m., Local Time, in the case of any Borrowing of ABR Loans) to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account or accounts of the

Borrower designated by the Borrower in the applicable Borrowing Request; provided that ABR Revolving Loans made to finance the reimbursement of a L/C Disbursement pursuant to Section 2.05(c) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurocurrency Loans (or, in the case of any Borrowing of ABR Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the

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Administrative Agent may assume that such Lender has made such share available on such date and at the time required by Section 2.06(a) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower each severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to ABR Loans. 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 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.

(c) The foregoing notwithstanding, the Administrative Agent, in its sole discretion, may from its own funds make a Revolving Facility Loan on behalf of the Lenders. In such event, the applicable Lenders on behalf of whom the Administrative Agent made the Revolving Facility Loan shall reimburse the Administrative Agent for all or any portion of such Revolving Facility Loan made on its behalf upon written notice given to each applicable Lender not later than 2:00 p.m., Local Time, on the Business Day such reimbursement is requested. The entire amount of interest attributable to such Revolving Facility Loan for the period from and including the date on which such Revolving Facility Loan was made on such Lender's behalf to but excluding the date the Administrative Agent is reimbursed in respect of such Revolving Facility Loan by such Lender shall be paid to the Administrative Agent for its own account.

#### SECTION 2.07 Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans resulting from an election made with respect to any such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section 2.07, the Borrower shall notify the Administrative Agent of such election (as provided in Section 9.01) by telephone, in the case of an election that would result in a Borrowing, by the time that a Borrowing Request

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would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic transmission to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower. Notwithstanding any other provision of this Section 2.07, the Borrower shall not be permitted to (i) change the currency of any Borrowing, (ii) elect an Interest Period for Eurocurrency Loans that does not comply with Section 2.02(d) or (iii) convert any Borrowing to a Borrowing not available under the Class of Commitments pursuant to which such Borrowing was made.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

- (i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);
- (ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;
- (iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and
- (iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. If less than all the outstanding principal amount of any Borrowing shall be converted or continued, then each resulting Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum and satisfy the limitations specified in Section 2.02(c) regarding the maximum number of Borrowings of the relevant Type.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender to which such Interest Election Request relates of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the written request (including a request through electronic means) of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid,

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each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.08 Termination and Reduction of Commitments.

(a) The Term B Loan Commitment of each Lender shall be automatically and permanently reduced to \$0 upon the making of such Lender's Term B Loans on the Closing Date pursuant to Section 2.01. Unless previously terminated, the Revolving Facility Commitments of each Class shall terminate on the applicable Revolving Facility Maturity Date for such Class.

(b) The Borrower may at any time terminate, or from time to time reduce, the Revolving Facility Commitments of any Class; provided that (i) each reduction of the Revolving Facility Commitments of any Class shall be in an amount that is an integral multiple of \$500,000 and not less than \$1,000,000 (or, if less, the remaining amount of the Revolving Facility Commitments of such Class) and (ii) the Borrower shall not terminate or reduce the Revolving Facility Commitments of any Class if, after giving effect to any concurrent prepayment or reduction of the Revolving Facility Loans in accordance with Section 2.11 and any Cash Collateralization of Letters of Credit in accordance with Section 2.22, the total Revolving Facility Exposure of such Class (excluding any Cash Collateralized Letters of Credit) would exceed the total Revolving Facility Commitments of such Class; provided, further, that, the Borrower may terminate the unused Revolving Facility Commitments of any Defaulting Lender at any time, or from time to time, in any amounts and without a pro rata reduction of the Revolving Facility Commitments of the other Lenders.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Revolving Facility Commitments of any Class under clause (b) of this Section 2.08 at least three Business Days prior to the effective date of such termination or reduction (or such shorter period acceptable to the Administrative Agent), specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section 2.08 shall be irrevocable; provided that a notice of termination or reduction of the Revolving Facility Commitments of any Class delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class pursuant to this Section 2.08 shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

SECTION 2.09 Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Revolving Facility Lender the then unpaid principal amount of each Revolving Facility Loan of such Lender to the Borrower on the Revolving Facility Maturity Date applicable to such Revolving Facility Loans and (ii) to the

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Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender to the Borrower as provided in Section 2.10.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) any amount received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to clause (b) or (c) of this Section 2.09 shall be prima facie evidence of the existence, currencies and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans of any Class made by it be evidenced by a promissory note (a "Note"). In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent and reasonably acceptable to the Borrower. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

SECTION 2.10 Repayment of Term Loans and Revolving Facility Loans. (a) Subject to the other clauses of this Section 2.10 and to Section 9.09(e),

(i) the Borrower shall repay Term B Loans incurred on the Closing Date on the last day of each March, June, September and December of each year (commencing on the last day of the first full fiscal quarter of the Borrower after the Closing Date) and on the applicable Term Facility Maturity Date or, if any such date is not a Business Day, on the next preceding Business Day (each such date being referred to as a "Term B

**Loan Installment Date**”), in an aggregate principal amount of such Term B Loans equal to (A) on each of the first eight Term B Loan Installment Dates after Closing Date, an amount equal to 0.625% of the aggregate principal amount of the Term B Loans outstanding immediately after the Closing Date, (B) thereafter until the applicable Term Facility Maturity Date, an amount equal to 1.25% of the aggregate principal amount of the Term B Loans outstanding immediately after the Closing Date, and (C) in the case of such payment due on the applicable Term Facility Maturity Date, an amount equal to the then unpaid principal amount of such Term B Loans outstanding;

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(ii) in the event that any Incremental Term Loans are made, the Borrower shall repay such Incremental Term Loans on the dates and in the amounts set forth in the related Incremental Assumption Agreement (each such date being referred to as an **“Incremental Term Loan Installment Date”**); and

(iii) to the extent not previously paid, outstanding Term Loans shall be due and payable on the applicable Term Facility Maturity Date.

(b) To the extent not previously paid, outstanding Revolving Facility Loans shall be due and payable on the applicable Revolving Facility Maturity Date.

(c) Prepayment of the Loans from:

(i) all Net Proceeds pursuant to Section 2.11(b) and Excess Cash Flow pursuant to Section 2.11(c) shall be allocated to the Class or Classes of Term Loans determined pursuant to Section 2.10(d), with the application thereof to reduce in direct order amounts due on the succeeding Term Loan Installment Dates under such Classes as provided in the remaining scheduled amortization payments under such Classes; provided that any Lender, at its option, may elect to decline any such prepayment of any Term Loan held by it if it shall give written notice to the Administrative Agent thereof by 5:00 p.m. Local Time at least three Business Days prior to the date of such prepayment (any such Lender, a **“Declining Lender”**) and on the date of any such prepayment, any amounts that would otherwise have been applied to prepay Term Loans owing to Declining Lenders (such amounts, the **“Declined Proceeds”**) shall instead be retained by the Borrower for application for any purpose not prohibited by this Agreement, and

(ii) any optional prepayments of the Term Loans pursuant to Section 2.11(a) shall be applied to the remaining installments of the Term Loans under the applicable Class or Classes as directed by the Borrower.

(d) Any mandatory prepayment of Term Loans pursuant to Section 2.11(b) or (c) shall be applied so that the aggregate amount of such prepayment is allocated among the Term B Loans and the Other Term Loans, if any, pro rata based on the aggregate principal amount of outstanding Term B Loans and Other Term Loans, if any; provided that, subject to the pro rata application to Loans outstanding within any Class of Term Loans, the Borrower may allocate such prepayment in its discretion among the Class or Classes of Term Loans as the Borrower may specify (so long as such allocation complies with Section 2.20(b) or Section 2.20(f), as applicable). Prior to any prepayment of any Loan or Loans hereunder, the Borrower shall select the Borrowing or Borrowings constituting such Loan or Loans to be prepaid or reduced and shall notify the Administrative Agent in the form of a written Prepayment or Reduction Notice of such selection (i) in the case of an ABR Borrowing, not later than 2:00 p.m. Local Time, one Business Day before the scheduled date of such prepayment and (ii) in the case of a Eurocurrency Borrowing, not later than 2:00 p.m. Local Time, three Business Days before the scheduled date of such prepayment or reduction (or, in each case such shorter period acceptable to the Administrative Agent); provided that a Prepayment or Reduction Notice may state that such notice is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions, in which case such notice may be revoked by the

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Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Each repayment of a Borrowing (x) in the case of the Revolving Facility of any Class, shall be applied to the Revolving Facility Loans included in the repaid Borrowing such that each Revolving Facility Lender receives its ratable share of such repayment (based upon the respective Revolving Facility Exposures of the Revolving Facility Lenders of such Class at the time of such repayment) and (y) in all other cases, shall be applied ratably to the Loans included in the repaid Borrowing. All repayments of Loans shall be accompanied by accrued interest on the amount repaid to the extent required by Section 2.13(d).

#### SECTION 2.11 Prepayment of Loans.

(a) The Borrower shall have the right, in its sole discretion, at any time and from time to time to prepay any Loan in whole or in part, without premium or penalty (but subject to Section 2.12(d) and Section 2.16), in an aggregate principal amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum or, if less, the amount outstanding, subject to prior notice in accordance with Section 2.10(d).

(b) The Borrower shall apply all Net Proceeds promptly upon receipt thereof to prepay Term Loans in accordance with clauses (c) and (d) of Section 2.10. Notwithstanding the foregoing, the Borrower may use a portion of such Net Proceeds to prepay or repurchase any Other First Lien Debt, in each case in an amount not to exceed the product of (x) the amount of such Net Proceeds and (y) a fraction, (A) the numerator of which is the outstanding principal amount of such Other First Lien Debt and (B) the denominator of which is the sum of the outstanding principal amount of such Other First Lien Debt and the outstanding principal amount of all Classes of Term Loans.

(c) Not later than five Business Days after the date on which the annual financial statements are, or are required to be, delivered under Section 5.04(a) with respect to each Excess Cash Flow Period, the Borrower shall calculate Excess Cash Flow for such Excess Cash Flow Period and, if and to the extent the amount of such Excess Cash Flow exceeds \$5,000,000 (the **“ECF Threshold Amount”**), the Borrower shall apply an amount equal to (i) the Required Percentage of such excess portion of such Excess Cash Flow minus (ii) to the extent not financed using the proceeds of the incurrence of funded term Indebtedness, the sum of (A) the amount of any voluntary payments during such Excess Cash Flow Period (plus, without duplication of any amounts previously deducted under this clause (A)), the amount of any voluntary payments after the end of such Excess Cash Flow Period but before the date of prepayment under this clause (c) of (x) Term Loans (it being understood that the amount of any such payment constituting a below-par Permitted Loan Purchase shall be calculated to equal the amount of cash used and not the principal amount deemed prepaid therewith) and (y) Other First Lien Debt

(provided that in the case of the prepayment of any revolving Indebtedness, there was a corresponding reduction in commitments; *provided, further*, that the maximum amount of each such prepayment of Other First Lien Debt that may be counted for purposes of this *clause (A)(v)*, shall not exceed the amount that would have been prepaid in respect of such Other First Lien Debt if such prepayment had been applied on a ratable basis among the Term Loans and such Other First Lien Debt (determined based on the aggregate outstanding principal amount of Term Loans and the aggregate principal amount of such Other First Lien Debt on the date of such prepayment)) and (B) the amount of any permanent voluntary reductions during such Excess

Cash Flow Period (plus, without duplication of any amounts previously deducted under this *clause (B)*, the amount of any permanent voluntary reductions after the end of such Excess Cash Flow Period but before the date of prepayment under this *clause (c)*) of Revolving Facility Commitments to the extent that an equal amount of Revolving Facility Loans was simultaneously repaid, (I) to prepay Term Loans in accordance with *clauses (c)* and *(d)* of *Section 2.10* or (II) to prepay Term Loans in accordance with *clauses (c)* and *(d)* of *Section 2.10* and to prepay any Other First Lien Debt in accordance with the agreement(s) governing such Other First Lien Debt so long as the prepayments under this *clause (II)*, are applied in a manner such that the Term Loans are prepaid on at least a ratable basis with such Other First Lien Debt (determined based on the aggregate outstanding principal amount of Term Loans and the aggregate outstanding principal amount of such Other First Lien Debt being prepaid under this *clause (II)* on the date of such prepayments). Such calculation will be set forth in a certificate signed by a Financial Officer of the Borrower delivered to the Administrative Agent setting forth the amount, if any, of Excess Cash Flow for such fiscal year, the amount of any required prepayment in respect thereof and the calculation thereof in reasonable detail.

(d) Notwithstanding any other provisions of this *Section 2.11* to the contrary, (i) to the extent that any Net Proceeds of any Asset Sale or Casualty Event by a Foreign Subsidiary or Excess Cash Flow attributable to a Foreign Subsidiary would otherwise be required to be applied pursuant to *Section 2.11(b)* or *Section 2.11(c)* but is prohibited, restricted or delayed by applicable local law from being repatriated to the United States of America, the portion of such Net Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans or Other First Lien Debt at the times provided in *Section 2.11(b)* or *Section 2.11(c)* but may be retained by the applicable Foreign Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to the United States of America, and once such repatriation of any of such affected Net Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be effected and such repatriated Net Proceeds or Excess Cash Flow will be promptly applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to *Section 2.11(b)* or *Section 2.11(c)*, to the extent provided therein and (ii) to the extent that the Borrower, in consultation with the Administrative Agent, has determined in good faith that repatriation of any or all of such Net Proceeds or Excess Cash Flow that would otherwise be required to be applied pursuant to *Section 2.11(b)* or *Section 2.11(c)* would have a material adverse tax consequence to the Borrower or its Subsidiaries with respect to such Net Proceeds or Excess Cash Flow, the Net Proceeds or Excess Cash Flow so affected may be retained by the applicable Foreign Subsidiary (the Borrower hereby agreeing to cause the applicable Subsidiary to use commercially reasonable efforts to take all actions within the reasonable control of the Borrower that are reasonably required to eliminate such tax effects).

(e) In the event and on such occasion that the total Revolving Facility Exposure of any Class exceeds the total Revolving Facility Commitments of such Class (other than as a result of changes in currency exchange rates), the Borrower shall prepay Revolving Facility Borrowings (or, if no such Borrowings are outstanding, provide Cash Collateral in respect of outstanding Letters of Credit pursuant to *Section 2.22*) in an aggregate amount equal to such excess.

(f) In the event that the L/C Exposure exceeds the aggregate L/C

Commitments (other than as a result of changes in currency exchange rates), at the request of the Administrative Agent, the Borrower shall backstop or provide Cash Collateral pursuant to *Section 2.22* in an aggregate amount equal to such excess.

(g) If as a result of changes in currency exchange rates, on any Revaluation Date, (i) the total Revolving Facility Exposure of any Class exceeds the total Revolving Facility Commitments of such Class or (ii) the L/C Exposure exceeds the aggregate L/C Commitments, the Borrower shall, at the request of the Administrative Agent, within 10 days of such Revaluation Date (A) prepay Revolving Facility Borrowings or (B) provide Cash Collateral pursuant to *Section 2.22*, in an aggregate amount such that the applicable exposure does not exceed the applicable commitment set forth above.

## SECTION 2.12 Fees.

(a) The Borrower agrees to pay to each Revolving Facility Lender (other than any Defaulting Lender), through the Administrative Agent, on the date that is three Business Days after the last day of March, June, September and December in each year, and on the date on which the Revolving Facility Commitments of all the Revolving Facility Lenders shall be terminated as provided herein, a commitment fee (a "*Commitment Fee*") on the daily amount of the applicable Available Unused Commitment of such Revolving Facility Lender during the preceding quarter (or shorter period commencing with the Closing Date or ending with the date on which the last of the Revolving Facility Commitments of such Lender shall be terminated), which shall accrue at a rate equal to the Applicable Commitment Fee accrued up to the last day on each March, June, September and December. All Commitment Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days. The Commitment Fee due to each Revolving Facility Lender shall commence to accrue on the Closing Date and shall cease to accrue on the date on which the last of the Revolving Facility Commitments of such Lender shall be terminated as provided herein.

(b) The Borrower from time to time agrees to pay (i) to each Revolving Facility Lender of each Class (other than any Defaulting Lender), through the Administrative Agent, on the date that is three Business Days after the last day of March, June, September and December of each year and on the date on which the Revolving Facility Commitments of all the Lenders shall be terminated as provided herein, a fee in Dollars (an "*L/C Participation Fee*") on such Lender's Applicable Percentage of the daily aggregate L/C Exposure (excluding the portion thereof attributable to unreimbursed L/C Disbursements) of such Class, during the preceding quarter (or shorter period commencing with the Closing Date or ending with the Revolving Facility Maturity Date or the date on which the Revolving Facility Commitments of such Class shall be terminated) at the rate *per annum* equal to the Applicable Margin for Eurocurrency Revolving Borrowings of such Class effective for each day in such period accrued up to the last day of each March, June, September and December; *provided, however*, that any L/C Participation Fee otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral reasonably satisfactory to any Issuing Bank pursuant to *Section 2.22* shall be payable, to the maximum extent permitted by applicable Law, to the other Lenders in accordance with the upward adjustments in their respective

own account, and (ii) to each Issuing Bank, for its own account, (x) three Business Days after the last day of March, June, September and December of each year and three Business Days after the date on which the Revolving Facility Commitments of all the Lenders shall be terminated as provided herein, a fronting fee in respect of each Letter of Credit issued by such Issuing Bank for the period from and including the date of issuance of such Letter of Credit to and including the termination of such Letter of Credit, computed at a rate equal to 1/8 of 1% *per annum* of the Dollar Equivalent of the daily average stated amount of such Letter of Credit (or as otherwise agreed with such Issuing Bank), *plus* (y) in connection with the issuance, amendment or transfer of any such Letter of Credit or any L/C Disbursement thereunder, such Issuing Bank's customary documentary and processing charges (collectively, "**Issuing Bank Fees**"). All L/C Participation Fees and Issuing Bank Fees that are payable on a *per annum* basis shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(c) The Borrower agrees to pay to the Administrative Agent, for the account of the Administrative Agent, the "Senior Facilities Administration Fee" as set forth in the Fee Letter (the "**Administrative Agent Fees**").

(d) In the event that, on or prior to the date that is twelve months after the Closing Date, the Borrower shall (x) make a prepayment of the Term B Loans pursuant to Section 2.11(a) with the proceeds of, or convert the Term B Loans into, any new or replacement tranche of long-term secured term loans that are broadly syndicated to banks and other institutional investors in financings similar to the Term B Loans and have an All-in Yield that is less than the All-in Yield of such Term B Loans (other than, for the avoidance of doubt, with respect to securitizations) or (y) effect any amendment to this Agreement which reduces the All-in Yield of the Term B Loans (other than, in the case of each of clauses (x) and (y), in connection with a Change in Control or a transformative acquisition referred to in the last sentence of this clause), the Borrower shall pay to the Administrative Agent, for the ratable account of each of the applicable Term B Lenders, including, for the avoidance of doubt, any Non-Consenting Lender, (A) in the case of clause (x), a prepayment premium of 1.00% of the aggregate principal amount of the Term B Loans so prepaid or converted and (B) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the applicable Term B Loans for which the All-in Yield has been reduced pursuant to such amendment. Such amounts shall be due and payable on the date of such prepayment or the effective date of such amendment, as the case may be. For purposes of this Section 2.12(d), a "transformative acquisition" is any acquisition by the Borrower or any Subsidiary that is (i) not permitted by the terms of the Loan Documents immediately prior to the consummation of such acquisition or (ii) if permitted by the terms of the Loan Documents immediately prior to the consummation of such acquisition, would not provide the Borrower and its Subsidiaries with adequate flexibility under the Loan Documents for the continuation and/or expansion of their combined operations following such consummation, as determined by the Borrower in good faith.

(e) All Fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that Issuing Bank Fees shall be paid directly to the applicable Issuing Banks. Once paid, none of the Fees shall be refundable under any circumstances.

SECTION 2.13 Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the ABR *plus* the Applicable Margin.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted Eurocurrency Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Margin.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any Fees or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2.00% plus the rate otherwise applicable to such Loan as provided in the preceding clauses of this Section 2.13 or (ii) in the case of any other overdue amount, 2.00% plus the rate applicable to ABR Loans as provided in clause (a) of this Section 2.13; *provided* that this clause (c) shall not apply to any Event of Default that has been waived by the Lenders pursuant to Section 9.09.

(d) Accrued interest on each Loan shall be payable in arrears (i) on each Interest Payment Date for such Loan, (ii) in the case of Revolving Facility Loans, upon termination of the applicable Revolving Facility Commitments and (iii) in the case of the Term Loans, on the applicable Term Facility Maturity Date; *provided* that (A) interest accrued pursuant to clause (c) of this Section 2.13 shall be payable on demand, (B) in the event of any repayment or prepayment of any Loan (other than a prepayment of a Revolving Facility Loan that is an ABR Loan that is not made in conjunction with a permanent commitment reduction), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (C) in the event of any conversion of any Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the ABR at times when the ABR is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable ABR, Adjusted Eurocurrency Rate or Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14 Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurocurrency Borrowing denominated in any currency, on any day:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining any applicable Adjusted Eurocurrency Rate for such currency for such Interest Period for such day; or

(b) the Administrative Agent is advised by the Required Lenders that any applicable Adjusted Eurocurrency Rate for such currency for such Interest Period for such day

will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing, for such Interest Period or such day;

(c) then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or electronic means as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurocurrency Borrowing denominated in such currency shall be ineffective and such Borrowing shall be converted to or continued as on the last day of the Interest Period applicable thereto, an ABR Borrowing and (ii) if any Borrowing Request requests a Eurocurrency Borrowing in such currency, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.15 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted Eurocurrency Rate) or Issuing Bank;

(ii) subject any Lender or Issuing Bank to any Tax on or with respect to its Loans, Loan principal, Letters of Credit, Commitments, or other Obligations, or its deposits, reserves, other liabilities or capital attributable thereto (other than (A) Indemnified Taxes or Other Taxes or (B) Excluded Taxes); or

(iii) impose on any Lender or Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or Issuing Bank, as applicable, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such

Lender's or such Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrower shall pay to such Lender or such Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as applicable, as specified in clause (a) or (b) of this Section 2.15 shall be delivered to the Borrower and shall be conclusive absent manifest error; provided that any such certificate claiming amounts described in clause (x) or (y) of the definition of "Change in Law" shall, in addition, state the basis upon which such amount has been calculated and certify that such Lender's or Issuing Bank's demand for payment of such costs hereunder, and such method of allocation is not inconsistent with its treatment of other borrowers which, as a credit matter, are similarly situated to the Borrower and which are subject to similar provisions. The Borrower shall pay such Lender or Issuing Bank, as applicable, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Promptly after any Lender or any Issuing Bank has determined that it will make a request for increased compensation pursuant to this Section 2.15, such Lender or Issuing Bank shall notify the Borrower thereof. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section 2.15 shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section 2.15 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank, as applicable, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16 Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow (other than due to the default of the relevant Lender), convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurocurrency Loan, such loss, cost or expense to any Lender shall be deemed to be the amount determined by such Lender (it being understood that the deemed amount shall not exceed the actual amount) to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted Eurocurrency Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the



on such principal amount for such period at the interest rate that such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the eurocurrency market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.16 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.17 Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Documents shall be made free and clear of and without withholding or deduction for any Taxes, except as required by applicable Law. If a Loan Party (or any person acting on behalf of a Loan Party) shall be required by applicable Law to withhold or deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required withholdings or deductions (including deductions applicable to additional sums payable under this Section 2.17) the Administrative Agent, any Lender or any Issuing Bank, as applicable, receives an amount equal to the sum it would have received had no such withholdings or deductions been made, (ii) such Loan Party or the Administrative Agent shall make such withholdings or deductions and (iii) such Loan Party or the Administrative Agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Law.

(b) In addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Law.

(c) The Loan Parties shall jointly and severally indemnify the Administrative Agent, each Lender and each Issuing Bank, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes payable or paid by the Administrative Agent, such Lender or such Issuing Bank, as applicable, on or with respect to any payment by or on account of any obligation of such Loan Party hereunder or under any other Loan Documents (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.17) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to such Loan Party by a Lender or an Issuing Bank, or by the Administrative Agent on its own behalf, on behalf of another Agent or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax or backup withholding Tax under the law of the jurisdiction in which the

Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), to the extent such Lender is legally entitled to do so, at the time or times prescribed by applicable Law, such properly completed and executed documentation prescribed by applicable Law as may reasonably be requested by such Borrower to permit such payments to be made without such withholding tax or at a reduced rate; provided that no Lender shall have any obligation under this clause (e) (other than with respect to such documentation set forth in (ii)(A), (ii)(B)(1)-(4) and (iii) below) if in the reasonable judgment of such Lender such compliance would subject such Lender to any material unreimbursed cost or expense or would otherwise be disadvantageous to such Lender in any material respect.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) executed copies of Internal Revenue Service Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax; and

(B) each Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code, that is entitled under the Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Lender is legally entitled to do so), whichever of the following is applicable:

(1) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, (or any applicable successor form) claiming eligibility for benefits of an income tax treaty to which the United States of America is a party;

(2) executed copies of Internal Revenue Service Form W-8ECI or W-8EXP (or any applicable successor form);

(3) executed copies of Internal Revenue Service Form W-8IMY (or any applicable successor form) and all required supporting documentation (including an applicable W-8 and the documentation set forth in clause (4) below from each

beneficial owner, if applicable);

(4) in the case of a foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such foreign Lender is not (A) a “bank”

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within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code and (y) executed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, (or any applicable successor form); or

(5) executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in United States of America federal withholding tax together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(iii) If a payment made to any Lender hereunder or under any other Loan Document would be subject to United States of America federal withholding tax imposed pursuant to FATCA if such Lender fails to comply with applicable reporting and other 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 applicable Law or as reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (iii), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(iv) Each Lender shall promptly notify the Borrower and the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction and agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or notify the Borrower and the Administrative Agent of its inability to do so.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.17 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender (including any Taxes imposed with respect to such refund) as is determined by the Administrative Agent or Lender in good faith and in its sole discretion, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Loan Party,

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upon the request of the Administrative Agent or such Lender, agrees to repay as soon as reasonably practicable the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary, in no event will the Administrative Agent or Lender be required to pay any amount to a Loan Party pursuant to this Section 2.17(f), the payment of which would place the Administrative Agent or Lender in a less favorable net after-Tax position than it would have been in if the 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 had never been paid. This Section shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the Loan Parties or any other person.

(g) Each party’s obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, repayment and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(h) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender’s failure to comply with the provisions of Section 9.04(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (h).

SECTION 2.18 Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) Unless otherwise specified, the Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of L/C Disbursements, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., Local Time, on the date when due, in immediately available funds, without condition or deduction for any defense, recoupment, set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the

Sections 2.15, 2.16, 2.17 and 9.05 shall be made directly to the persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other person to the appropriate recipient promptly following receipt thereof. Unless otherwise specified, if any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under each Loan Document of principal or interest in respect of any Loan (or of any breakage indemnity in respect of any Loan) shall be made in Dollars (or, in the case of Alternate Currency Loans or Alternate Currency Letters of Credit, in the applicable Alternate Currency); all other payments hereunder and under each other Loan Document shall be made in U.S. Dollars, except as otherwise expressly provided herein. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) If at any time insufficient funds are received by and available to the Administrative Agent from the Borrower to pay fully all amounts of principal, unreimbursed L/C Disbursements, interest and fees then due from the Borrower hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, (ii) second, towards payment of unreimbursed L/C Disbursements then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of unreimbursed principal and L/C Disbursements then due to such parties, and (iii) third, towards payment of principal then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Term Loans, Revolving Facility Loans or participations in L/C Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans, Revolving Facility Loans and participations in L/C Disbursements and accrued interest thereon under any Facility than the proportion received by any other Lender under such Facility, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Term Loans, Revolving Facility Loans and participations in L/C Disbursements of other Lenders under such Facility to the extent necessary so that the benefit of all such payments shall be shared by the Lenders under such Facility ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Term Loans, Revolving Facility Loans and participations in L/C Disbursements under such Facility; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this clause (c) shall not be construed to apply to (x) any payment made pursuant to and in accordance with the express terms of this Agreement (including, without limitation, the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.22, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Disbursements to any assignee or participant. The

Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the applicable Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable Issuing Bank, as applicable, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the applicable Issuing Bank, as applicable, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of (A) (1) in the case of Loans, the Federal Funds Rate, (2) in the case of any other amounts denominated in U.S. Dollars, the Federal Funds Rate, and (3) in the case of any other amount denominated in a currency other than U.S. Dollars, the rate reasonably determined by the Administrative Agent to be the cost to it of funding such amount, and (B) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) 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 applicable conditions 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.

(f) The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 9.05(d) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 9.05(d) 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, to purchase its participation or to make its payment under Section 9.05(d).

SECTION 2.19 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 or any event that gives rise to the operation of Section 2.20, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant

to Section 2.15 or 2.17 or mitigate the applicability of Section 2.20, as applicable, in the future and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15 or gives notice under Section 2.20, (ii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or (iii) any Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require any such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent (and, if in respect of any Revolving Facility Commitment or Revolving Facility Loan and the Issuing Banks), to the extent consent would be required under Section 9.04(b) for an assignment of Loans or Commitments, as applicable, which consent, in each case, shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in L/C Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15, payments required to be made pursuant to Section 2.17 or a notice given under Section 2.20, such assignment will result in a reduction in such compensation or payments, (iv) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 9.04, and (v) such assignment does not conflict with any applicable Laws. Nothing in this Section 2.19 shall be deemed to prejudice any rights that the Borrower may have against any Lender that is a Defaulting Lender. No action by or consent of the removed Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of such purchase price. In connection with any such assignment the Borrower, Administrative Agent, such removed Lender and the replacement Lender shall otherwise comply with Section 9.04, provided that if such removed Lender does not comply with Section 9.04 within one Business Day after the Borrower's request, compliance with Section 9.04 shall not be required to effect such assignment.

(c) If any Lender (such Lender, a "**Non-Consenting Lender**") has failed to consent to a proposed amendment, waiver, discharge or termination which pursuant to the terms of Section 9.09 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) at its sole expense (including with respect to the processing and recordation fee referred to in Section 9.04(b)(ii)(2)) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to (and any such Non-Consenting Lender agrees that it shall, upon the Borrower's request) assign its Loans and its Commitments (or, at the Borrower's option, the Loans and Commitments under the Facility that is the subject of the proposed amendment, waiver, discharge or termination) hereunder to one or more assignees reasonably acceptable to (i) the Administrative Agent (unless such assignee is a

Lender, an Affiliate of a Lender or an Approved Fund) and (ii) if in respect of any Revolving Facility Commitment or Revolving Facility Loan, the Issuing Banks; provided that: (a) all Loan Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, (b) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and the replacement Lender or, at the option of the Borrower, the Borrower shall pay any amount required by Section 2.12(d)(y), if applicable, and (c) the replacement Lender shall grant its consent with respect to the applicable proposed amendment, waiver, discharge or termination. No action by or consent of the Non-Consenting Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of such purchase price. In connection with any such assignment the Borrower, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 9.04; provided that if such Non-Consenting Lender does not comply with Section 9.04 within one Business Day after the Borrower's request, compliance with Section 9.04 shall not be required to effect such assignment.

#### SECTION 2.20 Incremental Commitments.

(a) The Borrower may, by written notice to the Administrative Agent from time to time, request Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments, as applicable, in an amount not to exceed the Incremental Amount available at the time such Incremental Commitments are established (or, solely in connection with clause (ii) of the definition of the term "Incremental Amount," at the time any commitment relating thereto is entered into or, at the option of the Borrower, at the time of incurrence of the Incremental Loans thereunder) from one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders (which may include any existing Lender) willing to provide such Incremental Term Loans and/or Incremental Revolving Facility Commitments, as the case may be, in their own discretion; provided that each Incremental Revolving Facility Lender providing a commitment to make revolving loans shall be subject to the approval of the Administrative Agent and, to the extent the same would be required for an assignment under Section 9.04, the Issuing Banks (which approvals shall not be unreasonably withheld) unless such Incremental Revolving Facility Lender is a Revolving Facility Lender. Such notice shall set forth (i) the amount of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments being requested (which shall be in minimum increments of \$5,000,000 and a minimum amount of \$10,000,000, or equal to the remaining Incremental Amount or, in each case, such lesser amount approved by the Administrative Agent), (ii) the date on which such Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments are requested to become effective, (iii) in the case of Incremental Revolving Facility Commitments, whether such Incremental Revolving Facility Commitments are to be (x) commitments to make additional Revolving Facility Loans on the same terms as the Initial Revolving Facility Loans or (y) commitments to make revolving loans with pricing terms, final maturity dates, participation in mandatory prepayments or commitment reductions and/or other terms different from the Initial Revolving Facility Loans ("**Other Revolving Facility Loans**") and (iv) in the case of Incremental Term Loan Commitments, whether such Incremental Term Loan Commitments are to be (x) commitments to make term loans with terms identical to Term B Loans or (y) commitments to make term loans with pricing, maturity, amortization, participation in

mandatory prepayments and/or other terms different from the Term B Loans ("**Other Term Loans**").

(b) The Borrower and each Incremental Term Lender and/or Incremental Revolving Facility Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment of such Incremental Term Lender and/or Incremental Revolving Facility Commitment of such Incremental Revolving Facility Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Incremental Term Loans and/or Incremental Revolving Facility Commitments; provided that:

- (i) any commitments to make additional Term B Loans and/or additional Initial Revolving Facility Loans shall have the same terms as the Term B Loans or Initial Revolving Facility Loans, respectively,
- (ii) the Other Term Loans incurred pursuant to clause (a) of this Section 2.20 shall rank pari passu or, at the option of the Borrower, junior in right of security with the Term B Loans (provided that if such Other Term Loans rank junior in right of security with the Term B Loans, such Other Term Loans will be established as a separate facility from the then existing Term Loans, shall be subject to a Permitted Junior Intercreditor Agreement and, for the avoidance of doubt, shall not be subject to clause (vii) below),
- (iii) the final maturity date of any such Other Term Loans shall be no earlier than the Term B Facility Maturity Date and, except as to pricing, amortization, final maturity date, participation in mandatory prepayments and ranking as to security (which shall, subject to the other clauses of this proviso, be determined by the Borrower and the Incremental Term Lenders in their sole discretion), shall have (x) substantially similar terms as the Term B Loans or (y) such other terms (including as to guarantees and collateral) as shall be reasonably satisfactory to the Administrative Agent,
- (iv) the Weighted Average Life to Maturity of any such Other Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term B Loans,
- (v) the Other Revolving Facility Loans incurred pursuant to clause (a) of this Section 2.20 shall rank pari passu or, at the option of the Borrower, junior in right of security with the Initial Revolving Facility Loans (provided that if such Other Revolving Facility Loans rank junior in right of security with the Initial Revolving Facility Loans, such Other Revolving Facility Loans will be established as a separate facility from the then existing Revolving Facility Loans, and shall be subject to a Permitted Junior Intercreditor Agreement),
- (vi) the final maturity date of any such Other Revolving Facility Loans shall be no earlier than the Revolving Facility Maturity Date with respect to the Initial Revolving Facility Loans, there shall be no amortization and, except as to pricing, final

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maturity date, participation in mandatory prepayments and commitment reductions and ranking as to security (which shall, subject to the other clauses of this proviso, be determined by the Borrower and the Incremental Revolving Facility Lenders in their sole discretion), shall have (x) substantially similar terms as the Initial Revolving Facility Loans or (y) such other terms (including as to guarantees and collateral) as shall be reasonably satisfactory to the Administrative Agent,

(vii) with respect to any Other Term Loan incurred pursuant to clause (a) of this Section 2.20 that ranks pari passu in right of security with the Term B Loans, the All-in Yield shall be the same as that applicable to the Term B Loans on the Closing Date, except that the All-in Yield in respect of any such Other Term Loan may exceed the All-in Yield in respect of such Term B Loans on the Closing Date by no more than 0.50%, or if it does so exceed such All-in Yield by more than 0.50% (such difference, the “**Term Yield Differential**”) then the Applicable Margin (or the “LIBOR floor” as provided in the following proviso) applicable to such Term B Loans shall be increased such that after giving effect to such increase, the Term Yield Differential shall not exceed 0.50%; provided that, to the extent any portion of the Term Yield Differential is attributable to a higher “LIBOR floor” being applicable to such Other Term Loans, such floor shall only be included in the calculation of the Term Yield Differential to the extent such floor is greater than the Adjusted Eurocurrency Rate in effect for an Interest Period of three months’ duration at such time, and, with respect to such excess, the “LIBOR floor” applicable to the outstanding Term B Loans shall be increased to an amount not to exceed the “LIBOR floor” applicable to such Other Term Loans prior to any increase in the Applicable Margin applicable to such Term B Loans then outstanding,

(viii) (A) such Other Revolving Facility Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Initial Revolving Facility Loans in (x) any voluntary or mandatory prepayment or commitment reduction hereunder and (y) any Borrowing at the time such Borrowing is made and (B) such Other Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Term B Loans in any mandatory prepayment hereunder; and

(ix) there shall be no obligor in respect of any Incremental Loans that is not a Loan Party, and, if such Incremental Loans are secured, shall only be secured by Collateral.

Each party hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments evidenced thereby as provided for in Section 9.09(e). Any amendment to this Agreement or any other Loan Document that is necessary to effect the provisions of this Section 2.20 and any such collateral and other documentation shall be deemed “Loan Documents” hereunder and may be memorialized in writing by the Administrative Agent with the Borrower’s consent (not to be unreasonably withheld) and furnished to the other parties hereto.

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(c) Notwithstanding the foregoing, no Incremental Term Loan Commitment or Incremental Revolving Facility Commitment shall become effective under this Section 2.20 unless (i) on the date of such effectiveness, (A) to the extent required by the relevant Incremental Assumption Agreement, the conditions set forth in clause (c) of Section 4.01 shall be satisfied and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Responsible Officer of the Borrower and (B) if such Incremental Term Loan Commitment or Incremental Revolving

Facility Commitment is established for a purpose other than financing any Permitted Business Acquisition or any other acquisition that is permitted by this Agreement, no Event of Default with respect to the Borrower under Sections 7.01(b), (h) or (i) shall have occurred and be continuing and (ii) the Administrative Agent shall have received customary legal opinions, board resolutions and other customary closing certificates and documentation as required by the relevant Incremental Assumption Agreement and, to the extent required by the Administrative Agent, consistent with those delivered on the Closing Date under Section 4.02 and such additional customary documents and filings (including amendments to the Mortgages and other Security Documents and title endorsement bringdowns) as the Administrative Agent may reasonably request to assure that the Incremental Term Loans and/or Revolving Facility Loans in respect of Incremental Revolving Facility Commitments are secured by the Collateral ratably with (or, to the extent set forth in the applicable Incremental Assumption Agreement, junior to) one or more Classes of then-existing Term Loans and Revolving Facility Loans.

(d) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be reasonably necessary to ensure that (i) all Incremental Term Loans (other than Other Term Loans of a different Class), when originally made, are included in each Borrowing of the outstanding applicable Class of Term Loans on a pro rata basis, and (ii) all Revolving Facility Loans in respect of Incremental Revolving Facility Commitments (other than Revolving Facility Loans of a different Class), when originally made, are included in each Borrowing of the applicable Class of outstanding Revolving Facility Loans on a pro rata basis. The Borrower agrees that Section 2.16 shall apply to any conversion of Eurocurrency Loans to ABR Loans reasonably required by the Administrative Agent to effect the foregoing.

(e) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(c) (which provisions shall not be applicable to clauses (e) through (i) of this Section 2.20), pursuant to one or more offers made from time to time by the Borrower to all Lenders of any Class of Term Loans and/or Revolving Facility Commitments, on a pro rata basis (based, in the case of an offer to the Lenders under any Class of Term Loans, on the aggregate outstanding Term Loans of such Class and, in the case of an offer to the Lenders under any Revolving Facility, on the aggregate outstanding Revolving Facility Commitments under such Revolving Facility, as applicable) and on the same terms ("**Pro Rata Extension Offers**"), the Borrower is hereby permitted to consummate transactions with individual Lenders from time to time to extend the maturity date of such Lender's Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender's Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including, without limitation, increasing the interest rate or fees payable in respect of such Lender's Loans and/or Commitments and/or modifying the scheduled amortization in respect of such Lender's Loans). For the avoidance of doubt, the reference to "on the same terms" in the preceding sentence shall

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mean, (i) in the case of an offer to the Lenders under any Class of Term Loans, that all of the Term Loans of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same and (ii) in the case of an offer to the Lenders under any Revolving Facility, that all of the Revolving Facility Commitments of such Facility are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same. Any such extension (an "**Extension**") agreed to between the Borrower and any such Lender (an "**Extending Lender**") will be established under this Agreement by implementing an Incremental Term Loan for such Lender if such Lender is extending an existing Term Loan (such extended Term Loan, an "**Extended Term Loan**") or an Incremental Revolving Facility Commitment for such Lender if such Lender is extending an existing Revolving Facility Commitment (such extended Revolving Facility Commitment, an "**Extended Revolving Facility Commitment**" and any Revolving Facility Loans made thereunder, "**Extended Revolving Loans**"). Each Pro Rata Extension Offer shall specify the date on which the Borrower proposes that the Extended Term Loan shall be made or the Extended Revolving Facility Commitment shall become effective, which shall be a date not earlier than five Business Days after the date on which notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion).

(f) The Borrower and each Extending Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Term Loans and/or Extended Revolving Facility Commitments of such Extending Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Extended Term Loans and/or Extended Revolving Facility Commitments; provided that (i) except as to interest rates, fees and any other pricing terms (which interest rates, fees and other pricing terms shall not be subject to the provisions set forth in Section 2.20(b)(vii)), and amortization, final maturity date and participation in prepayments and commitment reductions (which shall, subject to clauses (ii) and (iii) of this proviso, be determined by the Borrower and set forth in the Pro Rata Extension Offer), the Extended Term Loans shall have (x) the same terms as an existing Class of Term Loans or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent, (ii) the final maturity date of any Extended Term Loans shall be no earlier than the latest Term Facility Maturity Date in effect on the date of incurrence, (iii) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Class of Term Loans to which such offer relates, (iv) except as to interest rates, fees, any other pricing terms, participation in mandatory prepayments and commitment reductions and final maturity (which shall be determined by the Borrower and set forth in the Pro Rata Extension Offer), any Extended Revolving Facility Commitment shall have (x) the same terms as an existing Class of Revolving Facility Commitments or (y) have such other terms as shall be reasonably satisfactory to the Administrative Agent and, in respect of any other terms that would affect the rights or duties of any Issuing Bank, such terms as shall be reasonably satisfactory to such Issuing Bank, (v) any Extended Revolving Facility Commitments may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) than the Initial Revolving Facility Loans in any voluntary or mandatory prepayment or commitment reduction hereunder and (vi) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Term B Loans in any mandatory prepayment hereunder. Upon the effectiveness of any Incremental

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Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Revolving Facility Commitments evidenced thereby as provided for in Section 9.09(e). Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower's consent (not to be unreasonably withheld) and furnished to the other parties hereto. If provided in any Incremental Assumption Agreement with respect to any Extended Revolving Facility Commitments, and with the consent of each Issuing Bank, participations in Letters of Credit shall be reallocated to lenders holding such Extended Revolving Facility Commitments in the manner specified in such Incremental Assumption Agreement, including upon effectiveness of such Extended Revolving Facility Commitment or upon or prior to the maturity date for any Class of Revolving Facility Commitments.

(g) Upon the effectiveness of any such Extension, the applicable Extending Lender's Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender's Revolving Facility Commitment will be automatically designated an Extended Revolving Facility Commitment. For purposes of this Agreement and the other Loan Documents, (i) if such Extending Lender is extending a Term Loan, such Extending Lender

will be deemed to have an Incremental Term Loan having the terms of such Extended Term Loan and (ii) if such Extending Lender is extending a Revolving Facility Commitment, such Extending Lender will be deemed to have an Incremental Revolving Facility Commitment having the terms of such Extended Revolving Facility Commitment.

(h) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including, without limitation, this Section 2.20), (i) the aggregate amount of Extended Term Loans and Extended Revolving Facility Commitments will not be included in the calculation of the Incremental Amount, (ii) no Extended Term Loan or Extended Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (iii) any Extending Lender may extend all or any portion of its Term Loans and/or Revolving Facility Commitment pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Revolving Facility Commitment), (iv) there shall be no condition to any Extension of any Loan or Commitment at any time or from time to time other than notice to the Administrative Agent of such Extension and the terms of the Extended Term Loan or Extended Revolving Facility Commitment implemented thereby, (v) all Extended Term Loans, Extended Revolving Facility Commitments and all obligations in respect thereof shall be Loan Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other Obligations relating to an existing Class of Term Loans of the relevant Loan Parties under this Agreement and the other Loan Documents being extended thereby, (vi) no Issuing Bank shall be obligated to issue Letters of Credit under such Extended Revolving Facility Commitments unless it shall have consented thereto and (vii) there shall be no obligor in respect of any such Extended Term Loans or Extended Revolving Facility Commitments that is not a Loan Party.

(i) Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided that the Borrower shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable

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procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

(j) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(c) (which provisions shall not be applicable to clauses (j) through (o) of this Section 2.20), the Borrower may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (such loans, "**Refinancing Term Loans**"), the net cash proceeds of which are used to Refinance in whole or in part any Class of Term Loans. Each such notice shall specify the date (each, a "**Refinancing Effective Date**") on which the Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not earlier than five Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion); provided that:

(i) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 4.01 shall be satisfied to the extent required by the relevant Incremental Assumption Agreement governing such Refinancing Term Loans;

(ii) the final maturity date of the Refinancing Term Loans shall be no earlier than the Term Facility Maturity Date of the refinanced Term Loans,

(iii) the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the then-remaining Weighted Average Life to Maturity of the refinanced Term Loans;

(iv) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Term Loans plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

(v) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in Section 2.20(b)(vii)) and optional prepayment or mandatory prepayment or redemption terms, which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) taken as a whole shall be substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than, the terms, taken as a whole, applicable to the Term B Loans (except to the extent such covenants and other terms apply solely to any period after the Term B Facility Maturity Date or are otherwise reasonably acceptable to the Administrative Agent), as determined by the Borrower in good faith. In addition, notwithstanding the foregoing, the Borrower may establish Refinancing Term Loans to refinance and/or replace all or any portion of a Revolving Facility Commitment (regardless of whether Revolving Facility Loans are outstanding under such Revolving Facility Commitments at the time of incurrence of such Refinancing Term Loans), so long as (1) the aggregate amount of such Refinancing Term Loans does not exceed the

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aggregate amount of Revolving Facility Commitments terminated at the time of incurrence thereof, (2) if the Revolving Facility Exposure outstanding on the Refinancing Effective Date would exceed the aggregate amount of Revolving Facility Commitments outstanding in each case after giving effect to the termination of such Revolving Facility Commitments, the Borrower shall take one or more actions such that such Revolving Facility Exposure does not exceed such aggregate amount of Revolving Facility Commitments in effect on the Refinancing Effective Date after giving effect to the termination of such Revolving Facility Commitments (it being understood that (x) such Refinancing Term Loans may be provided by the Lenders holding the Revolving Facility Commitments being terminated and/or by any other person that would be a permitted Assignee hereunder and (y) the proceeds of such Refinancing Term Loans shall not constitute Net Proceeds hereunder), (3) the Weighted Average Life to Maturity of the Refinancing Term Loans shall be no shorter than the remaining life to termination of the terminated Revolving Facility Commitments, (4) the final maturity date of the Refinancing Term Loans shall be no earlier than the termination date of the terminated Revolving Facility Commitments and (5) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in Section 2.20(b)(vii)) and optional prepayment or mandatory prepayment or redemption terms, which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) taken as a whole shall be substantially similar to, or not

materially less favorable to the Borrower and its Subsidiaries than, the terms, taken as a whole, applicable to the Term B Loans (except to the extent such covenants and other terms apply solely to any period after the Term B Facility Maturity Date or are otherwise reasonably acceptable to the Administrative Agent), as determined by the Borrower in good faith;

(vi) with respect to Refinancing Term Loans secured by Liens on the Collateral that rank junior in right of security to the Term B Loans, such Liens will be subject to a Permitted Junior Intercreditor Agreement; and

(vii) there shall be no obligor in respect of such Refinancing Term Loans that is not a Loan Party.

(k) The Borrower may approach any Lender or any other person that would be a permitted Assignee pursuant to Section 9.04 to provide all or a portion of the Refinancing Term Loans; provided that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided, further, that any Refinancing Term Loans may, to the extent provided in the applicable Incremental Assumption Agreement governing such Refinancing Term Loans, be designated as an increase in any previously established Class of Term Loans made to the Borrower.

(l) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(c) (which provisions shall not be applicable to clauses (l) through (o) of this

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Section 2.20), the Borrower may by written notice to the Administrative Agent establish one or more additional Facilities providing for revolving commitments (“**Replacement Revolving Facilities**” and the commitments thereunder, “**Replacement Revolving Facility Commitments**” and the revolving loans thereunder, “**Replacement Revolving Loans**”), which replace in whole or in part any Class of Revolving Facility Commitments under this Agreement. Each such notice shall specify the date (each, a “**Replacement Revolving Facility Effective Date**”) on which the Borrower proposes that the Replacement Revolving Facility Commitments shall become effective, which shall be a date not less than five Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion); provided that: (i) before and after giving effect to the establishment of such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 4.01 shall be satisfied to the extent required by the relevant Incremental Assumption Agreement governing such Replacement Revolving Facility Commitments; (ii) after giving effect to the establishment of any Replacement Revolving Facility Commitments and any concurrent reduction in the aggregate amount of any other Revolving Facility Commitments, the aggregate amount of Revolving Facility Commitments shall not exceed the aggregate amount of the Revolving Facility Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date; (iii) no Replacement Revolving Facility Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the Revolving Facility Maturity Date in effect at the time of incurrence for the Revolving Facility Commitments being replaced; (iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Borrower and the Lenders providing such Replacement Revolving Facility Commitments and (y) the amount of any letter of credit sublimit under such Replacement Revolving Facility, which shall be as agreed between the Borrower, the Lenders providing such Replacement Revolving Facility Commitments, the Administrative Agent and the replacement issuing bank under such Replacement Revolving Facility Commitments) taken as a whole shall be substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than, the terms, taken as a whole, applicable to the Initial Revolving Facility Loans (except to the extent such covenants and other terms apply solely to any period after the latest Revolving Facility Maturity Date in effect at the time of incurrence or are otherwise reasonably acceptable to the Administrative Agent); and (v) there shall be no obligor in respect of such Replacement Revolving Facility that is not a Loan Party. In addition, the Borrower may establish Replacement Revolving Facility Commitments to refinance and/or replace all or any portion of a Term Loan hereunder (regardless of whether such Term Loan is repaid with the proceeds of Replacement Revolving Loans or otherwise), so long as the aggregate amount of such Replacement Revolving Facility Commitments does not exceed the aggregate amount of Term Loans repaid at the time of establishment thereof (it being understood that such Replacement Revolving Facility Commitment may be provided by the Lenders holding the Term Loans being repaid and/or by any other person that would be a permitted Assignee hereunder) so long as (i) before and after giving effect to the establishment such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 4.01 shall be satisfied to the extent required by the relevant agreement governing such Replacement Revolving Facility Commitments, (ii) the remaining life to termination of

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such Replacement Revolving Facility Commitments shall be no shorter than the Weighted Average Life to Maturity then applicable to the refinanced Term Loans, (iii) the final termination date of the Replacement Revolving Facility Commitments shall be no earlier than the Term Facility Maturity Date of the refinanced Term Loans, (iv) with respect to Replacement Revolving Loans secured by Liens on Collateral that rank junior in right of security to the Initial Revolving Facility Loans, such Liens will be subject to a Permitted Junior Intercreditor Agreement and (v) the requirement of clause (v) in the preceding sentence shall be satisfied mutatis mutandis. Solely to the extent that an Issuing Bank is not a replacement issuing bank under a Replacement Revolving Facility, it is understood and agreed that such Issuing Bank shall not be required to issue any letters of credit under such Replacement Revolving Facility and, to the extent it is necessary for such Issuing Bank to withdraw as an Issuing Bank at the time of the establishment of such Replacement Revolving Facility, such withdrawal shall be on terms and conditions reasonably satisfactory to such Issuing Bank in its sole discretion. The Borrower agrees to reimburse each Issuing Bank, in full upon demand, for any reasonable and documented out-of-pocket cost or expense attributable to such withdrawal.

(m) The Borrower may approach any Lender or any other person that would be a permitted Assignee of a Revolving Facility Commitment pursuant to Section 9.04 to provide all or a portion of the Replacement Revolving Facility Commitments; provided that any Lender offered or approached to provide all or a portion of the Replacement Revolving Facility Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Facility Commitment. Any Replacement Revolving Facility Commitment made on any Replacement Revolving Facility Effective Date shall be designated an additional Class of Revolving Facility Commitments for all purposes of this Agreement; provided that any Replacement Revolving Facility Commitments may, to the extent provided in the applicable Incremental Assumption Agreement, be designated as an increase in any previously established Class of Revolving Facility Commitments.

(n) On any Replacement Revolving Facility Effective Date, subject to the satisfaction of the foregoing terms and conditions, each of the Lenders with Replacement Revolving Facility Commitments of such Class shall purchase from each of the other Lenders with Replacement Revolving



Facility Commitments of such Class, at the principal amount thereof and in the applicable currencies, such interests in the Replacement Revolving Loans and participations in Letters of Credit under such Replacement Revolving Facility Commitments of such Class then outstanding on such Replacement Revolving Facility Effective Date as shall be necessary in order that, after giving effect to all such assignments and purchases, the Replacement Revolving Loans and participations of such Replacement Revolving Facility Commitments of such Class will be held by the Lenders thereunder ratably in accordance with their Replacement Revolving Facility Commitments.

(o) For purposes of this Agreement and the other Loan Documents, (i) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Incremental Term Loan having the terms of such Refinancing Term Loan and (ii) if a Lender is providing a Replacement Revolving Facility Commitment, such Lender will be deemed to have an Incremental Revolving Facility Commitment having the terms of such Replacement Revolving Facility Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including, without limitation, this [Section 2.20](#)), (i) the

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aggregate amount of Refinancing Term Loans and Replacement Revolving Facility Commitments will not be included in the calculation of the Incremental Amount, (ii) no Refinancing Term Loan or Replacement Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (iii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Facility Commitment at any time or from time to time other than those set forth in [clauses \(j\) or \(l\)](#) above, as applicable, and (iv) all Refinancing Term Loans, Replacement Revolving Facility Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other Obligations under this Agreement and the other Loan Documents.

(p) Notwithstanding anything in the foregoing to the contrary, (i) for the purpose of determining the number of outstanding Eurocurrency Borrowings upon the incurrence of any Incremental Loans, (x) to the extent the last date of Interest Periods for multiple Eurocurrency Borrowings under the Term Facilities fall on the same day, such Eurocurrency Borrowings shall be considered a single Eurocurrency Borrowing and (y) to the extent the last date of Interest Periods for multiple Eurocurrency Borrowings under the Revolving Facilities fall on the same day, such Eurocurrency Borrowings shall be considered a single Eurocurrency Borrowing and (ii) the initial Interest Period with respect to any Eurocurrency Borrowing of Incremental Loans may, at the Borrower's option, be of a duration of a number of Business Days that is less than one month, and the Adjusted Eurocurrency Rate with respect to such initial Interest Period shall be the same as the Adjusted Eurocurrency Rate applicable to any then-outstanding Eurocurrency Borrowing as the Borrower may direct, so long as the last day of such initial Interest Period is the same as the last day of the Interest Period with respect to such outstanding Eurocurrency Borrowing.

SECTION 2.21 [Illegality](#). If any Lender reasonably determines that any change in law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for any Lender or its applicable Lending Office to make or maintain any Eurocurrency Loans, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligations of such Lender to make or continue Eurocurrency Loans or to convert ABR Borrowings to Eurocurrency Borrowings shall be suspended 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, the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), either convert all Eurocurrency Borrowings of such Lender to ABR Borrowings, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 2.22 [Cash Collateral](#).

(a) [Certain Credit Support Events](#). Upon the request of the Administrative Agent or any Issuing Bank if, as of the expiration date for all Letters of Credit set forth in [Section 2.05\(c\)](#), any L/C Exposure for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then outstanding amount of all L/C Exposure.

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(b) [Grant of Security Interest](#). All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at the Administrative Agent. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Collateral Agent, for the benefit of the Administrative Agent, the applicable Issuing Bank and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to [Section 2.22\(c\)](#). If at any time the Administrative Agent or the Collateral Agent determines that Cash Collateral is subject to any right or claim of any person other than the Collateral Agent as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, then (i) the Borrower (solely to the extent that the applicable Cash Collateral was provided by the Borrower), or (ii) the relevant Defaulting Lender (solely to the extent that the applicable Cash Collateral was provided by such Defaulting Lender) will, promptly upon demand by the Administrative Agent, pay or provide to the Collateral Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) [Application](#). Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this [Section 2.22](#) or [Sections 2.05, 2.11, 2.23 or 7.01](#) in respect of Letters of Credit shall be held and applied to the satisfaction of the specific Letter of Credit obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) [Release](#). Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with [Section 9.04\(b\)\(ii\)](#))) or (ii) the Administrative Agent's good faith determination that there exists excess Cash Collateral; *provided, however*, (x) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of a Default or Event of Default (and following application as provided in this [Section 2.22](#) may be otherwise applied in accordance with [Section 7.01](#)), and (y) the person providing Cash Collateral and the applicable Issuing Bank may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

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(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 9.09.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 9.06), shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the Issuing Banks hereunder; *third*, to Cash Collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.22; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that 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 non-interest bearing deposit account and released in order to (x) satisfy obligations of that Defaulting Lender to fund Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.22; *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or Issuing Bank against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.01 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings to, that Defaulting Lender. 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 2.23(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. The Defaulting Lender (x) shall not be entitled to receive any Commitment Fee pursuant to Section 2.12(a) 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

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Lender), and (y) shall be limited in its right to receive L/C Participation Fees as provided in Section 2.12(b).

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Commitments shall be reallocated along the non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Facility Exposure of any non-Defaulting Lender to exceed such non-Defaulting Lender's Revolving Facility Commitment. Subject to Section 9.27, 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.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and the Issuing Banks agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be 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 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 to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.23(g)(iv)), whereupon that Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

### ARTICLE III REPRESENTATIONS AND WARRANTIES

On the date of each Credit Event, the Borrower represents and warrants that:

SECTION 3.01 Organization; Powers. Except as set forth on Schedule 3.01, each of Holdings, the Borrower and each of the Material Subsidiaries (limited in the case of clause (d) below, to Holdings, the Borrower and each of the Subsidiary Loan Parties) (a) is a limited liability company, unlimited liability company, corporation or partnership duly organized, validly existing and in good standing (or, if applicable in a foreign jurisdiction, enjoys the equivalent status under the laws of any jurisdiction of organization outside the United States of America) under the laws of the jurisdiction of its organization, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted, (c) is qualified to do business in each jurisdiction where such qualification is required, except where the failure so to qualify could not reasonably be expected to have a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the

Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of the Borrower, to borrow and otherwise obtain credit hereunder.

SECTION 3.02 Authorization. The execution, delivery and performance by the Borrower, each of the Subsidiary Loan Parties and, in the case of Sections 3.02(a) and 3.02(b)(i)(A) and (B), Holdings, of each of the Loan Documents to which it is a party and the borrowings hereunder (a) have been duly authorized by all corporate, stockholder, limited liability company, partnership or other organizational action required to be obtained by Holdings, the Borrower and such Subsidiary Loan Parties and (b) will not (i) violate (A) any provision of law, statute, rule or regulation applicable to Holdings, the Borrower or any such Subsidiary Loan Party, (B) the certificate or articles of incorporation or other constitutive documents (including any partnership, limited liability company or operating agreements) or by-laws of Holdings, the Borrower or any such Subsidiary Loan Parties, (C) any applicable order of any court or any rule, regulation or order of any Governmental Authority applicable to the Borrower or any such Subsidiary Loan Party or (D) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which the Borrower or any such Subsidiary Loan Parties is a party or by which any of them or any of their property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) or to a loss of a material benefit under any such indenture, certificate of designation for preferred stock, agreement or other instrument, where any such conflict, violation, breach or default referred to in clause (i) or (ii) of this Section 3.02(b), could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrower or any such Subsidiary Loan Parties, other than the Liens created by the Loan Documents and Permitted Liens.

SECTION 3.03 Enforceability. This Agreement has been duly executed and delivered by Holdings and the Borrower and constitutes, and each other Loan Document when executed and delivered by each Loan Party that is party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against each such Loan Party in accordance with its terms, subject to (i) the effects of bankruptcy, insolvency, moratorium, reorganization, fraudulent conveyance or other similar laws affecting creditors' rights generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (iii) implied covenants of good faith and fair dealing and (iv) any foreign laws, rules and regulations as they relate to pledges of Equity Interests in Foreign Subsidiaries that are not Loan Parties.

SECTION 3.04 Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required for the execution, delivery or performance of each Loan Document to which the Borrower or any Subsidiary Loan Party is a party, except for (a) the filing of Uniform Commercial Code financing statements, (b) filings with the United States Patent and Trademark Office and the United States Copyright Office and comparable offices in foreign jurisdictions and equivalent filings in foreign jurisdictions, (c) recordation of the Mortgages, (d) such as have been made or obtained and are in full force and effect, (e) such other actions, consents,

approvals, registrations or filings with respect to which the failure to be obtained or made could not reasonably be expected to have a Material Adverse Effect and (f) filings or other actions listed on Schedule 3.04 and any other filings or registrations required by the Security Documents.

SECTION 3.05 Financial Statements. (a) (i) The audited consolidated balance sheets and the statements of income, stockholders' equity, and cash flow as of and for the fiscal years ended December 31, 2014, December 31, 2015 and December 31, 2016 for (x) Novitex and its consolidated subsidiaries, (y) SourceHOV and its consolidated subsidiaries and (z) Parent and its consolidated subsidiaries and (ii) the unaudited consolidated balance sheets and statements of income, stockholders' equity and cash flow as of and for the fiscal quarter ended March 31, 2017 for (x) Novitex and its consolidated subsidiaries, (y) SourceHOV and its consolidated subsidiaries and (z) Parent and its consolidated subsidiaries, including the notes thereto, if applicable, present fairly in all material respects the consolidated financial position of the Novitex, SourceHOV and Parent and their respective consolidated subsidiaries as of the dates and for the periods referred to therein and the results of operations and, if applicable, cash flows for the periods then ended, and, except as set forth on Schedule 3.05, were prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, except, in the case of interim period financial statements, for the absence of notes and for normal year-end adjustments and except as otherwise noted therein.

(b) The Borrower has heretofore furnished to the Lenders the unaudited pro forma consolidated balance sheet and a related pro forma consolidated statement of income of the Borrower and its consolidated subsidiaries (based on the financial statements of the Companies) as of and for the twelve-month period ending March 31, 2017, prepared after 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 other statement of income), and which reflect adjustments customary for Rule 144A transactions, were prepared, it being understood that any purchase accounting adjustments may be preliminary in nature and be based only on estimates and allocations determined by the Borrower (the "**Pro Forma Closing Balance Sheet**"). The Pro Forma Closing Balance Sheet presents fairly in all material respects on a pro forma basis the estimated financial position of the Borrower and its consolidated subsidiaries as at March 31, 2017, assuming that the Transactions had actually occurred at such date.

SECTION 3.06 No Material Adverse Effect. Since the Closing Date, there has been no event, development or circumstance that has had or could reasonably be expected to have a Material Adverse Effect.

SECTION 3.07 Title to Properties; Possession Under Leases.

(a) Each of the Borrower and the Subsidiaries has good and valid record fee simple title to, or valid leasehold interests in, or easements or other limited property interests in, all its properties and assets (including all Mortgaged Properties), except for Permitted Liens and except for minor defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except where the failure to have such title, interests or easements could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such properties and assets held in fee simple are free and clear of Liens, other than Permitted

Liens or Liens arising by operation of law.

(b) None of the Borrower or its Subsidiaries are in default under any leases to which it is a party, except for such defaults as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All of the Borrower's or Subsidiaries' leases are in full force and effect, except leases in respect of which the failure to be in full force and effect could not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.07(b), the Borrower and each of the Subsidiaries enjoys peaceful and undisturbed possession under all such leases, other than leases in respect of which the failure to enjoy peaceful and undisturbed possession could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Each of the Borrower and the Subsidiaries owns or possesses, or could obtain, ownership or possession of or rights under, on terms not materially adverse to it, all patents, trademarks, service marks, trade names, copyrights, licenses and rights with respect thereto necessary for the present conduct of its business, without any conflict (of which the Borrower has been notified in writing) with the rights of others, and free from any burdensome restrictions on the present conduct of their businesses, except where such conflicts and restrictions could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(d) As of the Closing Date, none of the Borrower or the Subsidiaries has received any written notice of any pending condemnation proceeding affecting any material portion of the Mortgaged Properties or any sale or disposition thereof in lieu of condemnation that remains unresolved as of the Closing Date.

(e) None of the Borrower or the Subsidiaries is obligated on the Closing Date under any right of first refusal, option or other contractual right to sell, assign or otherwise dispose of any Mortgaged Property or any interest therein, except as permitted under Section 6.02 or 6.05 or as could not reasonably be expected to have a Material Adverse Effect.

(f) Schedule 1.01(e) lists each Material Real Property owned by any Loan Party as of the Closing Date.

#### SECTION 3.08 Subsidiaries.

(a) Schedule 3.08(a) sets forth as of the Closing Date the name and jurisdiction of incorporation, formation or organization of each direct or indirect Subsidiary of the Borrower. Except as set forth on Schedule 3.08(a), as of the Closing Date, all of the issued and outstanding Equity Interests of each Subsidiary of the Borrower is owned directly by the Borrower or by another Subsidiary.

(b) As of the Closing Date, after giving effect to the Transactions, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Equity Interests of the Borrower or any of the Subsidiaries, except as set forth on Schedule 3.08(b).

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#### SECTION 3.09 Litigation; Compliance with Laws.

(a) As of the Closing Date, there are no actions, suits or proceedings at law or in equity or, to the knowledge of the Borrower, investigations by or on behalf of any Governmental Authority or in arbitration now pending, or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower, any director, officer, agent or employee thereof, or any of the Subsidiaries or any business, property or rights of any such person that (i) involve any Loan Document or (ii) could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, except (in the case of this clause (ii)) only) for any action, suit or proceeding at law or in equity or by or on behalf of any Governmental Authority or in arbitration which has been disclosed in any of any Parent Entity's public filings with the Securities and Exchange Commission prior to the Closing Date or which arises out of the same facts and circumstances, and alleges substantially the same complaints and damages, as any action, suit or proceeding so disclosed and in which there has been no material adverse change since the date of such disclosure.

(b) None of the Borrower, the Subsidiaries or their respective properties or assets is in violation of (nor will the continued operation of their material properties and assets as currently conducted violate) any law, rule or regulation (including any zoning, building, Environmental Law, ordinance, code or approval or any building permit) or any restriction of record or agreement affecting any Mortgaged Property, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 3.10 Federal Reserve Regulations. Neither the making of any Loan (or the extension of any Letter of Credit) hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, Regulation U or Regulation X of the Board.

SECTION 3.11 Investment Company Act. None of Holdings, the Borrower and the Subsidiaries is required to be registered as an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

SECTION 3.12 Use of Proceeds. The Borrower will use the proceeds of the Term B Loans borrowed on the Closing Date to finance a portion of the Transactions and for the payment of Transaction Expenses. The Borrower will use the proceeds of the Revolving Facility Loans, and may request the issuance of Letters of Credit, solely for general corporate purposes (including, without limitation, for the Transactions, Permitted Business Acquisitions, Capital Expenditures and Transaction Expenses and, in the case of Letters of Credit, for the back-up or replacement of existing letters of credit); provided the amount of Revolving Facility Loans incurred on the Closing Date shall not exceed the sum of (i) \$15,000,000, (ii) the amount required to fund additional original issue discount or upfront fees, and (iii) the amount required to fund any ordinary course working capital requirements of the Borrower and its Subsidiaries on the Closing Date; provided, further, that the amounts drawn on the Closing Date under clauses (i) and (iii) above shall not exceed \$15,000,000 in the aggregate.

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SECTION 3.13 Tax Returns. Except as set forth on Schedule 3.13:

(a) Each of Holdings, the Borrower and the Subsidiaries (i) has filed or caused to be filed all federal, state, local and non-U.S. Tax returns required to have been filed by it that are material to such companies taken as a whole and each such Tax return is true and correct in all material respects, including, without limitation, relating to all periods or portions thereof ending on or prior to the Closing Date and (ii) has timely paid or caused to be timely paid all Taxes shown thereon to be due and payable by it on such Tax returns and all other material Taxes (and made adequate provision in accordance with GAAP for the payment of all Taxes not yet due) with respect to all periods or portions thereof ending on or prior to the Closing Date, including in its capacity as a withholding agent, except in each case for Taxes that are being contested in good faith by appropriate proceedings in accordance with Section 5.03 and for which the Borrower or any of the Subsidiaries (as the case may be) has set aside on its books adequate reserves in accordance with GAAP; and

(b) Other than as could not be, individually or in the aggregate, reasonably expected to have a Material Adverse Effect: as of the Closing Date, with respect to each of Holdings, the Borrower and the Subsidiaries, (i) there are no claims being asserted in writing with respect to any Taxes, (ii) no presently effective waivers or extensions of statutes of limitation with respect to Taxes have been given or requested and (iii) no Tax returns are being examined by, and no written notification of intention to examine has been received from, the Internal Revenue Service or any other taxing authority.

SECTION 3.14 No Material Misstatements.

(a) All written factual information (other than the Projections, forward-looking information and information of a general economic nature or general industry nature) (the “**Information**”) concerning the Borrower, the Subsidiaries, the Transactions and any other transactions contemplated hereby included in the Information Memorandum or otherwise prepared by or on behalf of the foregoing or their representatives and made available to any Joint Lead Arranger, any Lender or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby (to the extent such Information relates to the Companies on or prior to the Closing Date, to the Companies’ knowledge), when taken as a whole, was true and correct in all material respects, as of the date such Information was furnished to the Lenders and as of the Closing Date and did not, taken as a whole, as of any such date contain any untrue statement of a material fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein, taken as a whole, not materially misleading in light of the circumstances under which such statements were made (after giving effect to all supplements and updates provided thereto).

(b) Any Projections and other forward-looking information and information of a general economic nature or general industry nature prepared by or on behalf of the Borrower or any of its representatives and that have been made available to any Lenders or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby have been prepared in good faith based upon assumptions believed by the Borrower to be reasonable as of the date thereof (it being understood that such Projections are as to future events and are not to be viewed as facts, such Projections are subject to significant uncertainties and contingencies

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and that actual results during the period or periods covered by any such Projections may differ significantly from the projected results, and that no assurance can be given that the projected results will be realized), as of the date such Projections and information were furnished to the Lenders.

SECTION 3.15 Employee Benefit Plans.

(a) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect or as set forth on Schedule 3.15: (i) each of the Borrower, the Subsidiaries and the ERISA Affiliates is in compliance with the applicable provisions of ERISA and the Code relating to Plans and the regulations and published interpretations thereunder and any similar applicable law; (ii) no Reportable Event has occurred during the past five years as to which the Borrower, a Subsidiary or any ERISA Affiliate was required to file a report with the PBGC, other than reports that have been filed; (iii) as of the most recent valuation date applicable thereto, no Plan has any Unfunded Pension Liability; (iv) no ERISA Event has occurred or is reasonably expected to occur; and (v) none of the Borrower, the Subsidiaries or the ERISA Affiliates has received any written notification that any Multiemployer Plan is in reorganization or has been terminated within the meaning of Title IV of ERISA, or has knowledge that any Multiemployer Plan is reasonably expected to be in reorganization or to be terminated.

(b) Each of the Borrower and the Subsidiaries is in compliance (i) with all applicable provisions of law and all applicable regulations and published interpretations thereunder with respect to any employee pension benefit plan or other employee benefit plan governed by the laws of a jurisdiction other than the United States of America and (ii) with the terms of any such plan, except, in each case, for such noncompliance that could not reasonably be expected to have a Material Adverse Effect.

(c) None of, the Borrower or any of the Subsidiaries is or has at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme that is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993), and none of the Borrower or any of the Subsidiaries is or has at any time been “connected” with or an “associate” of (as those terms are used in sections 39 and 43 of the Pensions Act 2004) such an employer, other than any such scheme, connection or association that could not reasonably be expected to have a Material Adverse Effect.

SECTION 3.16 Environmental Matters. Except as disclosed on Schedule 3.16 and except as to matters that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect (i) no written notice, request for information, order, complaint or penalty has been received by the Borrower or any of the Subsidiaries, and there are no judicial, administrative or other actions, investigations, suits or proceedings pending or, to the Borrower’s knowledge, threatened, that allege a violation of or liability under any applicable Environmental Laws, in each case relating to the Borrower or any of the Subsidiaries, (ii) each of the Borrower and the Subsidiaries has obtained and maintained all permits, licenses and other approvals necessary for its operations to comply with all applicable Environmental Laws and is, and for the previous five (5) years has been, in compliance with the terms of such permits, licenses and other approvals and with all other applicable Environmental Laws, (iii) there has

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been no Release or threat of Release of any Hazardous Material at, on, under or from any property currently owned or leased or, to the Borrower's knowledge, formerly owned, operated or leased, by the Borrower or any of its Subsidiaries that would reasonably be expected to give rise to any cost, liability or obligation of the Borrower or any of the Subsidiaries under any applicable Environmental Laws, and, to the Borrower's knowledge, the Borrower or any of the Subsidiaries have not disposed of or arranged for disposal or treatment, or arranged for transport for disposal or treatment, of any Hazardous Materials at any location in a manner that would reasonably be expected to give rise to any cost, liability or obligation of the Borrower or any of its Subsidiaries under any Environmental Laws, (iv) no Hazardous Material is located at, on or under any property currently or, to the knowledge of the Borrower, formerly owned, operated or leased by the Borrower or any of its Subsidiaries that would reasonably be expected to give rise to any cost, liability or obligation of the Borrower or any of the Subsidiaries under any applicable Environmental Laws, and, to the Borrower's knowledge, no Hazardous Material has been generated, owned, treated, stored, handled or controlled by the Borrower or any of its Subsidiaries and transported to or Released at any location in a manner that would reasonably be expected to give rise to any cost, liability or obligation of the Borrower or any of the Subsidiaries under any Environmental Laws, and (v) there are no written agreements in which the Borrower or any of the Subsidiaries has expressly assumed or undertaken responsibility, and such assumption or undertaking of responsibility has not expired or otherwise terminated, for any liability or obligation of any other person arising under or relating to applicable Environmental Laws, which in any such case has not been made available to the Administrative Agent prior to the Closing Date.

SECTION 3.17      Security Documents.

(a) Each of the Collateral Agreement and the Holdings Guarantee and Pledge Agreement is effective to create in favor of the Collateral Agent (for the benefit of the Secured Parties), in each case, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. As of the Closing Date, in the case of the Pledged Collateral described in the Collateral Agreement, when certificates or promissory notes, as applicable, representing such Pledged Collateral and required to be delivered under the applicable Security Document are delivered to the Collateral Agent, and in the case of the other Collateral described in the Collateral Agreement (other than the Intellectual Property), when financing statements and other filings specified in the Perfection Certificate are filed in the offices specified in the Perfection Certificate, the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and, subject to Section 9-315 of the New York Uniform Commercial Code, the proceeds thereof, as security for the Obligations to the extent perfection can be obtained by filing Uniform Commercial Code financing statements, in each case prior and superior in right to the Lien of any other person (except Permitted Liens).

(b) When the Collateral Agreement or an ancillary document thereunder is properly filed and recorded in the United States Patent and Trademark Office and the United States Copyright Office, and, with respect to Collateral in which a security interest cannot be perfected by such filings, upon the proper filing of the financing statements referred to in clause (a) above, the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected (subject to exceptions arising from defects in the chain of title, which defects in the

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aggregate do not constitute a Material Adverse Effect hereunder) Lien on, and security interest in, all right, title and interest of the Loan Parties thereunder in the United States Intellectual Property listed in such ancillary document, in each case prior and superior in right to the Lien of any other person, except for Permitted Liens (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to perfect a Lien on registered trademarks and patents, trademark and patent applications and registered copyrights and exclusive licenses of registered copyrights acquired by the Loan Parties after the Closing Date).

(c) The Mortgages, if any, executed and delivered on the Closing Date are, and the Mortgages executed and delivered after the Closing Date pursuant to Section 5.11 shall be, in a form effective to create in favor of the Collateral Agent (for the benefit of the Secured Parties) legal, valid and enforceable Liens on all of the Loan Parties' rights, titles and interests in and to the Mortgaged Property thereunder and the proceeds thereof, and when such Mortgages are filed, recorded or registered in the proper real estate filing or recording offices or registry, and all relevant mortgage taxes, recording charges and similar amounts are duly paid, the Collateral Agent (for the benefit of the Secured Parties) shall have valid Liens with record notice to third parties on, and security interests in, all rights, titles and interests of the Loan Parties in such Mortgaged Property and, to the extent applicable, subject to Section 9-315 of the Uniform Commercial Code where applicable, the proceeds thereof, in each case prior and superior in right to the Lien of any other person, except for Permitted Liens.

(d) Notwithstanding anything herein (including this Section 3.17) or in any other Loan Document to the contrary, no Borrower or any other Loan Party makes any representation or warranty as to the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Foreign Subsidiary, or as to the rights and remedies of the Agents or any Lender with respect thereto, under foreign law.

SECTION 3.18      Location of Real Property. The Perfection Certificate lists correctly, in all material respects, as of the Closing Date all Material Real Property owned by the Borrower and the Subsidiary Loan Parties and the addresses thereof. As of the Closing Date, the Borrower and the Subsidiary Loan Parties own in fee all the Real Property set forth as being owned by them in the Perfection Certificate, subject to Permitted Liens, except to the extent set forth therein.

SECTION 3.19      Solvency.

(a) As of the Closing Date, immediately after giving effect to the consummation of the Transactions on the Closing Date, (i) the fair value of the assets of the Borrower and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, direct, subordinated, contingent or otherwise, of the Borrower and its Subsidiaries on a consolidated basis; (ii) the present fair saleable value of the property of the Borrower and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of the Borrower and its Subsidiaries on a consolidated basis on their debts and other liabilities, direct, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Borrower and its Subsidiaries on a consolidated

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basis will be able to pay their debts and liabilities, direct, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Borrower and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted following the Closing Date.

(b) As of the Closing Date, immediately after giving effect to the consummation of the Transactions on the Closing Date, the Borrower does not intend to, and the Borrower does not believe that it or any of its Subsidiaries will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing and amounts of cash to be received by it or any such Subsidiary and the timing and amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

SECTION 3.20 Labor Matters. Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Borrower or any of the Subsidiaries; (b) the hours worked and payments made to employees of the Borrower and the Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable law dealing with such matters; and (c) all payments due from the Borrower or any of the Subsidiaries or for which any claim may be made against the Borrower or any of the Subsidiaries, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of the Borrower or such Subsidiary to the extent required by GAAP. Except as, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, the consummation of the Transactions will not give rise to a right of termination or right of renegotiation on the part of any union under any material collective bargaining agreement to which the Borrower or any of the Subsidiaries (or any predecessor) is a party or by which the Borrower or any of the Subsidiaries (or any predecessor) is bound.

SECTION 3.21 Insurance. Schedule 3.21 sets forth a true, complete and correct description, in all material respects, of all material insurance (excluding any title insurance) maintained by or on behalf of the Borrower or the Subsidiaries as of the Closing Date. As of such date, such insurance is in full force and effect.

SECTION 3.22 Senior Debt. The Loan Obligations constitute "Senior Debt" (or the equivalent thereof) under the documentation governing any Material Indebtedness of any Loan Party permitted to be incurred hereunder constituting Indebtedness that is subordinated in right of payment to the Loan Obligations.

SECTION 3.23 USA PATRIOT Act; Sanctions Laws and Export Controls Laws.

(a) The Borrower and each of its Subsidiaries has been during the past five years and is in material compliance in all material respects with the material provisions of the USA PATRIOT Act, and, at least three Business Days prior to the Closing Date, the Borrower has provided to the Administrative Agent all information related to the Loan Parties (including names, addresses and tax identification numbers (if applicable)) reasonably requested in writing by the Administrative Agent not less than 10 Business Days prior to the Closing Date and mutually agreed to be required under "know your customer" and anti-money laundering rules

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and regulations, including the USA PATRIOT Act, to be obtained by the Administrative Agent or any Lender.

(b) None of Holdings, the Borrower or any of its Subsidiaries, any director or officer, nor, to the knowledge of the Borrower or any of its Subsidiaries, any agent, employee or Affiliate of the Borrower or any of the Subsidiaries is currently the target of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("**OFAC**"), the European Union, the United Nations Security Council or Her Majesty's Treasury ("**Sanctions**"). The Borrower will not knowingly use the proceeds of the Loans or the Letters of Credit or otherwise make available such proceeds to any person, for the purpose of financing prohibited activities of any person that is currently the target of any Sanctions or for the purpose of financing any activities, business or transaction with or in any country that is the target of Sanctions, to the extent such activities, businesses or transaction would be prohibited by applicable sanctions laws and regulations administered by the United States of America, including OFAC and the U.S. State Department, the United Nations Security Council, Her Majesty's Treasury, the European Union or relevant member states of the European Union (collectively, "**Sanctions Laws**"), or in any manner that would result in the violation of any Sanctions Laws applicable to any party hereto. Holdings, the Borrower and its Subsidiaries have been over the past five years and are in material compliance with all applicable Sanctions Laws and the Export Administration Regulations maintained by the U.S. Department of Commerce ("**Export Controls Laws**").

SECTION 3.24 Foreign Corrupt Practices Act. Holdings, the Borrower and its Subsidiaries, their directors and officers, and, to the knowledge of the Borrower or any of its Subsidiaries, their agents and employees, have been during the past five years and are in material compliance with the U.S. Foreign Corrupt Practices Act of 1977, as amended and any similar law of a jurisdiction in which the Borrower or any of its Subsidiaries conduct their business and to which they are lawfully subject (collectively, "**Anti-Corruption Laws**"), in each case. Holdings and the Borrower have implemented and maintain in effect policies designed to promote and achieve compliance with Anti-Corruption Laws. No part of the proceeds of the Loans made hereunder will knowingly be used to make any unlawful bribe, payoff, influence payment, kickback or other unlawful payment.

SECTION 3.25 Intellectual Property. Except as would not reasonably be expected to have a Material Adverse Effect: (a) the Borrower and each of its Subsidiaries owns, or possesses the right to use, all Intellectual Property that is used or held for use in or is otherwise reasonably necessary for the present conduct of their respective businesses, (b) the Borrower and its Subsidiaries are not interfering with, infringing upon, misappropriating or otherwise violating the Intellectual Property of any person, and (c) no claim or litigation regarding any of the Intellectual Property owned, licensed or otherwise used by the Borrower and its Subsidiaries is pending or, to the knowledge of the Borrower, threatened.

#### ARTICLE IV CONDITIONS OF LENDING

The obligations of (a) the Lenders to make Loans and (b) any Issuing Bank to issue, amend, extend or renew Letters of Credit or increase the stated amounts of Letters of

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Credit hereunder (each, a “**Credit Event**”) are subject to the satisfaction (or waiver in accordance with Section 9.09) of the following conditions:

SECTION 4.01 All Credit Events. On the date of each Borrowing and on the date of each issuance, amendment, extension or renewal of a Letter of Credit (in each case, other than, with respect to clauses (b) and (c) below, pursuant to an Incremental Assumption Agreement to the extent not required by such Incremental Assumption Agreement):

(a) The Administrative Agent shall have received, in the case of a Borrowing, a Borrowing Request as required by Section 2.03 (or a Borrowing Request shall have been deemed given in accordance with the last paragraph of Section 2.03) or, in the case of the issuance, amendment, extension or renewal of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance, amendment, extension or renewal of such Letter of Credit as required by Section 2.05(b).

(b) (i) In the case of each Credit Event that occurs on the Closing Date, the representations and warranties made by each Company and their respective subsidiaries in the Business Combination Agreement that are material to the interests of the Lenders (in their capacities as such) (but only to the extent that Parent has the right to terminate its obligations under the Business Combination Agreement as a result of a breach of such representations in the Business Combination Agreement) shall be true and correct in all material respects, and the representations and warranties made in respect of the Borrower, and, to the extent applicable, the Guarantors, in Sections 3.01(a) and (d), 3.02(a) and (b)(i)(B), 3.03, 3.10, 3.11, 3.17 (limited to creation, validity and perfection except as provided in the last paragraph of Section 4.02), 3.19, 3.23 and 3.24 shall be true and correct in all material respects; and (ii) in the case of each other Credit Event that occurs after the Closing Date (other than an amendment, extension or renewal of a Letter of Credit without any (i) increase in the stated amount of such Letter of Credit or (ii) extension of the expiration of such Letter of Credit), the representations and warranties set forth in the Loan Documents shall be true and correct in all material respects as of such date, with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date).

(c) In the case of each Borrowing or other Credit Event that occurs after the Closing Date, at the time of and immediately after such Borrowing or issuance, amendment, extension or renewal of a Letter of Credit (other than an amendment, extension or renewal of a Letter of Credit without any (i) increase in the stated amount of such Letter of Credit or (ii) extension of the expiration of such Letter of Credit), as applicable, no Event of Default or Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, extension or renewal of a Letter of Credit (other than an amendment, extension or renewal of a Letter of Credit without any (i) increase in the stated amount of such Letter of Credit or (ii) extension of the expiration of such Letter of Credit) shall be deemed to constitute a representation and warranty by the Borrower on the date of such Borrowing, issuance, amendment, extension or renewal as applicable, as to the matters specified in clauses (b) and (c) of this Section 4.01.

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SECTION 4.02 Closing Date. On or prior to the Closing Date:

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence reasonably satisfactory to the Administrative Agent (which may include delivery of a signed signature page of this Agreement by facsimile or other means of electronic transmission (e.g., “pdf”)) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received, on behalf of itself, the Collateral Agent, the Lenders on the Closing Date and each Issuing Bank on the Closing Date, a written opinion of Paul, Weiss, Rifkind, Wharton & Garrison LLP and Jackson Walker L.L.P., as special counsels for Holdings, the Borrower and the other Loan Parties, dated the Closing Date, in form and substance reasonably satisfactory to the Administrative Agent, and addressed to each Issuing Bank on the Closing Date, the Administrative Agent, the Collateral Agent and the Lenders on the Closing Date, covering such matters relating to the Loan Documents as the Administrative Agent shall reasonably request, and each of Holdings, the Borrower and the other Loan Parties hereby instructs its counsel to deliver such opinions.

(c) The Administrative Agent shall have received in the case of each Loan Party each of the items referred to in clauses (i), (ii), and (iii) below:

(i) a copy of the certificate or articles of incorporation or formation or certificate of limited partnership, by-laws, limited liability agreement, partnership agreement or other equivalent constituent and governing documents, including all amendments thereto, of each such Loan Party, (a) if applicable in such jurisdiction, certified as of a recent date by the Secretary of State (or other similar official) of the jurisdiction of its organization, and a certificate as to the good standing (to the extent such concept or a similar concept exists under the laws of such jurisdiction) of each such Loan Party as of a recent date from such Secretary of State (or other similar official), and (b) otherwise, (i) certified by the Secretary or Assistant Secretary of each such Loan Party or other person duly authorized by the constituent documents of such Loan Party or (ii) otherwise in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders;

(ii) a certificate of the Secretary or Assistant Secretary or similar officer of each such Loan Party or other person duly authorized by the constituent documents of such Loan Party dated the Closing Date and certifying:

(A) that attached thereto is a true and complete copy of the certificate or articles of incorporation or formation, certificate of limited partnership, by-laws, limited liability agreement, partnership agreement or other equivalent constituent and governing documents of such Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in clause (B) below;

(B) that attached thereto is a true and complete copy of resolutions (or equivalent authorizing actions) duly adopted by the Board of

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Directors (or equivalent governing body) of such Loan Party (or its managing general partner or managing member) authorizing the execution, delivery and performance of the Loan Documents to which such person is a party and, in the case of the Borrower, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect on the Closing Date;

(C) that the certificate or articles of incorporation or formation, certificate of limited partnership, by-laws, limited liability company agreement, partnership agreement or other equivalent constituent and governing documents of such Loan Party have not been amended since the date of the last amendment thereto disclosed pursuant to clause (i) above;

(D) as to the incumbency and specimen signature of each officer or other duly authorized person executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party; and

(E) as to the absence of any pending proceeding for the dissolution or liquidation of such Loan Party or, to the knowledge of such person, threatening the existence of such Loan Party; and

(iii) a certification of another officer or other duly authorized person as to the incumbency and specimen signature of the Secretary or Assistant Secretary or similar officer or other person duly authorized by such Loan Party executing the certificate pursuant to clause (ii) above.

(d) Except as set forth in Schedule 5.13 (which, for the avoidance of doubt, shall override the applicable clauses of the definition of "Collateral and Guarantee Requirement" for the purposes of this Section 4.02) and subject to the grace periods and post-closing periods set forth in such definition, the Collateral and Guarantee Requirement shall be satisfied (or waived) as of the Closing Date and the Administrative Agent shall have received a completed Perfection Certificate dated the Closing Date and signed by a Responsible Officer of the Borrower, together with all attachments contemplated thereby, and the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Loan Parties in the jurisdictions contemplated by the Perfection Certificate and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such filings (or similar documents) are Permitted Liens or have been, or will be simultaneously or substantially concurrently with the closing under this Agreement, released (or arrangements reasonably satisfactory to the Administrative Agent for such release shall have been made).

(e) On the Closing Date, after giving effect to the Transactions and the other transactions contemplated hereby, none of Holdings, the Borrower or any of the Subsidiaries shall have any third party Indebtedness of the type described in clause (a) of the definition thereof other than (i) the Loans and other extensions of credit under this Agreement (including the Existing Roll-Over Letters of Credit, which shall be deemed to be Letters of Credit issued under and subject to this Agreement), (ii) the Senior Secured Notes, (iii) other Indebtedness

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permitted to be incurred or outstanding on or prior to the Closing Date pursuant to the Business Combination Agreement (as may be modified with the Joint Lead Arrangers' consent in accordance with clause (j) of this Section 4.02), (iv) any rollover of Capitalized Lease Obligations existing on the Closing Date and (v) other Indebtedness permitted under Section 6.01 or approved by the Joint Lead Arrangers in their reasonable discretion.

(f) The Lenders shall have received a solvency certificate substantially in the form of Exhibit E and signed by a Financial Officer of the Borrower confirming the solvency of the Borrower and its Subsidiaries on a consolidated basis after giving effect to the Transactions on the Closing Date.

(g) The Agents shall have received all fees payable thereto or to any Lender on or prior to the Closing Date and, to the extent invoiced in reasonable detail at least three Business Days prior to the Closing Date, all other amounts due and payable pursuant to the Loan Documents on or prior to the Closing Date, including, to the extent invoiced in reasonable detail at least three Business Days prior to the Closing Date, reimbursement or payment of all reasonable and documented out-of-pocket expenses (including reasonable fees, charges and disbursements of Latham & Watkins LLP) required to be reimbursed or paid by the Loan Parties hereunder or under any Loan Document on or prior to the Closing Date (which amounts may be offset against the proceeds of the Loans).

(h) The Administrative Agent shall have received all documentation and other information required by Section 3.23(a) at least three Business Days prior to the Closing Date, to the extent such information has been requested not less than 10 Business Days prior to the Closing Date.

(i) The Business Combination shall have been consummated or shall be consummated simultaneously or substantially concurrently with the closing under this Agreement on the terms described in the Business Combination Agreement, without giving effect to any amendment, waiver, consent or other modification thereof by Parent that is materially adverse to the interests of the Lenders (in their capacities as such) unless it is approved by the Joint Lead Arrangers (which approval shall not be unreasonably withheld, delayed or conditioned). For purposes of the foregoing condition, it is hereby understood and agreed that (i) any reduction in the purchase price or change in the number of shares issued or the price of any issued shares, in each case, in connection with the Business Combination Agreement, other than a reduction or change in accordance with the terms of the Business Combination Agreement as in effect on February 21, 2017 (including, without limitation, working capital adjustments), or any modification of the governance rights with respect to any issued shares, shall be deemed to be materially adverse to the interests of the Lenders (in their capacities as such) only if such reduction or change results in the Investors, directly or indirectly (whether by contract or otherwise, controlling less than 60% of the voting and economic interests in Parent on the Closing Date after giving effect to the Transactions and (ii) any waivers, modifications, consents or amendment to, or in respect of, the definition of a "Material Adverse Effect" (as defined in the Business Combination Agreement as in effect on February 21, 2017) (or any matters that would constitute an exclusion from such definition) shall be deemed materially adverse to the interests of the Lenders unless approved by the Joint Lead Arrangers.

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(j) The Equity Contribution shall have been consummated (or substantially simultaneously or concurrently with the closing under this Agreement will be consummated).

(k) Since February 21, 2017, there shall not have occurred a Closing Date Material Adverse Effect.

(l) The Administrative Agent shall have received the financial statements referred to in Section 3.05, including the Pro Forma Closing Balance Sheet.

(m) The Borrower shall have delivered to the Administrative Agent a certificate dated as of the Closing Date, to the effect set forth in Section 4.01(b)(i) and Section 4.02(k) hereof.

Without limiting the generality of the provisions of the last paragraph of Section 8.03, for purposes of determining compliance with the conditions specified in this Section 4.02, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Notwithstanding anything to the contrary, it is understood that to the extent any security interest in the intended Collateral or any deliverable (including those referred to in Section 4.02(d)) related to the perfection of security interests in the intended Collateral (other than any Collateral the security interest in which may be perfected by the filing of a UCC financing statement or the possession of the stock certificates (if any) of the Borrower or any Material Subsidiary that is a Wholly Owned Domestic Subsidiary (to the extent, with respect to such Subsidiaries, such stock certificates are received from the Companies on or prior to the Closing Date after using commercially reasonable efforts)) is not or cannot be provided and/or perfected on the Closing Date (1) without undue burden or expense or (2) after the Borrower has used commercially reasonable efforts to do so, then the provision and/or perfection of such security interest(s) or deliverable shall not constitute a condition precedent to the availability of the Commitments on the Closing Date but, to the extent otherwise required hereunder, shall be delivered within 120 days after the Closing Date in accordance with Section 5.13.

## ARTICLE V AFFIRMATIVE COVENANTS

The Borrower covenants and agrees with each Lender that until the Termination Date, unless the Required Lenders shall otherwise consent in writing, the Borrower will, and will cause each of the Subsidiaries to:

### SECTION 5.01 Existence; Businesses and Properties.

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except, in the case of a Subsidiary, where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and except as otherwise permitted under Section 6.05; provided that the Borrower may liquidate or dissolve one or more

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Subsidiaries if the assets of such Subsidiaries (to the extent they exceed estimated liabilities) are acquired by the Borrower or a Wholly Owned Subsidiary of the Borrower in such liquidation or dissolution, except that Subsidiary Loan Parties may not be liquidated into Subsidiaries that are not Subsidiary Loan Parties unless such liquidation is otherwise permitted under Section 6.05.

(b) Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, do or cause to be done all things necessary to (i) lawfully obtain, preserve, renew, extend and keep in full force and effect the permits, franchises, authorizations, Intellectual Property, licenses and rights with respect thereto necessary to the normal conduct of its business, and (ii) at all times maintain and preserve all material property necessary to the normal conduct of its business and keep such property in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith, if any, may be properly conducted at all times (in each case except as permitted by this Agreement).

### SECTION 5.02 Insurance.

(a) Maintain, with financially sound and reputable insurance companies, insurance (subject to customary deductibles and retentions) in such amounts and against such risks as are customarily maintained by similarly situated companies engaged in the same or similar businesses operating in the same or similar locations, cause the Collateral Agent to be listed as a co-loss payee on property and casualty policies with respect to Mortgaged Property located in the United States of America and as an additional insured on liability policies. Notwithstanding the foregoing, the Borrower and the Subsidiaries may self-insure with respect to such risks with respect to which companies of established reputation engaged in the same general line of business in the same general area usually self-insure.

(b) Except as the Administrative Agent may agree in its reasonable discretion, cause all such property and casualty insurance policies with respect to the Mortgaged Property located in the United States of America to be endorsed or otherwise amended to include a "standard" or "New York" lender's loss payable endorsement, in form and substance reasonably satisfactory to the Administrative Agent, deliver a certificate of an insurance broker to the Collateral Agent; use commercially reasonable efforts to cause each such policy covered by this clause (b) to provide that it shall not be cancelled or not renewed upon less than 30 days' prior written notice thereof by the insurer to the Collateral Agent; deliver to the Collateral Agent, prior to or concurrently with the cancellation or nonrenewal of any such policy of insurance covered by this clause (b), a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Collateral Agent), or insurance certificate with respect thereto, together with evidence satisfactory to the Administrative Agent of payment of the premium therefor, in each case of the foregoing, to the extent customarily maintained, purchased or provided to, or at the request of, lenders by similarly situated companies in connection with credit facilities of this nature.

(c) If any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area (each a "**Special Flood Hazard Area**") with respect to which flood insurance

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has been made available under the Flood Insurance Laws, (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and

(ii) deliver to the Collateral Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent, including a copy of the flood insurance policy and a declaration page relating thereto.

(d) In connection with the covenants set forth in this Section 5.02, it is understood and agreed that:

(i) the Administrative Agent, the Collateral Agent, the Lenders, the Issuing Banks and their respective agents or employees shall not be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02, it being understood that (A) the Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Administrative Agent, the Collateral Agent, the Lenders, any Issuing Bank or their agents or employees. If, however, the insurance policies, as a matter of the internal policy of such insurer, do not provide waiver of subrogation rights against such parties, as required above, then each of Holdings and the Borrower, on behalf of itself and behalf of each of its Subsidiaries, hereby agrees, to the extent permitted by law, to waive, and further agrees to cause each of their Subsidiaries to waive, its right of recovery, if any, against the Administrative Agent, the Collateral Agent, the Lenders, any Issuing Bank and their agents and employees;

(ii) the designation of any form, type or amount of insurance coverage by the Collateral Agent (including acting in the capacity as the Collateral Agent) under this Section 5.02 shall in no event be deemed a representation, warranty or advice by the Collateral Agent or the Lenders that such insurance is adequate for the purposes of the business of Holdings, the Borrower and the Subsidiaries or the protection of their properties; and

(iii) the amount and type of insurance that the Borrower and its Subsidiaries has in effect as of the Closing Date satisfies for all purposes the requirements of this Section 5.02.

SECTION 5.03 Taxes. Pay and discharge promptly when due all material Taxes upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise that, if unpaid, might give rise to a Lien (other than a Permitted Lien) upon such properties or any part thereof; provided, however, that such payment and discharge shall not be required with respect to any such Tax so long as (a) the validity or amount thereof shall be contested in good faith by appropriate proceedings, (b) Holdings, the Borrower or a Subsidiary thereof, as applicable, shall have set aside on its books adequate reserves in accordance with GAAP with respect thereto, to the extent required under accepted accounting principles, and (c) the failure to make such payment and discharge could not reasonably be expected to result in a Material Adverse Effect.

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SECTION 5.04 Financial Statements, Reports, etc. Furnish to the Administrative Agent (which will promptly furnish such information to the Lenders):

(a) within 105 days after the end of each fiscal year, a consolidated balance sheet and related statements of operations, cash flows and owners' equity showing the financial position of the Borrower and its Subsidiaries as of the close of such fiscal year and the consolidated results of their operations during such year and, starting with the fiscal year ending December 31, 2018, setting forth in comparative form the corresponding figures for the prior fiscal year, which consolidated balance sheet and related statements of operations, cash flows and owners' equity shall be accompanied by customary management's discussion and analysis and audited by independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which opinion shall not be qualified as to scope of audit or as to the status of the Borrower or any Material Subsidiary as a going concern, except for qualifications for a change in accounting principles with which such accountants concur and which shall have been disclosed in the notes to the financial statements or other than solely with respect to, or resulting solely from, an upcoming maturity date under any series of Indebtedness occurring within one year from the time such opinion is delivered or any potential inability to satisfy a financial maintenance covenant on a future date or in a future period) to the effect that such consolidated financial statements fairly present, in all material respects, the financial position and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP (it being understood that the delivery by the Borrower of annual reports on Form 10-K (or any successor or comparable form) of the Borrower and its consolidated Subsidiaries shall satisfy the requirements of this Section 5.04(a) to the extent such annual reports include the information specified herein);

(b) within 60 days after the end of each of the first three fiscal quarters of each fiscal year (commencing with the fiscal quarter ending September 30, 2017), a consolidated balance sheet and related statements of operations and cash flows showing the financial position of the Borrower and its Subsidiaries as of the close of such fiscal quarter and the consolidated results of their operations during such fiscal quarter and the then-elapsed portion of the fiscal year and, starting with the fiscal quarter ending September 30, 2018, setting forth in comparative form the corresponding figures for the corresponding periods of the prior fiscal year, all of which shall be in reasonable detail, which consolidated balance sheet and related statements of operations and cash flows shall be accompanied by customary management's discussion and analysis and which consolidated balance sheet and related statements of operations and cash flows shall be certified by a Financial Officer of the Borrower on behalf of the Borrower as fairly presenting, in all material respects, the financial position and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP (subject to normal year-end audit adjustments and the absence of footnotes) (it being understood that the delivery by the Borrower of quarterly reports on Form 10-Q (or any successor or comparable form) of the Borrower and its consolidated Subsidiaries shall satisfy the requirements of this Section 5.04(b) to the extent such quarterly reports include the information specified herein);

(c) (x) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying that no Event of Default or Default has occurred since the date of the last certificate delivered pursuant to this Section 5.04(c) or, if such an Event of Default or Default has occurred, specifying the nature and

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extent thereof and any corrective action taken or proposed to be taken with respect thereto, (ii) commencing with the end of the first full fiscal quarter ending after the Closing Date, setting forth computations in reasonable detail demonstrating compliance with the Financial Covenant and (iii) setting forth the calculation and uses of the Available Free Cash Flow Amount for the fiscal period then ended if the Borrower shall have used the Available Free Cash Flow Amount for any purpose during such fiscal period and (y) concurrently with any delivery of financial statements under clause (a) above, if the accounting firm is not restricted from providing such a certificate by its policies office, a certificate of the accounting firm opining on or certifying such statements

stating whether they obtained knowledge during the course of their examination of such statements of any Default or Event of Default (which certificate may be limited to accounting matters and disclaim responsibility for legal interpretations);

(d) promptly after the same become publicly available, copies of all periodic and other publicly available reports, proxy statements and, to the extent requested by the Administrative Agent, other materials filed by Holdings, the Borrower or any of the Subsidiaries with the SEC, or after an initial public offering, distributed to its stockholders generally, as applicable; *provided, however*, that such reports, proxy statements, filings and other materials required to be delivered pursuant to this *clause (d)* shall be deemed delivered for purposes of this Agreement when posted to the website of the Borrower (or Holdings or any Parent Entity referred to in *Section 5.04(h)*) or the website of the SEC and written notice of such posting has been delivered to the Administrative Agent;

(e) within 90 days (or such later date as the Administrative Agent may agree in its reasonable discretion) after the beginning of each fiscal year (commencing with the fiscal year ending December 31, 2018), a consolidated annual budget for such fiscal year consisting of a projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of the following fiscal year and the related consolidated statements of projected cash flow and projected income (collectively, the “*Budget*”), which Budget shall in each case be accompanied by the statement of a Financial Officer of the Borrower to the effect that the Budget is based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof;

(f) upon the reasonable request of the Administrative Agent not more frequently than once a year, an updated Perfection Certificate (or, to the extent such request relates to specified information contained in the Perfection Certificate, such information) reflecting all changes since the date of the information most recently received pursuant to this *Section 5.04(f)* or *Section 5.11(f)*;

(g) promptly, from time to time, such other customary information regarding the operations, business affairs and financial condition of Holdings, the Borrower or any of the Subsidiaries, or compliance with the terms of any Loan Document as in each case the Administrative Agent may reasonably request (for itself or on behalf of any Lender);

(h) promptly upon request by the Administrative Agent, copies of: (i) each Schedule B (Actuarial Information) to the most recent annual report (Form 5500 Series) filed with the Internal Revenue Service with respect to a Plan; (ii) the most recent actuarial valuation report for any Plan; (iii) all notices received from a Multiemployer Plan sponsor, a plan administrator or any governmental agency, or provided to any Multiemployer Plan by the

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Borrower, a Subsidiary or any ERISA Affiliate, concerning an ERISA Event; and (iv) such other documents or governmental reports or filings relating to any Plan or Multiemployer Plan as the Administrative Agent shall reasonably request;

(i) in the event that Holdings or any Parent Entity reports on a consolidated basis, such consolidated reporting at Holdings or such Parent Entity’s level in a manner consistent with that described in *clauses (a)* and *(b)* of this *Section 5.04* for the Borrower (together with a reconciliation showing the adjustments necessary to determine compliance by the Borrower and its Subsidiaries with the Financial Covenant) will satisfy the requirements of such clauses; and

(j) at a time mutually agreed with the Administrative Agent after the delivery of the financial statements required pursuant to *Sections 5.04(a)* and *5.04(b)* (but not later than 10 Business Days after such delivery), commencing with the fiscal quarter ending December 31, 2017, upon request of the Administrative Agent, the Borrower shall cause appropriate Financial Officers or other officers with reasonably equivalent duties of the Borrower to participate in one conference call for Lenders to discuss the financial condition and results of operations of the Borrower and its Subsidiaries for the most recently ended fiscal period; *provided* that, for the avoidance of doubt, any call to discuss the earnings of the Borrower and its Subsidiaries for the most recently ended fiscal period shall satisfy the requirement set forth in this *clause (i)* to the extent the Lenders are invited to participate in such call.

The Borrower hereby acknowledges and agrees that all financial statements furnished pursuant to *clauses (a)*, *(b)* and *(d)* above are hereby deemed to be Communications suitable for distribution, and to be made available, to Public Lenders as contemplated by *Section 9.17* and may be treated by the Administrative Agent and the Lenders as if the same had been marked “PUBLIC” in accordance with such clause (unless the Borrower otherwise notifies the Administrative Agent in writing on or prior to delivery thereof).

SECTION 5.05 Litigation and Other Notices. Furnish to the Administrative Agent (which the Administrative Agent shall promptly distribute to the Lenders) written notice of the following promptly after any Responsible Officer of Holdings or the Borrower obtains actual knowledge thereof:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

(b) the filing or commencement of, or any written threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority or in arbitration, against Holdings, the Borrower or any of its Subsidiaries as to which an adverse determination is reasonably probable and that, if adversely determined, would reasonably be expected to have a Material Adverse Effect;

(c) any other development specific to Holdings, the Borrower or any of its Subsidiaries that is not a matter of general public knowledge and that has had, or would reasonably be expected to have, a Material Adverse Effect; and

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(d) the occurrence of any ERISA Event that, together with all other ERISA Events that have occurred, would reasonably be expected to have a Material Adverse Effect.

SECTION 5.06 Compliance with Laws.

(a) Comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect; provided that this Section 5.06 shall not apply to Environmental Laws, which are the subject of Section 5.10, or to laws related to Taxes, which are the subject of Section 5.03. The Borrower will implement, maintain in effect and enforce policies and procedures reasonably designed to ensure compliance in all material respects by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws, Sanctions Laws and Export Controls Laws.

(b) Comply in all material respects with the USA PATRIOT Act.

SECTION 5.07 Maintaining Records; Access to Properties and Inspections. Maintain all financial records in accordance with GAAP and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender to visit and inspect the financial records and the properties of Holdings, the Borrower or any of the Subsidiaries at reasonable times, upon reasonable prior written notice to Holdings or the Borrower, and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender upon reasonable prior written notice to Holdings or the Borrower to discuss the affairs, finances and condition of Holdings, the Borrower or any of the Subsidiaries with the officers thereof and independent accountants therefor (so long as the Borrower has the opportunity to participate in any such discussions with such accountants); provided that none of Holdings, the Borrower nor any of the Subsidiaries will be required to provide any information to the extent that the provision thereof would violate any law, rule or regulation or results in the breach of any binding contractual obligations or the loss of any professional privilege. Administrative Agent and any Lender permitted access as herein provided will not unreasonably interfere with the use and operation of Holdings, the Borrower or any Subsidiary (or any tenants, subtenants, licensees or occupants thereof).

SECTION 5.08 Payment of Obligations. Pay its Material Indebtedness and other material obligations before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP, and (c) the failure to make such payment could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.09 Use of Proceeds. Use the proceeds of the Loans and the Letters of Credit only as contemplated in Section 3.12.

SECTION 5.10 Compliance with Environmental Laws. Comply with all Environmental Laws applicable to its operations and properties; and comply with and obtain and

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renew all material permits, licenses and other approvals required pursuant to Environmental Law for its operations and properties in each case in accordance with Environmental Laws, except, in each case with respect to this Section 5.10, to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 5.11 Further Assurances; Additional Security.

(a) Execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, Mortgages and other documents), that the Administrative Agent may reasonably request (including, without limitation, those required by applicable law), to satisfy the Collateral and Guarantee Requirement and to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Loan Parties and provide to the Collateral Agent, from time to time upon reasonable request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

(b) If any asset (other than Real Property) that has an individual Fair Market Value (as determined in good faith by the Borrower) in an amount greater than \$5,000,000 is acquired by the Borrower or any Subsidiary Loan Party after the Closing Date or owned by an entity at the time it becomes a Subsidiary Loan Party (in each case other than (x) assets constituting Collateral under a Security Document that become subject to the Lien of such Security Document upon acquisition thereof and (y) assets constituting Excluded Property), the Borrower or such Subsidiary Loan Party, as applicable, will (i) notify the Collateral Agent of such acquisition or ownership and (ii) cause such asset to be subjected to a Lien (subject to any Permitted Liens) securing the Obligations by, and take, and cause the Subsidiary Loan Parties to take, such actions as shall be reasonably requested by the Administrative Agent to grant and perfect such Liens, including actions described in clause (a) of this Section 5.11, all at the expense of the Loan Parties, subject to clause (g) below.

(c) (i) Grant and cause each of the Subsidiary Loan Parties to grant to the Collateral Agent security interests in, and mortgages on, any Material Real Property of the Borrower or such Subsidiary Loan Parties, as applicable, that are not Mortgaged Property as of the Closing Date, to the extent acquired after the Closing Date, within 90 days after such acquisition (or such later date as the Administrative Agent may agree in their reasonable discretion) pursuant to documentation in such form as is reasonably satisfactory to the Administrative Agent and the Borrower (each, an "**Additional Mortgage**"), which security interest and mortgage shall constitute valid and enforceable Liens subject to no other Liens except Permitted Liens, (ii) record or file, and cause each such Subsidiary to record or file, the Additional Mortgage or instruments related thereto in such manner and in such places as is required by law to establish, perfect, preserve and protect the Liens in favor of the Collateral Agent (for the benefit of the Secured Parties) required to be granted pursuant to the Additional Mortgages and pay, and cause each such Subsidiary to pay, in full, all Taxes, fees and other charges required to be paid in connection with such recording or filing, in each case subject to clause (g) below, and (iii) deliver to the Collateral Agent an updated Schedule 1.01(e) reflecting such additional Mortgaged Properties. Unless otherwise waived by the Administrative Agent, with respect to each such Additional Mortgage, the Borrower shall cause the requirements set

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forth in clauses (f) and (g) of the definition of "Collateral and Guarantee Requirement" to be satisfied with respect to such Material Real Property.

(d) If any additional direct or indirect Subsidiary of the Borrower is formed or acquired after the Closing Date (with any Subsidiary Redesignation resulting in an Unrestricted Subsidiary becoming a Subsidiary being deemed to constitute the acquisition of a Subsidiary) and if such Subsidiary is a Subsidiary Loan Party, within 15 Business Days after the date such Subsidiary is formed or acquired (or such longer period as the

Administrative Agent may agree in its reasonable discretion), notify the Collateral Agent thereof and, within 20 Business Days after the date such Subsidiary is formed or acquired or such longer period as the Administrative Agent may agree in its reasonable discretion (or, with respect to clauses (f), (g) and (h) of the definition of "Collateral and Guarantee Requirement," within 90 days after such formation or acquisition or such longer period as set forth therein or as the Administrative Agent may agree in its reasonable discretion, as applicable), cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary and with respect to any Equity Interest in or Indebtedness of such Subsidiary owned by or on behalf of any Loan Party, subject to clause (g) below.

(e) If any additional Foreign Subsidiary of the Borrower is formed or acquired after the Closing Date (with any Subsidiary Redesignation resulting in an Unrestricted Subsidiary becoming a Subsidiary being deemed to constitute the acquisition of a Subsidiary) and if such Subsidiary is a "first tier" Foreign Subsidiary of a Loan Party, within 15 Business Days after the date such Foreign Subsidiary is formed or acquired (or such longer period as the Administrative Agent may agree in its reasonable discretion), notify the Collateral Agent thereof and, within 50 Business Days after the date such Foreign Subsidiary is formed or acquired or such longer period as the Administrative Agent may agree in its reasonable discretion, cause the Collateral and Guarantee Requirement to be satisfied with respect to any Equity Interest in such Foreign Subsidiary owned by or on behalf of any Loan Party, subject to clause (g) below.

(f) Furnish to the Collateral Agent prompt written notice of any change (A) in any Loan Party's corporate or organization name, (B) in any Loan Party's identity or organizational structure, (C) in any Loan Party's organizational identification number, (D) in any Loan Party's jurisdiction of organization or (E) in the location of the chief executive office of any Loan Party that is not a registered organization; provided that the Borrower shall not effect or permit any such change unless all filings have been made, or will have been made within 30 days following such change (or such longer period as the Administrative Agent may agree in its reasonable discretion), under the Uniform Commercial Code that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral in which a security interest may be perfected by such filing, for the benefit of the Secured Parties.

(g) The Collateral and Guarantee Requirement and the other provisions of this Section 5.11 and the other Loan Documents with respect to Collateral need not be satisfied with respect to any of the following (collectively, the "**Excluded Property**"): (i) any Real Property other than Material Real Property, (ii) motor vehicles and other assets subject to certificates of title, letter of credit rights (in each case, other than to the extent a Lien on such assets or such rights can be perfected by filing a UCC-1) and commercial tort claims with a value of less than

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\$10,000,000, (iii) pledges and security interests prohibited by applicable law, rule, regulation or contractual obligation (with respect to any such contractual obligation, only to the extent such restriction is permitted under Section 6.09(b) and such restriction is binding on such assets on the Closing Date or on the date of acquisition thereof and not entered into in contemplation thereof (other than in connection with the incurrence of Indebtedness of the type contemplated by Section 6.01(i)) (in each case, except to the extent such prohibition is unenforceable after giving effect to the applicable anti-assignment provisions of Article 9 of the Uniform Commercial Code) or which could require governmental (including regulatory) consent, approval, license or authorization to be pledged (unless such consent, approval, license or authorization has been received), (iv) assets to the extent a security interest in such assets could reasonably be expected to result in material adverse tax consequences as determined in good faith by the Borrower in consultation with the Administrative Agent, (v) any lease, license or other agreement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or create a right of termination in favor of any other party thereto (other than the Borrower or any Guarantor) after giving effect to the applicable anti-assignment provisions of Article 9 of the Uniform Commercial Code, (vi) those assets as to which the Administrative Agent and the Borrower reasonably agree that the cost or other consequence of obtaining such a security interest or perfection thereof are excessive in relation to the value afforded thereby, (vii) any governmental licenses or state or local franchises, charters and authorizations, to the extent security interests in such licenses, franchises, charters or authorizations are prohibited or restricted thereby after giving effect to the applicable anti-assignment provisions of Article 9 of the Uniform Commercial Code, (viii) any "intent-to-use" trademark applications for which a verified Statement of Use or an Amendment to Allege Use has not been filed with the United States Patent and Trademark Office, (ix) other customary exclusions under applicable local law or in applicable local jurisdictions, (x) Securitization Assets sold to any Special Purpose Securitization Subsidiary or otherwise pledged, factored, transferred or sold in connection with any Permitted Securitization Financing, and any other assets subject to Liens securing Permitted Securitization Financings, (xi) any Excluded Securities, (xii) any Third Party Funds, (xiii) any equipment or other asset that is subject to a Lien permitted by any of clauses (c), (i), (j) or (k) of Section 6.02 or is otherwise subject to a purchase money debt or a Capitalized Lease Obligation, in each case, as permitted by Section 6.01, if the contract or other agreement providing for such debt or Capitalized Lease Obligation prohibits or requires the consent of any person (other than the Borrower or any Guarantor) as a condition to the creation of any other security interest on such equipment or asset, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other Requirements of Law, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under applicable law notwithstanding such prohibition, provided, to the extent any such applicable anti assignments provisions of the Uniform Commercial Code override such anti assignment clause, the Administrative Agent agrees that its Lien on any such equipment or other asset is hereby subordinated to such Lien, (xiv) cash to secure letter of credit reimbursement obligations to the extent such letters of credit are permitted under this Agreement and prohibit the granting of a Lien, (xv) any segregated deposits that constitute Permitted Liens and are prohibited from being subject to other Liens, (xvi) assets sold in compliance with this Agreement to a person who is not a Subsidiary Guarantor, (xvii) assets owned by a Subsidiary Guarantor after the release of the guaranty of such Subsidiary Guarantor pursuant to this Agreement or the Intercreditor Agreement, (xviii) any deposit account that is used for the sole purpose of making payroll and

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withholding tax payments related thereto and other employee wage and benefits payments and accrued and unpaid employee compensation payments (including salaries, wages, benefits and expense reimbursements, 401(k) and other retirement plans and employee benefits, including rabbi trusts for deferred compensation and health care benefits), (xix) any Foreign Subsidiary to the extent that such grant of a security interest therein would result in any breach of corporate benefit, financial assistance, capital preservation, fraudulent preference, thin capitalization rules, or any other law or regulation (or analogous restriction) of the jurisdiction of organization of such person or result in any risk to the officers or directors of such person of a civil or criminal liability, (xx) property and assets released in accordance with this Agreement or the Intercreditor Agreement, (xxi) all assets of Holdings other than Equity Interests in the Borrower directly held by Holdings and pledged pursuant to the Holdings Guarantee and Pledge Agreement and (xxii) any other exceptions mutually agreed upon between the Borrower and the Administrative Agent; provided that the Borrower may in its sole discretion elect to exclude any property from the definition of "Excluded Property." Notwithstanding anything herein to the contrary, (A) the Administrative Agent may grant extensions of time or waiver of requirement for the creation or perfection of security interests in or the obtaining of insurance (including title insurance) or surveys with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably

determines, in consultation with the Borrower, that perfection or obtaining of such items cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the other Loan Documents, (B) no control agreement or control, lockbox or similar arrangement shall be required with respect to any deposit accounts, securities accounts or commodities accounts, (C) no landlord, mortgagee or bailee waivers shall be required, (D) no foreign-law governed security documents or perfection under foreign law shall be required, (E) no notice shall be required to be sent to account debtors or other contractual third parties prior to an Event of Default, (F) Liens required to be granted from time to time pursuant to, or any other requirements of, the Collateral and Guarantee Requirement and the Security Documents shall be subject to exceptions and limitations set forth in the Security Documents and (G) to the extent any Mortgaged Property is located in a jurisdiction with mortgage recording or similar tax, the amount secured by the Security Document with respect to such Mortgaged Property shall be limited to the Fair Market Value (as determined in good faith by the Borrower) of such Mortgaged Property as determined in good faith by the Borrower (subject to any applicable laws in the relevant jurisdiction or such lesser amount agreed to by the Administrative Agent).

SECTION 5.12 Rating. Exercise commercially reasonable efforts to obtain and maintain public ratings (but not to obtain a specific rating) from each of Moody's and S&P for the Term B Loans.

SECTION 5.13 Post-Closing.

(a) With respect to each Closing Date Mortgaged Property, cause the Collateral and Guarantee Requirement to be satisfied.

(b) Take all necessary actions to satisfy the items described on Schedule 5.13 within the applicable period of time specified in such Schedule (or such longer period as the Administrative Agent may agree in its reasonable discretion).

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## ARTICLE VI NEGATIVE COVENANTS

Each of Holdings (solely with respect to Section 6.08(b)) and the Borrower covenants and agrees with each Lender that, until the Termination Date, unless the Required Lenders shall otherwise consent in writing, Holdings will not (solely with respect to Section 6.08(b)) and the Borrower will not, and will not cause or permit any of the Subsidiaries to:

SECTION 6.01 Indebtedness. Incur, create, assume or permit to exist any Indebtedness, except:

(a) (i) Indebtedness existing or committed, or incurred pursuant to facilities existing or committed, on the Closing Date (and contemplated to be existing on the Closing Date under the Business Combination Agreement) (provided that any such Indebtedness that is (x) not intercompany Indebtedness and (y) in excess of \$1,000,000 individually and \$5,000,000 in the aggregate shall only be permitted under this clause (a) to the extent such Indebtedness is set forth on Schedule 6.01) and (ii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness (other than intercompany Indebtedness Refinanced with Indebtedness owed to a person not affiliated with the Borrower or any Subsidiary) or, without duplication, replacements of such facilities that would constitute Permitted Refinancing Indebtedness with respect to such facilities if all Indebtedness available to be incurred thereunder were outstanding on the date of such replacement;

(b) (i) Indebtedness created hereunder (including pursuant to Section 2.20) and under the other Loan Documents and (ii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;

(c) Indebtedness of the Borrower and the Subsidiaries pursuant to Swap Agreements entered into for non-speculative purposes;

(d) Indebtedness of the Borrower and the Subsidiaries owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to Holdings, the Borrower or any Subsidiary, pursuant to reimbursement or indemnification obligations to such person, in each case, provided in the ordinary course of business or consistent with past practices or industry practices;

(e) Indebtedness of the Borrower to Holdings or any Subsidiary and of any Subsidiary to Holdings, the Borrower or any other Subsidiary; provided that (i) Indebtedness of any Subsidiary that is not a Subsidiary Loan Party owing to Holdings, the Borrower or any Subsidiary Loan Party incurred pursuant to this Section 6.01(e) shall be subject to Section 6.04, and (ii) other than in the case of intercompany current liabilities incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of Holdings, the Borrower and the Subsidiaries, all Indebtedness of the Borrower to any Subsidiary and Indebtedness of any other Loan Party to any Subsidiary that is not a Subsidiary Loan Party incurred pursuant to this Section 6.01(e) shall be subordinated to the Loan Obligations under this

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Agreement on subordination terms described in the intercompany note substantially in the form of Exhibit H hereto, on subordination terms identical to those described in the intercompany note or on other subordination terms reasonably satisfactory to the Administrative Agent and the Borrower;

(f) Indebtedness of the Borrower and the Subsidiaries in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case, reasonably required in the conduct of the business (giving effect to any growth or expansion of such business permitted hereunder), including those incurred to secure health, safety, insurance and environmental obligations of the Borrower and its Subsidiaries as conducted in accordance with good and prudent business industry practices and otherwise as permitted by the Loan Documents;

(g) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services in the ordinary course of business;

(h) (i) Indebtedness of a Subsidiary acquired after the Closing Date or a person merged into or consolidated with the Borrower or any Subsidiary after the Closing Date and Indebtedness otherwise incurred or assumed in connection with the acquisition of assets or Equity Interests (including a

Permitted Business Acquisition), where such acquisition, merger or consolidation is not prohibited by this Agreement; *provided* that (w) in the case of any such Indebtedness secured by Liens on Collateral that are Other First Liens, the Net First Lien Leverage Ratio on a Pro Forma Basis immediately after giving effect to such acquisition, merger or consolidation, the incurrence or assumption of such Indebtedness and the use of proceeds thereof and any related transactions is (I) not greater than 3.75 to 1.00 or (II) no greater than the Net First Lien Leverage Ratio in effect immediately prior thereto, (x) in the case of any such Indebtedness secured by Liens on Collateral that are Junior Liens, the Net Secured Leverage Ratio on a Pro Forma Basis immediately after giving effect to such acquisition, merger or consolidation, the incurrence or assumption of such Indebtedness and the use of proceeds thereof and any related transactions is (I) not greater than 4.00 to 1.00 or (II) no greater than the Net Secured Leverage Ratio in effect immediately prior thereto, (y) in the case of any other such Indebtedness, the Interest Coverage Ratio on a Pro Forma Basis immediately after giving effect to such acquisition, merger or consolidation, the incurrence or assumption of such Indebtedness and the use of proceeds thereof and any related transactions is (I) not less than 2.00 to 1.00 or (II) no less than the Interest Coverage Ratio in effect immediately prior thereto and (z) in the case of any such Indebtedness incurred under this *clause (h)* by a Subsidiary other than a Subsidiary Loan Party (to the extent incurred in contemplation of such acquisition, merger or consolidation), the aggregate outstanding principal amount of such Indebtedness immediately after giving effect to such acquisition, merger or consolidation, the incurrence of such Indebtedness and the use of proceeds thereof and any related transactions shall not exceed the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period; *provided, further*, that (i) the incurrence (but not assumption) of any Indebtedness for borrowed money pursuant to this *clause (h)(i)* incurred in contemplation of such acquisition, merger or consolidation (except for any seller note or seller financing) shall be subject to the last paragraph of this *Section 6.01* and the incurrence (but not assumption) of any Indebtedness for borrowed money pursuant to this *clause (h)(i)* in the form of term loan Indebtedness that is

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secured by Other First Liens shall be subject to the last paragraph of *Section 6.02*; and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

(i) Capitalized Lease Obligations, mortgage financings and other Indebtedness incurred by the Borrower or any Subsidiary prior to or within 270 days after the acquisition, lease, construction, repair, replacement or improvement of the respective property (real or personal, and whether through the direct purchase of property or the Equity Interest of any person owning such property) permitted under this Agreement in order to finance such acquisition, lease, construction, repair, replacement or improvement, in an aggregate principal amount that immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof would not exceed the greater of \$75,000,000 and 0.22 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, (ii) Capitalized Lease Obligations or other obligations or deferrals attributable to capital spending or other funds made available by suppliers in connection with any Sale and Lease-Back Transaction that is permitted under *Section 6.03*, and (iii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness in each of *clause (i)* and *clause (ii)*, as applicable;

(j) Indebtedness in connection with Permitted Securitization Financings;

(k) (i) other Indebtedness of the Borrower or any Subsidiary, in an aggregate principal amount at any time outstanding that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this *Section 6.01(k)*, would not exceed the greater of \$100,000,000 and 0.29 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(l) Guarantees (i) by the Borrower or any Subsidiary of any Indebtedness of the Borrower or any Subsidiary permitted to be incurred under this Agreement; *provided* that, notwithstanding anything to the contrary in this *Section 6.01*, the Borrower and the Subsidiary Loan Parties shall not Guarantee the Indebtedness of any Subsidiary that is not a Subsidiary Loan Party unless such Guarantee is permitted under *Section 6.04* (other than *Section 6.04(v)*), and (ii) by the Borrower of Indebtedness of Subsidiaries that are not Subsidiary Loan Parties incurred for working capital purposes in the ordinary course of business on ordinary business terms so long as such Indebtedness is permitted to be incurred under *Section 6.01(t)* to the extent such Guarantees are permitted by *Section 6.04* (other than *Section 6.04(v)*); *provided* that any Guarantees by the Borrower or any Subsidiary Loan Party under this *Section 6.01(l)* of any other Indebtedness of a person that is subordinated to other Indebtedness of such person shall be expressly subordinated to the Loan Obligations on terms not less favorable to the Lenders than the subordination terms of such other Indebtedness;

(m) Indebtedness arising from agreements of the Borrower or any Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than Guarantees of Indebtedness incurred by any person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition, in each case, to the extent such obligation or transaction is permitted by this Agreement;

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(n) Indebtedness in respect of letters of credit (other than Letters of Credit issued pursuant to *Section 2.05*), bank guarantees, warehouse receipts or similar instruments issued to support performance obligations and trade letters of credit (other than obligations in respect of other Indebtedness) in the ordinary course of business or consistent with past practice or industry practices;

(o) Indebtedness of the Borrower and the Subsidiaries supported by a Letter of Credit, in a principal amount not in excess of the stated amount of such Letter of Credit (or a letter of credit issued under any other revolving credit or letter of credit facility permitted by *Section 6.01*);

(p) Indebtedness consisting of (x) the financing of insurance premiums or (y) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(q) to the extent constituting Indebtedness, all premium (if any), defeasance costs, interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Indebtedness otherwise permitted to be incurred pursuant to this *Section 6.01* or refinancings thereof;

(r) Indebtedness incurred in the ordinary course of business in respect of obligations of the Borrower or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in



connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Swap Agreements;

(s) deposits raised by any Material Subsidiary that is subject to state and/or federal banking regulations that constitute Indebtedness owing to such depositor and any discounts or borrowing by such Material Subsidiary;

(t) (i) Indebtedness of Subsidiaries that are not Loan Parties in an aggregate principal amount at any time outstanding that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(t), would not exceed the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(u) Indebtedness consisting of earn-outs and obligations of the Borrower or any Subsidiary under deferred compensation or other similar arrangements incurred by such person in connection with the Transactions and Permitted Business Acquisitions or any other Investment permitted hereunder;

(v) (i) Indebtedness secured by Liens on Collateral that are Other First Liens so long as immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, the Net First Lien Leverage Ratio on a Pro Forma Basis is not greater than 3.75 to 1.00; provided that (x) the aggregate principal amount of Indebtedness outstanding under this

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clause (v)(i) at such time that is incurred by a Subsidiary other than a Subsidiary Loan Party shall not exceed, when taken together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(v)(i), Section 6.01(w)(i) and Section 6.01(x)(i) that are incurred by Subsidiaries other than the Subsidiary Loan Parties, the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period and (y) the incurrence of any Indebtedness for borrowed money pursuant to this clause (v)(i) shall be subject to the last paragraph of this Section 6.01 and the incurrence of any Indebtedness for borrowed money pursuant to this clause (v)(i) in the form of term loan Indebtedness shall be subject to the last paragraph of Section 6.02, and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(w) (i) Indebtedness secured by Liens on Collateral that are Junior Liens so long as immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, the Net Secured Leverage Ratio on a Pro Forma Basis is not greater than 4.00 to 1.00; provided that (x) the aggregate principal amount of Indebtedness outstanding under this clause (w)(i) at such time that is incurred by a Subsidiary other than a Subsidiary Loan Party shall not exceed, when taken together with the aggregate principal amount of any other Indebtedness outstanding pursuant to Section 6.01(v)(i), this Section 6.01(w)(i) and Section 6.01(x)(i) that are incurred by Subsidiaries other than the Subsidiary Loan Parties, the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period and (y) the incurrence of any Indebtedness for borrowed money pursuant to this clause (w)(i) shall be subject to the last paragraph of this Section 6.01, and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(x) (i) other Indebtedness so long as immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, the Interest Coverage Ratio on a Pro Forma Basis is not less than 2.00 to 1.00; provided that (x) the aggregate principal amount of Indebtedness outstanding under this clause (x)(i) at such time that is incurred by a Subsidiary other than a Subsidiary Loan Party shall not exceed, when taken together with the aggregate principal amount of any other Indebtedness outstanding pursuant to Section 6.01(v)(i), Section 6.01(w)(i) and this Section 6.01(x)(i) that are incurred by Subsidiaries other than the Subsidiary Loan Parties, the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period and (y) the incurrence of any Indebtedness for borrowed money pursuant to this clause (x)(i) shall be subject to the last paragraph of this Section 6.01, and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(y) (i) Indebtedness in an aggregate principal amount outstanding not to exceed at the time of incurrence the Incremental Amount available at the applicable time of determination set forth in the definition thereof; provided that the incurrence of term loan Indebtedness pursuant to (x) this clause (y)(i) shall be subject to the last paragraph of this Section 6.01 and (y) this clause (y)(i) shall be subject to the last paragraph of Section 6.02 and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(z) Indebtedness of the Borrower or any Subsidiary to or on behalf of any joint venture (regardless of the form of legal entity) that is not a Subsidiary arising in the ordinary course of business in connection with the cash management operations (including with

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respect to intercompany self insurance arrangements) of Holdings, the Borrower and its Subsidiaries;

(aa) Indebtedness or Disqualified Stock of the Borrower or any Subsidiaries in an aggregate outstanding principal amount not greater than 100.0% of the amount of net cash proceeds received by the Borrower from (x) the issuance or sale of its Qualified Equity Interests or (y) a contribution to its common equity with the net cash proceeds from the issuance and sale by Holdings or a Parent Entity of its Qualified Equity Interests or a contribution to its common equity (in each case, other than proceeds from the sale of Equity Interests to, or contributions from, the Borrower or any of its Subsidiaries), to the extent such net cash proceeds are not included in the Available Free Cash Flow Amount, do not constitute Excluded Contributions, Excluded Equity Proceeds or Permitted Cure Securities (including any Cure Amount);

(bb) Customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(cc) (i) Indebtedness of, incurred on behalf of, or representing Guarantees of Indebtedness of, joint ventures in an aggregate principal amount that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(cc), would not exceed the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(dd) Obligations in respect of Cash Management Agreements;

(ee) Refinancing Notes and any Permitted Refinancing Indebtedness incurred in respect thereof;

(ff) (i) Indebtedness, including in respect of the Senior Secured Notes, in an aggregate principal amount outstanding pursuant to this Section 6.01(ff)(i), not to exceed \$1,000,000,000 and (ii) any Permitted Refinancing Indebtedness in respect thereof; and

(gg) Indebtedness represented by the AGNL Lease and any guarantees thereof.

For purposes of determining compliance with this Section 6.01 or Section 6.02, the amount of any Indebtedness denominated in any currency other than Dollars shall be calculated based on customary currency exchange rates in effect, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) on or prior to the Closing Date, on the Closing Date and, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) after the Closing Date, on the date on which such Indebtedness was incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness); provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a currency other than Dollars (or in a different currency from the Indebtedness being refinanced), and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the

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principal amount of such refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount, as applicable, of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), defeasance costs, accrued interest and other costs and expenses incurred in connection with such refinancing.

Further, for purposes of determining compliance with this Section 6.01, (A) Indebtedness need not be permitted solely by reference to one category of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (hh) (including, for the avoidance of doubt, with respect to the clauses set forth in the definition of “Incremental Amount”) but may be permitted in part under any combination thereof, (B) in the event that an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (hh) (including, for the avoidance of doubt, with respect to the clauses set forth in the definition of “Incremental Amount”), the Borrower may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such item of Indebtedness (or any portion thereof) in any manner that complies with this Section 6.01 and will be entitled to only include the amount and type of such item of Indebtedness (or any portion thereof) in one of the above clauses (or any portion thereof) and such item of Indebtedness (or any portion thereof) shall be treated as having been incurred or existing pursuant to only such clause or clauses (or any portion thereof) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Indebtedness that may be incurred, classified or reclassified pursuant to any other clause (or portion thereof); provided that (x) all Indebtedness outstanding on the Closing Date under this Agreement shall at all times be deemed to have been incurred pursuant to clause (b) of this Section 6.01, and (y) all Indebtedness outstanding on the Closing Date under the Senior Secured Notes shall at all times be deemed to have been incurred pursuant to clause (ff) of this Section 6.01, (C) in connection with any commitment to incur Indebtedness under this Section 6.01 (including, for the avoidance of doubt, with respect to the clauses set forth in the definition of “Incremental Amount”), the Borrower or applicable Subsidiary may, pursuant to a certificate of a Responsible Officer delivered to the Administrative Agent at the time of such commitment, designate such Indebtedness as having occurred on the date of first incurrence of such commitment (such date, the “**Deemed Date**”), and any related subsequent actual incurrence will be deemed for all purposes under this Agreement to have been incurred on such Deemed Date, including, without limitation, for purposes of calculating usage of any baskets hereunder (if applicable), the Net Total Leverage Ratio, the Net Secured Leverage Ratio, the Net First Lien Leverage Ratio, the Interest Coverage Ratio and EBITDA (and all such calculations on the Deemed Date and thereafter shall be made on a Pro Forma Basis after giving effect to the deemed incurrence and related transactions in connection therewith until such commitment is terminated (either (i) terminated without consummation of such incurrence or related transaction or (ii) terminated in connection with the consummation of the relevant transaction and actual incurrence of such Indebtedness, in which case of this clause (ii), all such calculations will be made on a Pro Forma Basis after giving effect to such actual incurrence and related transactions) and (D) in connection with any Indebtedness incurred pursuant to Section 6.01(h), (v), (w), net cash proceeds of the Indebtedness incurred at such time shall not be netted against the applicable amount of Consolidated Debt for purposes of such calculation of the Net Secured Leverage Ratio or the Net First Lien Leverage Ratio, as applicable. In addition, with respect to any Indebtedness

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that was permitted to be incurred hereunder on the date of such incurrence, any Increased Amount of such Indebtedness shall also be permitted hereunder after the date of such incurrence.

This Agreement will not treat (1) unsecured Indebtedness as subordinated or junior to secured Indebtedness merely because it is unsecured or (2) senior Indebtedness as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral.

With respect to any Indebtedness incurred pursuant to Sections 6.01(h)(i) (solely to the extent set forth therein), 6.01(v)(i), 6.01(w)(i), 6.01(x)(i) and 6.01(y)(i), in each case, in the form of term loans, (A) the final maturity date of any such Indebtedness shall be no earlier than the Term B Facility Maturity Date, (B) the Weighted Average Life to Maturity of such Indebtedness shall be no shorter than the remaining Weighted Average Life to Maturity of the Term B Loans made by the Lenders on the Closing Date and (C) the mandatory prepayment terms, taken as a whole, shall be substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than, the terms, taken as a whole, applicable to the Term B Loans (except to the extent such terms apply solely to any period after the Term B Facility Maturity Date or are otherwise reasonably acceptable to the Administrative Agent) as determined by the Borrower in good faith.

**SECTION 6.02** Liens. Create, incur, assume or permit to exist any Lien on any property or assets (including stock or other securities of any person, including the Borrower or any Subsidiary of the Borrower) at the time owned by it or on any income or revenues or rights in respect of any thereof, except the following (collectively, “**Permitted Liens**”):

(a) Liens on property or assets of the Borrower and the Subsidiaries existing on the Closing Date (or created following the Closing Date pursuant to agreements in existence on the Closing Date requiring the creation of such Liens) (provided that any Liens securing Indebtedness in excess of \$1,000,000 individually and \$5,000,000 in the aggregate shall only be permitted under this clause (a) to the extent such Lien is set forth on

Schedule 6.02(a)), and any modifications, replacements, renewals or extensions thereof; provided that such Liens shall secure only those obligations that they secure on the Closing Date (and Permitted Refinancing Indebtedness in respect thereof permitted by Section 6.01) and shall not subsequently apply to any other property or assets of the Borrower or any Subsidiary other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien, and (B) proceeds and products thereof;

(b) any Lien created under the Loan Documents (including Liens created under the Security Documents securing obligations in respect of Secured Swap Agreements and Secured Cash Management Agreements) or permitted in respect of any Mortgaged Property by the terms of the applicable Mortgage;

(c) any Lien on any property or asset of the Borrower or any Subsidiary securing Indebtedness or Permitted Refinancing Indebtedness permitted by Section 6.01(h) or acquired after the Closing Date in a transaction permitted by this Agreement; provided that (i) such Lien (A) does not apply to any other property or assets of the Borrower or any of the Subsidiaries not securing such Indebtedness or other obligations owing to the same

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financier as the financier of such Indebtedness or other obligations or to any person to which such financier has assigned such Indebtedness or other obligations, at the date of the acquisition of such property or asset (other than after acquired property subjected to a Lien securing Indebtedness incurred prior to such date and which Indebtedness is permitted hereunder, such Indebtedness owing to the same financier as the financier of such Indebtedness at the date of the acquisition, that require a pledge of after acquired property, it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition), (ii) in the case of Liens on the Collateral that are (or are intended to be) junior in priority to the Liens securing the Term B Loans, such Liens shall be subject to a Permitted Junior Intercreditor Agreement and (iii) in the case of Liens on the Collateral that are (or are intended to be) *pari passu* with the Liens on the Collateral securing the Term B Loans, (x) such Liens shall be subject to a Permitted *Pari Passu* Intercreditor Agreement and (y) any Indebtedness for borrowed money in the form of newly incurred term loans secured by such Liens shall be subject to the last paragraph of this Section 6.02;

(d) Liens for Taxes, assessments or other governmental charges or levies not yet delinquent by more than 30 days or that are being contested in compliance with Section 5.03;

(e) Liens imposed by law, such as landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, supplier's, construction or other like Liens securing obligations that are not overdue by more than 30 days or that are being contested in good faith by appropriate proceedings and in respect of which, if applicable, Holdings, the Borrower or any Subsidiary shall have set aside on its books reserves in accordance with GAAP;

(f) (i) pledges and deposits and other Liens made in the ordinary course of business in compliance with the Federal Employers Liability Act or any other workers' compensation, unemployment insurance and other social security laws or regulations and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in respect of such obligations and (ii) pledges and deposits and other Liens securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Holdings, the Borrower or any Subsidiary;

(g) deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capitalized Lease Obligations), statutory obligations, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with public utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof) incurred by Holdings, the Borrower or any Subsidiary in the ordinary course of business, including those incurred to secure health, safety, insurance and environmental obligations in the ordinary course of business;

(h) zoning restrictions, building codes and laws, survey exceptions (or exceptions that an inspection of the Real Property would disclose), easements, trackage rights, leases (other than Capitalized Lease Obligations), licenses, special assessments, rights-of-way, covenants, conditions, restrictions and declarations on or with respect to the use of Real Property, servicing agreements, development agreements, site plan agreements and other similar

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encumbrances incurred in the ordinary course of business and title defects or irregularities that are of a minor nature and that, in the aggregate, do not interfere in any material respect with the ordinary conduct of the business of the Borrower or any Subsidiary, and any other matters of record approved by or recorded at the direction of the Administrative Agent;

(i) Liens securing Indebtedness permitted by Section 6.01(i); provided that such Liens do not apply to any property or assets of the Borrower or any Subsidiary other than the property or assets acquired, leased, constructed, replaced, repaired or improved with such Indebtedness (or the Indebtedness Refinanced thereby) or sold in the applicable Sale and Lease-Back Transaction, and accessions and additions thereto, proceeds and products thereof, customary security deposits and related property; provided, further, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates) (it being understood that with respect to any Liens on the Collateral being incurred under this clause (i) to secure Permitted Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being Refinanced (if any) were Junior Liens, then any Liens on such Collateral being incurred under this clause (i) to secure Permitted Refinancing Indebtedness shall also be Junior Liens);

(j) Liens arising out of Sale and Lease-Back Transactions permitted under Section 6.03, so long as such Liens attach only to the property sold and being leased in such transaction and any accessions thereto or proceeds thereof and related property;

(k) Liens securing judgments that do not constitute an Event of Default under Section 7.01(j);

(l) Liens on non-Collateral assets, so long as such Liens secure obligations permitted under Section 6.01;

(m) Liens disclosed by the title insurance policies delivered on or subsequent to the Closing Date and pursuant to the Collateral and Guarantee Requirement, Section 5.11 or Schedule 5.13 and any replacement, extension or renewal of any such Lien; provided that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; provided, further, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted by this Agreement;

(n) any interest or title of a lessor or sublessor under any leases or subleases entered into by the Borrower or any Subsidiary in the ordinary course of business;

(o) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code in effect in the State of New York or similar provisions in similar codes, statutes or laws in other jurisdictions on items in the course of collection, (ii) attaching to commodity trading accounts, other commodity brokerage accounts or securities incurred in the ordinary course of business, (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry, (iv) encumbering reasonably customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts incurred in the ordinary

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course of business and not for speculative purposes, (v) in respect of Third Party Funds or (vi) in favor of credit card companies pursuant to agreements therewith;

(p) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(q) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a documentary letter of credit, bank guarantee or bankers' acceptance issued or created for the account of the Borrower or any Subsidiary in the ordinary course of business; provided that such Lien secures only the obligations of the Borrower or such Subsidiaries in respect of such letter of credit, bank guarantee or banker's acceptance to the extent permitted under Section 6.01;

(r) licenses of Intellectual Property and software that are either (i) entered into in the ordinary course of business or, (ii) not material to the conduct of any of the business lines of the Borrower and the Subsidiaries and the value of which does not constitute a material portion of the assets of the Borrower and its Subsidiaries, taken as whole, and such license does not materially interfere with the ordinary course of conduct of the business of the Borrower or any of its Subsidiaries;

(s) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(t) Liens on the assets of a Subsidiary that is not a Loan Party that secure Indebtedness of such Subsidiary that is permitted to be incurred under Section 6.01;

(u) Liens solely on any cash earnest money deposits made by the Borrower or any of the Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted hereunder;

(v) Liens arising out of consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(w) Liens securing Indebtedness or other obligation (i) of the Borrower or a Subsidiary in favor of the Borrower or any Subsidiary Loan Party and (ii) of any Subsidiary that is not a Loan Party in favor of any Subsidiary that is not a Loan Party;

(x) Liens arising from precautionary Uniform Commercial Code financing statements or consignments entered into in connection with any transaction otherwise permitted under this Agreement;

(y) Liens that (i) are contractual rights of set-off (and related pledges) (a) relating to the establishment of depository relations with banks and other financial institutions not given in connection with the issuance of Indebtedness or, (b) relating to pooled deposits, sweep accounts, reserve accounts or similar accounts of the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any Subsidiary, including with respect to credit card charge-backs and similar obligations, or (ii) relate to purchase orders and other agreements entered into with customers,

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suppliers or service providers of the Borrower or any Subsidiary (a) in the ordinary course of business or (b) in connection with implementation of business optimization programs;

(z) Liens (i) on not more than \$5,000,000 of deposits securing Swap Agreements entered into for non-speculative purposes and (ii) on cash or Permitted Investments securing Swap Agreements in the ordinary course of business submitted for clearing in accordance with applicable Requirements of Law;

(aa) Liens securing insurance premium financing arrangements; provided that such Liens are limited to the applicable unearned insurance premiums;

(bb) Liens to secure cash management services in the ordinary course of business; provided that such Liens are not incurred in connection with, and do not secure, any borrowings or Indebtedness;

(cc) leases and subleases not constituting Capitalized Lease Obligations of Real Property not material to the conduct of any business line of the Borrower and its Subsidiaries granted to others in the ordinary course of business that do not materially interfere with the ordinary conduct of the

business of the Borrower or any of its Subsidiaries;

(dd) in the case of Real Property that constitutes a leasehold interest, any Lien to which the fee simple interest (or any superior leasehold interest) is subject;

(ee) Claims Administration Liens;

(ff) Liens on securities that are the subject of repurchase agreements constituting Permitted Investments under clause (c) of the definition thereof;

(gg) Liens on cash and Permitted Investments on deposit with Lenders and Affiliates of Lenders securing obligations owing to such persons under any treasury, depository, overdraft or other cash management services agreements or arrangements with Holdings, the Borrower or any of its Subsidiaries;

(hh) non-consensual Liens (not incurred in connection with borrowed money) on equipment of the Borrower or any of its Subsidiaries granted in the ordinary course of business to the Borrower's or such Subsidiary's client at which such equipment is located;

(ii) Liens in respect of Permitted Securitization Financings that extend only to the assets subject thereto and Equity Interests of Special Purpose Securitization Subsidiaries;

(jj) Liens with respect to property or assets of any person securing Indebtedness permitted under Section 6.01(cc) (it being understood that with respect to any Liens on the Collateral being incurred under this clause (jj) to secure Permitted Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being Refinanced (if any) were Junior Liens, then any Liens on such Collateral being incurred under this clause (jj) to secure Permitted Refinancing Indebtedness shall also be Junior Liens;

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(kk) Liens on Collateral that are Junior Liens, so long as (x) immediately after giving effect to the incurrence of the Indebtedness secured by such Junior Liens and the use of proceeds thereof, the Net Secured Leverage Ratio on a Pro Forma Basis is not greater than 4.00 to 1.00 and (y) such Liens shall be subject to a Permitted Junior Intercreditor Agreement;

(ll) Liens on Collateral that are Other First Liens, so long as (x) immediately after giving effect to the incurrence of the Indebtedness secured by such Other First Liens and the use of proceeds thereof, the Net First Lien Leverage Ratio on a Pro Forma Basis is not greater than 3.75 to 1.00 and (y) such Liens shall be subject to a Permitted Pari Passu Intercreditor Agreement; provided that any Indebtedness for borrowed money in the form of term loans secured by such Liens shall be subject to the last paragraph of this Section 6.02;

(mm) (i) Liens on Collateral that are Other First Liens, so long as such Other First Liens secure Indebtedness permitted by Section 6.01(b), 6.01(h)(i)(w), 6.01(v), 6.01(y), 6.01(ee) or 6.01(ff) (and, in each case, Permitted Refinancing Indebtedness in respect thereof), so long as such Liens shall be subject to a Permitted Pari Passu Intercreditor Agreement and (ii) Liens on the Collateral that are Junior Liens, so long as such Junior Liens secure Indebtedness permitted by Section 6.01(b), 6.01(h)(i)(x), 6.01(w), 6.01(y) or 6.01(ee) (and, in each case, Permitted Refinancing Indebtedness in respect thereof), so long as such Liens shall be subject to a Permitted Junior Intercreditor Agreement;

(nn) Liens to secure any Indebtedness issued or incurred to Refinance (or successive Indebtedness issued or incurred for subsequent Refinancings) as a whole, or in part, any Indebtedness secured by any Lien permitted by this Section 6.02; provided, however, that (v) with respect to any Liens on the Collateral being incurred under this clause (nn), if Liens on the Collateral securing the Indebtedness being Refinanced (if any) were Junior Liens, then such Liens on such Collateral being incurred under this clause (nn) shall also be Junior Liens, (w) with respect to any Liens on the Collateral being incurred under this clause (nn), if Liens on the Collateral securing the Indebtedness being Refinanced (if any) were Other First Liens, then such Liens on such Collateral being incurred under this clause (nn) may also be Other First Liens or Junior Liens, (x) (other than Liens contemplated by the foregoing clauses (v) and (w)) such new Lien shall be limited to all or part of the same type of property that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to after-acquired property clauses to the extent such assets secured (or would have secured) the Indebtedness being Refinanced), (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness at the time the original Lien became a Lien permitted hereunder, (B) unpaid accrued interest and premium (including tender premiums) and (C) an amount necessary to pay any associated underwriting discounts, defeasance costs, fees, commissions and expenses, and (z) on the date of the incurrence of the Indebtedness secured by such Liens, the grantors of any such Liens shall be no different from the grantors of the Liens securing the Indebtedness being Refinanced or grantors that would have been obligated to secure such Indebtedness or a Loan Party;

(oo) other Liens with respect to property or assets of the Borrower or any Subsidiary securing obligations in an aggregate outstanding principal amount that, immediately

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after giving effect to the incurrence of such Liens, would not exceed the greater of \$100,000,000 and 0.29 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period;

(pp) Liens on any amounts held by a trustee or agent under any indenture or other debt agreement issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture or other debt agreement pursuant to customary discharge, redemption or defeasance provisions; and

(qq) Liens (i) on Equity Interests in joint ventures (A) securing obligations of such joint venture or (B) pursuant to the relevant joint venture agreement or arrangement and (ii) on Equity Interests in Unrestricted Subsidiaries.

For purposes of determining compliance with this Section 6.02, (A) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens (or any portion thereof) described in Sections 6.02(a) through (qq) but may be permitted in part under any combination thereof and (B) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in Sections 6.02(a) through (qq), the Borrower may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this Section 6.02 and will be entitled to only include the amount and type of such Lien or such item of Indebtedness secured by such Lien (or any portion thereof) in one of the above clauses and such Lien securing such item of Indebtedness (or portion thereof) will be treated as being incurred or existing pursuant to only such clause or clauses (or any portion thereof) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be incurred pursuant to any other clause (or portion thereof). In addition, with respect to any commitment to incur Indebtedness that is designated to be incurred on any Deemed Date pursuant to clause (C) of the second paragraph at the end of Section 6.01, any Lien that does or that shall secure such Indebtedness that is otherwise permitted to be incurred hereunder on such Deemed Date may also be designated by the Borrower or any Subsidiary to be incurred on such Deemed Date and, in such event, any related subsequent actual incurrence of such Lien shall be deemed for all purposes under this Agreement to be incurred on such Deemed Date, including for purposes of calculating usage of any Permitted Lien and any calculations on and after the Deemed Date shall until the termination of such commitments be made on a Pro Forma Basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith. In addition, with respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness.

With respect to (x) Indebtedness incurred in the form of term loans that are secured by Liens on the Collateral that are Other First Liens incurred under Section 6.02(c)(iii)(y) or Section 6.02(l) or (y) any Indebtedness incurred (but not assumed) in the form of term loans pursuant to Section 6.01(h)(i)(w) or incurred in the form of term loans pursuant to Section 6.01(v)(i) or Section 6.01(y)(i), in each case, that is secured by Liens on the Collateral that are Other First Liens (any such Indebtedness, "**Pari Term Loans**"), if the All-in

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Yield in respect of such Pari Term Loans exceeds the All-in Yield in respect of the Term B Loans on the Closing Date by more than 0.50% (such difference, the "**Pari Yield Differential**"), then the Applicable Margin (or "LIBOR floor" as provided in the following proviso) applicable to the Term B Loans on the Closing Date shall be increased such that after giving effect to such increase, the Pari Yield Differential shall not exceed 0.50%; provided that, to the extent any portion of the Pari Yield Differential is attributable to a higher "LIBOR floor" being applicable to such Pari Term Loans, such floor shall only be included in the calculation of the Pari Yield Differential to the extent such floor is greater than the Adjusted Eurocurrency Rate in effect for an Interest Period of three months' duration at such time, and, with respect to such excess, the "LIBOR floor" applicable to such outstanding Term B Loans shall be increased to an amount not to exceed the "LIBOR floor" applicable to such Pari Term Loans prior to any increase in the Applicable Margin applicable to such Term B Loans then outstanding.

**SECTION 6.03** Sale and Lease-Back Transactions. Enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter, as part of such transaction, rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "**Sale and Lease-Back Transaction**"); provided that a Sale and Lease-Back Transaction shall be permitted (a) with respect to (i) Excluded Property, (ii) property owned by the Borrower or any Subsidiary Loan Party that is acquired after the Closing Date so long as such Sale and Lease-Back Transaction is consummated within 365 days of the acquisition of such property or (iii) property owned by any Subsidiary that is not a Loan Party regardless of when such property was acquired, and (b) with respect to any other property owned by the Borrower or any Subsidiary Loan Party, (x) if such Sale and Lease-Back Transaction is of property owned by the Borrower or any Subsidiary Loan Party as of the Closing Date, the Net Proceeds therefrom are used to prepay the Term Loans to the extent required by Section 2.11(b) and (y) with respect to any Sale and Lease-Back Transaction pursuant to this clause (b) with Net Proceeds in excess of \$20,000,000 individually or \$100,000,000 in the aggregate in any fiscal year, the requirements of the last paragraph of Section 6.05 shall apply to such Sale and Lease-Back Transaction to the extent provided therein. Notwithstanding anything herein to the contrary the AGNL Lease and any guarantees thereof shall be permitted.

**SECTION 6.04** Investments, Loans and Advances. (i) Purchase or acquire (including pursuant to any merger with a person that is not a Wholly Owned Subsidiary immediately prior to such merger) any Equity Interests, evidences of Indebtedness or other securities of any other person, (ii) make any loans or advances to or Guarantees of the Indebtedness of any other person (other than in respect of (A) intercompany liabilities incurred in connection with the cash management, tax and accounting operations of the Borrower and the Subsidiaries and (B) intercompany loans, advances or Indebtedness having a term not exceeding 364 days (inclusive of any roll-overs or extensions of terms) and made in the ordinary course of business or consistent with industry practices), or (iii) purchase or otherwise acquire, in one transaction or a series of related transactions, (x) all or substantially all of the property and assets or business of another person or (y) assets constituting a business unit, line of business or division of such person (each of the foregoing, an "**Investment**"), except:

(a) [reserved];

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(b) Investments by the Borrower or any Subsidiary in the Equity Interests of the Borrower or any Subsidiary; (ii) intercompany loans from the Borrower or any Subsidiary to the Borrower or any Subsidiary; and (iii) Guarantees by the Borrower or any Subsidiary of Indebtedness otherwise permitted hereunder of the Borrower or any Subsidiary; provided that as at any date of determination, the aggregate outstanding amount (valued at the time of the making thereof and without giving effect to any subsequent change in value) of (A) Investments made after the Closing Date by the Loan Parties pursuant to subclause (i) in Subsidiaries that are not Subsidiary Loan Parties, plus (B) net outstanding intercompany loans made after the Closing Date by the Loan Parties to Subsidiaries that are not Subsidiary Loan Parties pursuant to subclause (ii), plus (C) outstanding Guarantees by the Loan Parties of Indebtedness after the Closing Date of Subsidiaries that are not Subsidiary Loan Parties pursuant to subclause (iii) (excluding for purposes of the calculation in this proviso any Investment made at a time when, immediately after giving effect thereto, the Net Total Leverage Ratio on a Pro Forma Basis would not exceed 2.72 to 1.00, which Investment shall be permitted under this Section 6.04(b) without regard to such calculation), shall not exceed the sum of (X) the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period plus (Y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment;

(c) Permitted Investments and Investments that were Permitted Investments when made;

(d) Investments arising out of the receipt by the Borrower or any Subsidiary of noncash consideration for the Disposition of assets permitted under Section 6.05;

(e) (i) loans and advances to officers, directors, employees or consultants of Holdings, the Borrower or any Subsidiary in the ordinary course of business not to exceed \$20,000,000 in the aggregate at any time outstanding (calculated without regard to any subsequent change in value), (ii) advances of payroll payments, business related travel expenses, moving expenses and other similar expenses and expenses to employees in the ordinary course of business and (iii) in connection with such person's purchase of Equity Interests of Holdings, the Borrower or any Parent Entity solely to the extent that the amount of such loans and advances shall be contributed to the Borrower in cash as common equity;

(f) (i) accounts receivable, security deposits and prepayments arising, and trade credit granted, in the ordinary course of business, (ii) any securities received in satisfaction or partial satisfaction of defaulted accounts receivable from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and (iii) any prepayments and other credits to suppliers made in the ordinary course of business;

(g) Swap Agreements;

(h) Investments existing on the Closing Date, or contractually committed as of the Closing Date, and set forth on Schedule 6.04 and any extensions, renewals, replacements or reinvestments thereof, so long as the aggregate amount of all Investments pursuant to this clause (h) is not increased at any time above the amount of such Investment existing or committed on

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the Closing Date (other than pursuant to an increase as required by the terms of any such Investment as in existence on the Closing Date or as otherwise permitted by this Section 6.04);

(i) Investments resulting from pledges and deposits referred to in Sections 6.02(f), (g), (k), (s) and (u);

(j) other Investments by the Borrower or any Subsidiary in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any subsequent change in value) not to exceed the sum of (X) the greater of \$100,000,000 and 0.29 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, plus (Y) any portion of the Available Free Cash Flow Amount on the date of such election that the Borrower elects to apply to this Section 6.04(j)(Y), which such election shall be set forth in a written notice of a Responsible Officer thereof, which notice shall set forth calculations in reasonable detail the amount of Available Free Cash Flow Amount immediately prior to such election and the amount thereof elected to be so applied; provided, that no Event of Default has occurred and is continuing or would result therefrom and after giving effect thereto, and, plus (Z) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment pursuant to clause (X); provided that if any Investment pursuant to this Section 6.04(j) is made in any person that was not a Subsidiary on the date on which such Investment was made but becomes a Subsidiary thereafter, then such Investment may, at the option of the Borrower, upon such person becoming a Subsidiary and so long as such person remains a Subsidiary, be deemed to have been made pursuant to Section 6.04(b) (to the extent permitted by the proviso thereto in the case of any Subsidiary that is not a Loan Party) and not in reliance on this Section 6.04(j);

(k) Investments constituting Permitted Business Acquisitions;

(l) Investments consisting of the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other persons;

(m) intercompany loans and other Investments between Subsidiaries that are not Loan Parties and Guarantees by Subsidiaries that are not Loan Parties permitted by Section 6.01(l);

(n) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property in each case in the ordinary course of business;

(o) Investments made in connection with the Transactions or pursuant to the Business Combination Agreement;

(p) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by the Borrower or a Subsidiary as a result of a foreclosure by the Borrower or any of the Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;

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(q) Investments of a Subsidiary acquired after the Closing Date or of a person merged into the Borrower or merged into or consolidated with a Subsidiary after the Closing Date, in each case (i) to the extent such acquisition, merger or consolidation is permitted under this Section 6.04, (ii) in the case of any acquisition, merger or consolidation, in accordance with Section 6.05 and (iii) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation, and were in existence on the date of such acquisition, merger or consolidation;

(r) Investments received substantially contemporaneously in exchange for Equity Interests of Holdings or a Parent Entity; provided that (i) no Change in Control would result therefrom, and (ii) such Equity Interests do not constitute Disqualified Stock;

(s) Investments in joint ventures; *provided* that the aggregate outstanding amount (valued at the time of the making thereof and without giving effect to any subsequent change in value) of Investments made after the Closing Date pursuant to this Section 6.04(s) (excluding for purposes of the calculation in this proviso any Investment made at a time when, immediately after giving effect thereto, the Net Total Leverage Ratio on a Pro Forma Basis would not exceed 2.72 to 1.00, which Investment shall be permitted under this Section 6.04(s) without regard to such calculation) shall not exceed the sum of (X) the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, plus (Y) an aggregate amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment; *provided* that if any Investment pursuant to this Section 6.04(s) is made in any person that was not a Subsidiary on the date on which such Investment was made but becomes a Subsidiary thereafter, then such Investment may, at the option of the Borrower, upon such person becoming a Subsidiary and so long as such person remains a Subsidiary, be deemed to have been made pursuant to Section 6.04(b) (to the extent permitted by the proviso thereto in the case of any Subsidiary that is not a Loan Party) and not in reliance on this Section 6.04(s);

(t) Guarantees by (i) the Borrower or any Subsidiary of operating leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case, entered into by any Subsidiary Loan Party in the ordinary course of business and (ii) any Subsidiary that is not a Loan Party of operating leases (other than Capitalized Lease Obligations) or of obligations that do not constitute Indebtedness, in each case, entered into by any Subsidiary that is not a Loan Party in the ordinary course of business;

(u) Investments made with Excluded Contributions;

(v) Guarantees permitted under Section 6.01 (except to the extent such Guarantee is expressly subject to Section 6.04);

(w) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers consistent with past practices;

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(x) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Borrower or such Subsidiary;

(y) Investments by the Borrower and its Subsidiaries, including loans and advances to any direct or indirect parent of the Holdings, if the Borrower or any other Subsidiary would otherwise be permitted to make a Dividend in such amount (*provided* that the amount of any such Investment shall also be deemed to be a Dividend under the appropriate clause of Section 6.06 for all purposes of this Agreement);

(z) any Investment (i) deemed to exist as a result of a Subsidiary that is not a Loan Party distributing a note or other intercompany debt to a parent of such Subsidiary that is a Loan Party (to the extent there is no cash consideration or services rendered for such note), and (ii) consisting of intercompany current liabilities in connection with the cash management, tax and accounting operations of Holdings, the Borrower and the Subsidiaries;

(aa) Investments consisting of Securitization Assets or arising as a result of Permitted Securitization Financings;

(bb) Investments in Similar Businesses in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any subsequent change in value) not to exceed the sum of (X) the greater of \$65,000,000 and 0.19 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, plus (Y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment; *provided* that if any Investment pursuant to this Section 6.04(bb) is made in any person that was not a Subsidiary on the date on which such Investment was made but becomes a Subsidiary thereafter, then such Investment may, at the option of the Borrower, upon such person becoming a Subsidiary and so long as such person remains a Subsidiary, be deemed to have been made pursuant to Section 6.04(b) (to the extent permitted by the proviso thereto in the case of any Subsidiary that is not a Loan Party) and not in reliance on this Section 6.04(bb);

(cc) Investments in any Unrestricted Subsidiaries after giving effect to the applicable Investments, in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any subsequent change in value) not to exceed the sum of (X) the greater of \$45,000,000 and 0.13 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period, plus (Y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment; *provided* that if any Investment pursuant to this Section 6.04(cc) is made in any person that was not a Subsidiary on the date on which such Investment was made but becomes a Subsidiary thereafter, then such Investment may, at the option of the Borrower, upon such person becoming a Subsidiary and so long as such person remains a Subsidiary, be deemed to have been made pursuant to Section 6.04(b) (to the extent permitted by the proviso thereto in the case of any Subsidiary that is not a Loan Party) and not in reliance on this Section 6.04(cc);

(dd) Investments in Subsidiaries that are not Loan Parties in an aggregate

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outstanding amount (valued at the time of the making thereof and without giving effect to any subsequent change in value) not to exceed the sum of (x) the greater of \$40,000,000 and 0.12 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period in the aggregate plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of Investments theretofore made pursuant to this Section 6.04(dd) (excluding for purposes of this calculation any Investment made at a time when, immediately after giving effect thereto, the Net Total Leverage Ratio on a Pro Forma Basis would not exceed 2.72 to 1.00, which Investment shall be permitted under this Section 6.04(dd) without regard to such calculation);

(ee) other Investments so long as, immediately after giving effect to such Investment on a Pro Forma Basis, the Net Total Leverage Ratio would not exceed 2.72 to 1.00;

(ff) Investments consisting of Dividends permitted under Section 6.06;



(gg) [reserved];

(hh) Investments to the extent that payment for such Investments is made with Equity Interests of the Borrower, Holdings or any Parent Entity; provided that the issuance of such Equity Interests are not included in any determination of Available Free Cash Flow Amount; and

The amount of Investments that may be made at any time pursuant to Section 6.04(b), 6.04(j) or 6.04(bb) (such Sections, the “**Related Sections**”) may, at the election of the Borrower, be increased by the amount of Investments that could be made at such time under the other Related Section; provided that the amount of each such increase in respect of one Related Section shall be treated as having been used under the other Related Section.

Any Investment in any person other than the Borrower or a Subsidiary Loan Party that is otherwise permitted by this Section 6.04 may be made through intermediate Investments in Subsidiaries that are not Loan Parties and such intermediate Investments shall be disregarded for purposes of determining the outstanding amount of Investments pursuant to any clause set forth above. The amount of any Investment made other than in the form of cash or cash equivalents shall be the Fair Market Value thereof (as determined in good faith by the Borrower) valued at the time of the making thereof, and without giving effect to any subsequent change in value of the making thereof, and without giving effect to any subsequent change in value.

**SECTION 6.05** Mergers, Consolidations, Sales of Assets and Acquisitions. Merge into or consolidate with any other person, or permit any other person to merge into or consolidate with it, or Dispose of (in one transaction or in a series of related transactions) all or any part of its assets (whether now owned or hereafter acquired), or Dispose of any Equity Interests of any Subsidiary or purchase, lease or otherwise acquire (in one transaction or a series of related transactions) all of any division, unit or business of any other person, except that this Section 6.05 shall not prohibit:

(a) (i) the purchase and Disposition of inventory or the sale of receivables pursuant to non-recourse factoring arrangements, in each case in the ordinary course of business

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by the Borrower or any Subsidiary, (ii) the acquisition or lease (pursuant to an operating lease) of any other asset in the ordinary course of business by the Borrower or any Subsidiary or, with respect to operating leases, otherwise for Fair Market Value on market terms (as determined in good faith by the Borrower), (iii) the Disposition of surplus, obsolete, damaged or worn out equipment or other property in the ordinary course of business by the Borrower or any Subsidiary or determined in good faith by the Borrower to be no longer useful or necessary in the operation of the business of the Borrower or of any of the Subsidiaries, (iv) assignments by the Borrower and any Subsidiary in connection with insurance arrangements of their rights and remedies under, and with respect to, the Business Combination Agreement in respect of any breach by the Company of its representations and warranties set forth therein, (v) the Disposition of Permitted Investments in the ordinary course of business or (vi) any dispositions of Investments in joint ventures to the extent required by, or made pursuant to buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(b) if at the time thereof and immediately thereafter no Event of Default shall have occurred and be continuing or would result therefrom, (i) the merger or consolidation of any Subsidiary into or with the Borrower in a transaction in which the Borrower is the survivor, (ii) the merger or consolidation of any Domestic Subsidiary into or with any Subsidiary Loan Party in a transaction in which the surviving or resulting entity is or becomes a Subsidiary Loan Party and, in the case of each of clauses (i) and (ii), no person other than the Borrower or Subsidiary Loan Party receives any consideration (unless otherwise permitted by Section 6.04), (iii) the merger or consolidation of any Subsidiary that is not a Subsidiary Loan Party into or with any other Subsidiary that is not a Subsidiary Loan Party, (iv) the liquidation or dissolution or change in form of entity of any Subsidiary (other than the Borrower) if the Borrower determines in good faith that such liquidation, change in form or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders, (v) any Subsidiary may merge, consolidate or amalgamate into or with any other person in order to effect an Investment permitted pursuant to Section 6.04 so long as the continuing or surviving person shall be a Subsidiary (unless otherwise permitted by Section 6.04), which shall be a Loan Party if the merging, consolidating or amalgamating Subsidiary was a Loan Party (unless otherwise permitted by Section 6.04) and which together with each of its Subsidiaries shall have complied with any applicable requirements of Section 5.11 or (vi) any Subsidiary may merge or consolidate with any other person in order to effect an Asset Sale otherwise permitted pursuant to this Section 6.05;

(c) Dispositions to the Borrower or a Subsidiary (upon voluntary liquidation or otherwise), provided, that any Dispositions by a Loan Party to a Subsidiary that is not a Subsidiary Loan Party in reliance of this clause (c) shall be made in compliance with Section 6.04;

(d) Sale and Lease-Back Transactions permitted by Section 6.03;

(e) (i) Investments permitted by Section 6.04, Permitted Liens and Dividends permitted by Section 6.06 and (ii) any Disposition made pursuant to the Business Combination Agreement or in connection with the Transactions;

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(f) any swap of assets in exchange for services or other assets used or useful in a Similar Business of comparable or greater value or usefulness to the business of the Borrower and the Subsidiaries as a whole, as determined in good faith by the management of the Borrower, which in the event of a swap with a Fair Market Value (as determined in good faith by the Borrower) in excess of (x) \$10,000,000 shall be evidenced by a certificate from a Responsible Officer of the Borrower and (y) \$20,000,000 shall be set forth in a resolution approved in good faith by at least a majority of the Board of Directors of the Borrower;

(g) Dispositions of defaulted receivables in the ordinary course of business and not as part of an accounts receivables financing transaction;

(h) Dispositions of assets not otherwise permitted by this Section 6.05; provided that the Net Proceeds thereof, if any, are applied in accordance with Section 2.11(b) to the extent required thereby;

(i) Permitted Business Acquisitions (including any merger, consolidation or amalgamation in order to effect a Permitted Business Acquisition); provided that, following any such merger, consolidation or amalgamation involving the Borrower, the Borrower is the surviving entity;

- (j) licenses of Intellectual Property and software that are either (i) entered into in the ordinary course of business or, (ii) not material to the conduct of any of the business lines of the Borrower and the Subsidiaries and the value of which does not constitute a material portion of the assets of the Borrower and the Subsidiaries, taken as a whole, and which do not materially interfere with the ordinary course of conduct of the business of the Borrower or any of its Subsidiaries;
- (k) the lease, assignment or sublease of any real or personal property in the ordinary course of business;
- (l) Dispositions of inventory, equipment or other assets (excluding Equity Interests, assets constituting a business division, unit, line of business, all or substantially all of the assets of any Material Subsidiary, Sale and Lease-Back Transactions and receivables) of the Borrower and the Subsidiaries determined in good faith by the management of the Borrower to be no longer useful or necessary in the operation of the business of the Borrower or any of the Subsidiaries;
- (m) any sale of Equity Interests in, or other securities of, an Unrestricted Subsidiary;
- (n) the purchase and Disposition (including by capital contribution) of (i) Securitization Assets including pursuant to Permitted Securitization Financings and (ii) any other Securitization Assets subject to Liens securing Permitted Securitization Financing;
- (o) to the extent constituting a Disposition, any termination, settlement or extinguishment of Swap Obligations; and
- (p) any sale, transfer or disposition of Claims Administration Investments;

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provided that the Net Proceeds thereof received by any Loan Party are used to make additional Claims Administration Investments or to repay any outstanding Claims Administration Indebtedness prior to being used for any other purpose.

Notwithstanding anything to the contrary contained in Section 6.05 above, (i) no Disposition of assets under Section 6.05(h) or, solely with respect to Sale and Lease-Back Transactions referred to in clause (b)(y) of Section 6.03, under Section 6.05(d), shall be permitted unless (i) such Disposition is for Fair Market Value (as determined in good faith by the Borrower), or if not for Fair Market Value (as determined in good faith by the Borrower), the shortfall is permitted as an Investment under Section 6.04, and (ii) at least 75% of the proceeds of such Disposition (except to Loan Parties) consist of cash or Permitted Investments; provided that the provisions of this clause (ii) shall not apply to any individual transaction or series of related transactions involving assets with a Fair Market Value (as determined in good faith by the Borrower) of less than \$5,000,000; provided, further, that, for purposes of this clause (ii), (a) the amount of any liabilities of the Borrower or any Subsidiary (as shown on the Borrower's or such Subsidiary's most recent balance sheet or in the notes thereto) (other than liabilities that are by their terms subordinated to the Loan Obligations) that are assumed by the transferee of any such assets or are otherwise cancelled in connection with such transaction, (b) any notes or other obligations or other securities or assets received by the Borrower or such Subsidiary from such transferee that are converted by the Borrower or such Subsidiary into cash within 180 days of the receipt thereof (to the extent of the cash received), (c) any Designated Noncash Consideration received by the Borrower or any of its Subsidiaries in such Disposition having an aggregate Fair Market Value (as determined in good faith by the Borrower), taken together with all other Designated Noncash Consideration received pursuant to this clause (c) since the Closing Date that is at the time outstanding, not to exceed the greater of \$65,000,000 and 0.19 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period (with the Fair Market Value (as determined in good faith by the Borrower) of each item of Designated Noncash Consideration being measured at the time received and without giving effect to subsequent changes in value), (d) the amount of Indebtedness of any Subsidiary that is no longer a Subsidiary as a result of such Asset Sale, to the extent that Holdings, the Borrower and each other Subsidiary are released from any guarantee of payment of such Indebtedness in connection with the Asset Sale and (e) consideration consisting of Indebtedness of the Borrower (other than Indebtedness that is subordinated in right of payment to the Loan Obligations) received from persons who are not Holdings, the Borrower or a Subsidiary in connection with the Asset Sale and that is canceled. To the extent any Collateral is Disposed of in a transaction permitted by this Section 6.05 to any person other than the Borrower or any Subsidiary Loan Party, such Collateral shall be Disposed of free and clear of the Liens created by the Loan Documents (provided that, for the avoidance of doubt, with respect to any Disposal consisting of an operating lease or license, the underlying property retained by the Borrower or such Subsidiary Loan Party will not be so released), and the Collateral Agent shall take, and is hereby authorized by each Lender to take, any actions reasonably requested by the Borrower in order to evidence the foregoing.

SECTION 6.06 Dividends and Distributions. Declare or pay, directly or indirectly, any dividend or make, directly or indirectly, any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any of its Equity Interests (other than dividends and distributions on Equity Interests payable solely by

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the issuance of additional Qualified Equity Interests of the person paying such dividends or distributions) or directly or indirectly redeem, purchase, retire or otherwise acquire for value (or permit any Subsidiary to purchase or acquire) any of the Borrower's Equity Interests or set aside any amount for any such purpose (other than through the issuance of additional Equity Interests of the person redeeming, purchasing, retiring or acquiring such shares) (any of the foregoing dividends, distributions, redemptions, repurchases, retirements, other acquisitions or setting aside of amounts, "Dividends"); provided, however, that:

(a) (i) any Subsidiary may declare and pay dividends to, or make other distributions to, the Borrower or any Subsidiary that is a direct or indirect parent of such Subsidiary and, if not a Wholly Owned Subsidiary, to each other owner of Equity Interests of such Subsidiary on a *pro rata* basis (or more favorable basis from the perspective of the Borrower or such Subsidiary) based on their relative ownership interests; and (ii) to the extent permitted by Section 6.04, any Subsidiary that is not a Wholly Owned Subsidiary may repurchase its Equity Interests from any owner of the Equity Interests of such Subsidiary that is not the Borrower or a Subsidiary;

(b) Dividends may be made in respect of (i) overhead, legal, accounting and other professional fees and expenses of Holdings or any Parent Entity, (ii) fees and expenses related to any public offering or private placement of Equity Interests or Indebtedness of Holdings or any Parent Entity whether or not consummated, (iii) franchise and similar taxes and other fees and expenses in connection with the maintenance of its (or any Parent Entity's)

existence and its (or any Parent Entity's indirect) ownership of the Borrower, (iv) payments permitted by Section 6.07 (other than Sections 6.07(viii) or (x)), (v) in respect of any taxable period for which the Borrower (or if the Borrower is a disregarded entity for U.S. federal income tax purposes that is wholly owned (directly or indirectly) by a C corporation for U.S. federal and/or applicable state, local or foreign income tax purposes, such C corporation) and/or any of its Subsidiaries are members of a consolidated, combined, affiliated, unitary or similar tax group for U.S. federal and/or applicable state, local or foreign tax purposes of which a direct or indirect parent of the Borrower is the common parent, Dividends to any such direct or indirect parent of the Borrower to fund income taxes for which such parent is liable in an amount not to exceed the amount of any U.S. federal, state, local or foreign income taxes that the Borrower and/or its Subsidiaries, as applicable, would have paid for such taxable period (taking into account prior year losses) had the Borrower and/or its Subsidiaries, as applicable, been a stand-alone corporate taxpayer or a stand-alone corporate group, and (vi) customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers, directors, employees and consultants of Holdings or any Parent Entity, in each case in order to permit Holdings or any Parent Entity to make such payments; provided that in the case of subclauses (i) and (iii), the amount of such Dividends shall not exceed the portion of any amounts referred to in such subclauses (i) and (iii) that are allocable to the Borrower and its Subsidiaries (which (x) shall be 100% at any time that, as the case may be, (1) Holdings owns no material assets other than the Equity Interests in the Borrower and assets incidental to such equity ownership or (2) any Parent Entity owns directly or indirectly no material assets other than Equity Interests in Holdings and any other Parent Entity and assets incidental to such equity ownership and (y) in all other cases shall be as determined in good faith by the Borrower);

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(c) Dividends to Holdings or any Parent Entity in order to enable Holdings or any Parent Entity to purchase or redeem Equity Interests of Holdings or any Parent Entity (including related stock appreciation rights or similar securities) held by then present or former directors, consultants, officers or employees of any Parent Entity, Holdings, the Borrower or any of the Subsidiaries or by any Plan or any shareholders' agreement then in effect upon such person's death, disability, retirement or termination of employment or under the terms of any such Plan or any other agreement under which such shares of stock or related rights were issued; provided that the aggregate amount of Dividends for such purchases or redemptions under this Section 6.06(c) shall not exceed (i) in any fiscal year (A) \$7,500,000 (plus any amounts carried over from prior years, up to \$15,000,000 in the aggregate) plus (B) Excluded Equity Proceeds, which, if not used in any fiscal year, may be carried forward to any subsequent fiscal year, and (ii) amounts received in respect of key man life insurance policy proceeds; provided, further, that cancellation of Indebtedness owing to Holdings, the Borrower or any Subsidiary from members of management of Holdings, any Parent Entity, the Borrower or its Subsidiaries in connection with a repurchase of Equity Interests of Holdings or any Parent Entity will not be deemed to constitute a Dividend for purposes of this Section 6.06;

(d) any person may make noncash repurchases of Equity Interests deemed to occur upon exercise of stock options if such Equity Interests represent a portion of the exercise price of such options;

(e) so long as no Event of Default has occurred and is continuing, other Dividends may be made in an aggregate amount with all other Dividends and other distributions made pursuant to this clause (e) not to exceed the greater of \$50,000,000 and 0.15 times the EBITDA calculated on a Pro Forma Basis for the Test Period ended immediately prior to the date of such Dividend;

(f) any person may make distributions to minority shareholders of any subsidiary that is acquired pursuant to a Permitted Business Acquisition pursuant to appraisal or dissenters' rights with respect to shares of such subsidiary held by such shareholders;

(g) [reserved];

(h) Dividends may be made in an aggregate amount equal to a portion of the Available Free Cash Flow Amount on the date of such election that the Borrower elects to apply to this Section 6.06(h), which such election shall (unless such Dividend is made pursuant to clause (a) of the definition of "Available Free Cash Flow Amount") be set forth in a written notice of a Responsible Officer of the Borrower, which notice shall set forth calculations in reasonable detail the amount of Available Free Cash Flow Amount immediately prior to such election and the amount thereof elected to be so applied; provided that no Event of Default has occurred and is continuing and after giving effect thereto, the Net Total Leverage Ratio on a Pro Forma Basis shall not be greater than 3.72 to 1.00;

(i) the Borrower or any Subsidiary may make any Dividend on the Closing Date used to fund the Transactions and the fees and expenses related thereto or made in connection with the consummation of the Transactions (including payments made pursuant to or as contemplated by the Transaction Documents, as in effect on the Closing Date);

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(j) the Borrower or any Subsidiary may make payments of cash, or dividends, distributions or advances to allow such person to make payments of cash, in lieu of the issuance of fractional shares upon exercise of options or warrants or upon the conversion or exchange of Equity Interests of such person;

(k) the Borrower may make Dividends to Holdings so that Holdings or any Parent Entity may make Dividends to its equity holders in an aggregate amount not to exceed \$25,000,000 per annum;

(l) the Borrower may make Dividends to Holdings or any Parent Entity to finance any Investment that if made by the Borrower or any Subsidiary directly would be permitted to be made pursuant to Section 6.04; provided that (A) such Dividend shall be made substantially concurrently with the closing of such Investment and (B) Holdings or such Parent Entity shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to the Borrower or a Subsidiary Loan Party (or, to the extent permitted by Section 6.04, a Subsidiary) or (2) the merger, consolidation or amalgamation (to the extent permitted in Section 6.05) of the person formed or acquired into the Borrower or a Subsidiary in order to consummate such Permitted Business Acquisition or Investment, in each case, in accordance with the requirements of Section 5.11;

(m) [reserved];

(n) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Borrower or any of its Subsidiaries issued or incurred in accordance with Section 6.01;

(o) Dividends that are made with Excluded Contributions;

(p) Dividends in amounts required for Parent Entity of the Borrower to pay interest and/or principal on Indebtedness the proceeds of which have been contributed to the common equity of Borrower and that has been guaranteed by, or is otherwise considered Indebtedness of, the Borrower incurred in accordance with Section 6.01;

(q) other Dividends so long as, immediately after giving effect to such payment or distribution on a Pro Forma Basis, the Net Total Leverage Ratio is not greater than 2.47 to 1.00; provided that no Event of Default has occurred and is continuing; and

(r) any consideration, payment, dividend, distribution or other transfer in connection with a Permitted Securitization Financing.

Notwithstanding anything herein to the contrary, the foregoing provisions of Section 6.06 will not prohibit the payment of any Dividend or the consummation of any redemption, purchase, defeasance or other payment within 60 days after the date of declaration thereof or the giving of notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Agreement.

SECTION 6.07 Transactions with Affiliates. Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transaction

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with, any of its Affiliates in a transaction involving aggregate consideration in excess of \$10,000,000, unless such transaction is (i) otherwise permitted (or required) with such Affiliates under this Agreement or (ii) upon terms that are substantially no less favorable to the Borrower or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate, as determined by the Board of Directors of the Borrower or such Subsidiary in good faith; provided that this clause (ii) shall not apply to (A) the indemnification of directors of Holdings, the Borrower or the Subsidiaries in accordance with customary practice or (B) to the extent otherwise permitted under this Agreement (each of which shall not be prohibited by this Section 6.07), the following:

(i) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, deferred compensation agreements, stock options and stock ownership plans or similar employee benefit plans approved by the Board of Directors of Holdings (or any Parent Entity) or of the Borrower;

(ii) [reserved];

(iii) transactions among Holdings, the Borrower and the Subsidiaries (or entities that become Subsidiaries as a result of such transaction (including via merger, consolidation or amalgamation in which a Subsidiary is the surviving entity) that are not otherwise prohibited under this Agreement;

(iv) the payment of fees, out of pocket costs and indemnities to directors, officers, employees and consultants of any Parent Entity, Holdings, the Borrower and the Subsidiaries in the ordinary course of business (limited, in the case of any Parent Entity or Holdings, to the portion of such fees and expenses that are allocable to the Borrower and its Subsidiaries (which (x) shall be 100% for so long as Holdings or such Parent Entity, as the case may be, owns no assets other than the Equity Interests in the Borrower, Holdings or any Parent Entity and assets incidental to the ownership of the Borrower and its Subsidiaries and (y) in all other cases shall be as determined in good faith by management of the Borrower));

(v) the existence of, or the performance by the Borrower or any of its Subsidiaries of its obligations under the terms of, the Transaction Documents, agreements and arrangements in existence on the Closing Date and, to the extent involving aggregate consideration in excess of \$5,000,000, set forth on Schedule 6.07 and any amendment thereto or similar agreements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Borrower or any of its Subsidiaries of its obligations under, any future amendment to any such existing agreement or under any similar agreement entered into after the Closing Date shall only be permitted by this clause (v) to the extent that the terms of any such existing agreement together with all amendments thereto, taken as a whole, or new agreement are not otherwise more disadvantageous to the Lenders in any material respect than the original agreement as in effect on the Closing Date (as determined by the Borrower in good faith);

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(vi) transactions to effect the Transactions and the payment of all fees and expenses related to the Transactions as contemplated by the Transaction Documents;

(vii) (A) any employment agreements entered into by Holdings, the Borrower or any of the Subsidiaries in the ordinary course of business, (B) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers or directors, and (C) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract or collective bargaining agreement or similar contract and transactions pursuant thereto;

(viii) transactions permitted by, and complying with, the provisions of, Section 6.04;

(ix) transactions permitted by, and complying with, the provisions of, Section 6.05;

(x) transactions permitted by, and complying with the provisions of, Section 6.06;

(xi) any purchase by the Permitted Holders or any director, officer, employee or consultant of the Borrower or Holdings of Equity Interests of Holdings or any contribution by Holdings to, or purchases of, Equity Interests of the Borrower; provided that any Equity Interests

of the Borrower purchased by Holdings shall be pledged to the Collateral Agent on behalf of the Lenders to the extent required by the Holdings Guarantee and Pledge Agreement;

(xii) provided no Default or Event of Default shall have occurred and be continuing or would result therefrom, payments by the Borrower or any of the Subsidiaries to the Investors or any Investor Affiliate 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 the majority of the Board of Directors of the Borrower, in good faith;

(xiii) payments, loans (or cancellation of loans) or advances to employees or consultants that are (A) approved by a majority of the Board of Directors of the Borrower in good faith, (B) made in compliance with applicable law and (C) otherwise permitted under this Agreement;

(xiv) transactions for the purchase or sale of goods, equipment, products, parts and services entered into in the ordinary course of business;

(xv) any transaction in respect of which the Borrower delivers to the Administrative Agent (for delivery to the Lenders) a letter addressed to the Board of Directors of the Borrower from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is in the good faith determination of the Borrower qualified to render such letter, which letter states that such transaction is on

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terms that are substantially no less favorable to the Borrower or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate;

(xvi) the payment of all fees, expenses, bonuses and awards related to the Transactions, including fees to any Investor or Investor Affiliate;

(xvii) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement that are fair to the Borrower or the Subsidiaries (in the good faith determination of the Borrower);

(xviii) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business and in a manner consistent with past practice;

(xix) transactions between Holdings, the Borrower or any of its Subsidiaries and any person that is an Affiliate solely by virtue of having a director who is also a director of Holdings, the Borrower or any direct or indirect parent company of the Borrower, *provided, however*, that such director abstains from voting as a director of Holdings or the Borrower or such direct or indirect parent company, as the case may be, on any matter involving such other person;

(xx) intercompany transactions for the purpose of improving the consolidated tax efficiency of the Borrower and the Subsidiaries;

(xxi) the termination of HandsOn Management Agreements and any payments for termination fees in connection therewith, including any net present value of future payments;

(xxii) [reserved];

(xxiii) payments by Holdings (or any Parent Entity), the Borrower and the Subsidiaries pursuant to a tax sharing agreement or arrangement (whether written or as a matter of practice) that are permitted by *clause (v)* of Section 6.06(b);

(xxiv) any agreements or arrangements between a third party and an Affiliate of the Borrower that are acquired or assumed by the Borrower or any Subsidiary in connection with an acquisition or merger of such third party (or assets of such third party) by or with the Borrower or any Subsidiary; *provided* that (A) such acquisition or merger is permitted under this Agreement and (B) such agreements or arrangements are not entered into in contemplation of such acquisition or merger or otherwise for the purpose of avoiding the restrictions imposed by this Section 6.07;

(xxv) any contribution to the capital of the Borrower, or purchase of Equity Interests of the Borrower, by Holdings;

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(xxvi) Investments by the Investors and Investor Affiliates in securities of Holdings, the Borrower or any of the Subsidiaries so long as (A) the Investment is being offered generally to other investors on the same or more favorable terms and (B) the Investment constitutes less than 5.0% of the outstanding issue amount of such class of securities; and

(xxvii) transactions pursuant to any Permitted Securitization Financing.

**SECTION 6.08** Business of Holdings, the Borrower and the Subsidiaries. Notwithstanding any other provisions hereof, engage at any time to any material respect in any business or business activity other than:

(a) in the case of the Borrower and any Material Subsidiary, (i) any business or business activity conducted by any of them on the Closing Date and any business or business activities incidental or related thereto, (ii) any business or business activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto, including the consummation of the Transactions, (iii) any business or business

activity that the senior management of the Borrower deems beneficial for the Borrower or such Subsidiary, (iv) any business or business activity of any person acquired pursuant to a Permitted Business Acquisition, (v) any Similar Business and (vi) in the case of a Special Purpose Securitization Subsidiary, Permitted Securitization Financings; and

(b) in the case of Holdings, (i) ownership of the Equity Interests in the Borrower, together with activities directly related thereto, and (A) Holdings shall own no assets other than such Equity Interests, Equity Interests of acquired target companies, which shall be immediately contributed to the Borrower, its books and records, deposit accounts, all cash deposits held therein, and cash paid to Holdings in accordance with the terms hereof, and (B) Holdings shall not grant a Lien on any of its assets other than Liens created pursuant to the Loan Documents (or pursuant to documentation governing any Pari Term Loans) and ordinary course Liens incurred under customary deposit account agreements entered into by Holdings with respect to its deposit accounts; (ii) performance of its obligations under and in connection with the Loan Documents, the Business Combination Agreement and the other agreements contemplated by the Business Combination Agreement; (iii) issuance of Equity Interests; (iv) as otherwise required by law; (v) holding any cash received in accordance with the terms hereof and investing such proceeds in Permitted Investments; (vi) guarantees of the AGNL Lease; and (vii) any activities reasonably related to the activities set forth in clauses (i) through (y) above. Notwithstanding anything contained in this clause (b), so long as no Default has occurred and is continuing or would result therefrom, Holdings may merge with any other person (and if it is not the survivor of such merger, the survivor shall assume Holdings' obligations, as applicable, under the Loan Documents).

SECTION 6.09 Limitation on Modifications and Payments of Indebtedness; Modifications of Certificate of Incorporation, By-Laws and Certain Other Agreements; etc.

(a) Amend or modify in any manner materially adverse to the Lenders when taken as a whole (as determined in good faith by the Borrower), or grant any waiver or release under or terminate in any manner (if such granting or termination shall be materially adverse to

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the Lenders when taken as a whole (as determined in good faith by the Borrower)), the articles or certificate of incorporation, by-laws, limited liability company operating agreement or other organizational documents of the Borrower or any of the Subsidiaries.

(i) Make, or agree or offer to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of, or in respect of, principal of or interest on any Junior Financing, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination in respect of any Junior Financing, except for (A) Refinancings with any Indebtedness permitted to be incurred under Sections 6.01, (B) payments of regularly scheduled interest and fees due thereunder, other non-accelerated and non-principal payments thereunder, scheduled payments thereon necessary to avoid the Junior Financing from constituting "applicable high yield discount obligations" within the meaning of Section 163(i)(1) of the Code, and payment of principal on the scheduled maturity date of any Junior Financing, (C) payments or distributions in respect of all or any portion of the Junior Financing with Excluded Equity Proceeds not otherwise used for any other purpose, (D) the conversion or exchange of any Junior Financing to Qualified Equity Interests of the Borrower, Holdings or any Parent Entity, (E) so long as no Event of Default has occurred and is continuing, payments or distributions in respect of Junior Financings prior to any scheduled maturity made, in an aggregate amount, not to exceed a portion of the Available Free Cash Flow Amount on the date of such election that the Borrower elects to apply to this Section 6.09(b)(i)(E), which such election shall (unless such payment or distribution is made pursuant to clause (a) of the definition of "Available Free Cash Flow Amount") be set forth in a written notice of a Responsible Officer thereof, which notice shall set forth calculations in reasonable detail of the amount of Available Free Cash Flow Amount immediately prior to such election and the amount thereof elected to be so applied; provided that no Event of Default has occurred and is continuing or would result therefrom and after giving effect to such payments or distributions, the Net Total Leverage Ratio on a Pro Forma Basis shall not be greater than 3.72 to 1.00, (F) other payments and distributions in an aggregate amount (valued at the time of the making thereof and without giving effect to any subsequent change in value) not to exceed the greater of \$50,000,000 and 0.15 times the EBITDA calculated on a Pro Forma Basis for the then most recently ended Test Period; provided that no Event of Default has occurred and is continuing and (G) other payments and distributions in respect of Junior Financing; provided that no Event of Default has occurred and is continuing and, immediately after giving effect to such payment or distribution on a Pro Forma Basis, the Net Total Leverage Ratio is not greater than 2.47 to 1.00.

(ii) Amend or modify, or permit the amendment or modification of, any provision of any Junior Financing that constitutes Material Indebtedness, or any agreement, document or instrument evidencing or relating thereto, other than amendments or modifications that (A) are not materially adverse to Lenders taken as a whole (as determined in good faith by the Borrower) and that do not affect the subordination provisions thereof (if any) in a manner adverse to the Lenders taken as a whole (as determined in good faith by the Borrower), (B) otherwise comply with the

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definition of "Permitted Refinancing Indebtedness" or (C) in the case of the Senior Secured Notes, comply with the provisions of the Intercreditor Agreement.

(b) Enter into any agreement or instrument that by its terms restricts (i) the payment of dividends or distributions or the making of cash advances by any Material Subsidiary to the Borrower or any Subsidiary that is a direct or indirect parent of such Subsidiary or (ii) the granting of Liens by the Borrower or any Material Subsidiary that is a Loan Party pursuant to the Security Documents, in each case, other than those arising under any Loan Document, except, in each case, restrictions existing by reason of:

(A) restrictions imposed by applicable law, rule or regulation;

(B) contractual encumbrances or restrictions in effect on the Closing Date with respect to Liens permitted under Section 6.02(a) or as otherwise disclosed on Schedule 6.09(c), the Senior Secured Notes Documents, any Refinancing Notes or any agreements relating to any Permitted Refinancing Indebtedness in respect of any such Indebtedness and, in each case, any similar contractual encumbrances or restrictions and any amendment, modification, supplement, replacement or refinancing of such agreements or

instruments that does not materially expand the scope of any such encumbrance or restriction or make such restriction materially more onerous (in each case, as determined in good faith by the Borrower);

- (C) any restriction on the Equity Interests or assets of a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of such Equity Interests or assets permitted under Section 6.05 pending the closing of such sale or disposition;
- (D) customary provisions in joint venture agreements and other similar agreements applicable to the assets of, or the Equity Interests in, joint ventures entered into in the ordinary course of business;
- (E) any restrictions imposed by any agreement relating to a Lien permitted by Section 6.02 to the extent that such restrictions apply only to the property or assets subject to such Lien;
- (F) customary provisions contained in leases or licenses of Intellectual Property and other similar agreements entered into in the ordinary course of business or consistent with past practice or industry norm;
- (G) customary provisions restricting subletting or assignment of any lease governing a leasehold interest;
- (H) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;
- (I) customary restrictions and conditions contained in any agreement relating to the Disposition of any asset permitted under Section 6.05

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applicable to the asset to be Disposed of pending the consummation of such sale, transfer, lease or other disposition;

- (J) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;
- (K) customary provisions contained in leases, licenses, contracts and other similar agreements entered into in the ordinary course of business that impose restrictions on the property subject to such lease;
- (L) any agreement in effect at the time such subsidiary becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such person becoming a Subsidiary and such restriction does not apply to the Borrower or any other Material Subsidiary or any of their respective assets;
- (M) any restrictions imposed by any agreement relating to Indebtedness incurred pursuant to Section 6.01 or Permitted Refinancing Indebtedness in respect thereof, to the extent such restrictions are not materially more restrictive, taken as a whole, than the restrictions contained in the Loan Documents or are market terms at the time of issuance (in each case as determined in good faith by the Borrower);
- (N) customary restrictions and conditions contained in the document relating to any Lien, so long as (1) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien, and (2) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 6.09;
- (O) restrictions contained in any Permitted Securitization Document with respect to any Special Purpose Securitization Subsidiary; or
- (P) customary net worth provisions contained in leases entered into by Holdings, the Borrower or any Subsidiary in the ordinary course of business so long as the Borrower has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of Holdings, the Borrower or its Subsidiaries to meet their obligations under the Loan Documents.

SECTION 6.10 Fiscal Year. In the case of the Borrower, permit any change to its fiscal year without prior notice to the Administrative Agent, in which case, the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

SECTION 6.11 Financial Covenant. Permit the Net First Lien Leverage Ratio as of the last day of any fiscal quarter (beginning with the end of the first full fiscal quarter ending after the Closing Date) to exceed 5.10 to 1.00.

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## ARTICLE VII EVENTS OF DEFAULT

SECTION 7.01 Events of Default. In case of the happening of any of the following events ("**Events of Default**"):

- (a) any representation or warranty made or deemed made by the Borrower or any Subsidiary Loan Party herein or in any other Loan Document or any certificate or document delivered pursuant hereto or thereto shall prove to have been false or misleading in any material respect when so made or deemed made and such false or misleading representation or warranty (if curable) shall remain false or misleading for a period of 30 days after notice thereof from the Administrative Agent to the Borrower; *provided* that the failure of any representation or warranty made or deemed made by any Loan Party (other than the representations and warranties referred to in clause (i) of Section 4.01(b)) to be true and correct in any material respect on the Closing Date will not constitute an Event of Default hereunder;

(b) default shall be made in the payment of any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(c) default shall be made in the payment of any interest on any Loan or the reimbursement with respect to any L/C Disbursement or in the payment of any Fee or any other amount (other than an amount referred to in clause (b) above) due under any Loan Document, when and as the same shall become due and payable, and such default shall continue unremedied for a period of five Business Days;

(d) any default shall be made in the due observance or performance by the Borrower of any covenant or agreement contained in Section 5.01(a) (with respect to the Borrower), 5.05(a), 5.09 or in Article VI;

(e) default shall be made in the due observance or performance by Holdings of Section 6.08(b) or by the Borrower or any Subsidiary Loan Party of any covenant or agreement contained in any Loan Document (other than those specified in clauses (b), (c) and (d) above) and such default shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Borrower;

(f) (i) any event or condition occurs that (a) results in any Material Indebtedness becoming due prior to its scheduled maturity (other than, for the avoidance of doubt, Material Indebtedness with respect to Permitted Securitization Financings) or (b) enables or permits (with all applicable grace periods having expired) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity or (ii) the Borrower or any Subsidiary (other than any Special Purpose Securitization Subsidiary) shall fail to pay the principal of any Material Indebtedness at the stated final maturity thereof; provided that this clause (f) shall not apply to any secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the

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property or assets securing such Indebtedness if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness;

(g) there shall have occurred a Change in Control;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of Holdings, the Borrower or any of its Material Subsidiaries, or of a substantial part of the property or assets of Holdings, the Borrower or any of its Material Subsidiaries, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, moratorium, insolvency, receivership or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for Holdings, the Borrower or any of its Material Subsidiaries or for a substantial part of the property or assets of Holdings, the Borrower or any of its Material Subsidiaries or (iii) the winding-up or liquidation of Holdings, the Borrower or any of its Material Subsidiaries (other than permitted hereunder); and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) Holdings, the Borrower or any of its Material Subsidiaries shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, moratorium, insolvency, receivership or similar law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (h) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for Holdings, the Borrower or any of its Material Subsidiaries or for a substantial part of the property or assets of Holdings, the Borrower or any of its Material Subsidiaries, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(j) the failure by the Borrower or any Material Subsidiary to pay one or more final judgments aggregating in excess of \$75,000,000 (to the extent not covered by insurance), which judgments are not discharged or effectively waived or stayed for a period of 30 consecutive days, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of the Borrower or any Material Subsidiary to enforce any such judgment;

(k) (i) an ERISA Event shall have occurred, (ii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, (iii) the Borrower or any Subsidiary or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is in reorganization or is being terminated, within the meaning of Title IV of ERISA, or (iv) the Borrower or any Subsidiary shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and in each case in clauses (i) through (iv) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect; or

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(l) (i) any material provision of any Loan Document shall for any reason be asserted in writing by Holdings, the Borrower or any Subsidiary Loan Party not to be a legal, valid and binding obligation of any party thereto (other than in accordance with its terms), (ii) any security interest purported to be created by any Security Document and to extend to assets that constitute a material portion of the Collateral shall cease to be, or shall be asserted in writing by the Borrower or any other Loan Party not to be (other than in accordance with its terms), a valid and perfected security interest (perfected as or having the priority required by this Agreement or the relevant Security Document and subject to such limitations and restrictions as are set forth herein and therein) in the securities, assets or properties covered thereby, except to the extent that any such loss of perfection or priority results from the limitations of foreign laws, rules and regulations as they apply to pledges of Equity Interests in Foreign Subsidiaries or the application thereof, or except from the failure of the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Agreement or to file Uniform Commercial Code continuation statements or take the actions described on Schedule 3.04 and except to the extent that such loss is covered by a lender's title insurance policy and the Administrative Agent shall be reasonably satisfied with the credit of such insurer, or (iii) a material portion of the Guarantees pursuant to the Security Documents by Holdings or the Subsidiary Loan Parties guaranteeing the Obligations shall cease to be in full force and effect (other than in accordance with the terms thereof), or shall be asserted in writing by Holdings or any Subsidiary Loan Party not to be in effect or not to be legal, valid and binding obligations (other than in accordance with the terms thereof); provided that no Event of Default shall occur under this



Section 7.01(l) if the Loan Parties cooperate with the Collateral Agent to replace or perfect such security interest and Lien, such security interest and Lien is replaced and the rights, powers and privileges of the Secured Parties are not materially adversely affected by such replacement;

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent, at the request of the Required Lenders, shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans then outstanding so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding and (iii) demand Cash Collateral pursuant to Section 2.22; and in any event with respect to the Borrower described in clause (h) or (i) above, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrower accrued hereunder and under any other Loan Document, shall automatically become due and payable and the Administrative Agent shall be deemed to have made a demand for Cash Collateral to the full extent permitted under Section 2.22, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrower, anything contained herein or in any other Loan Document to the contrary notwithstanding.

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For purposes of clauses (h), (i) and (j) of this Section 7.01, "Material Subsidiary" (1) shall mean any Subsidiary that would not be an Immaterial Subsidiary under clause (a) of the definition thereof and (2) shall exclude any Special Purpose Securitization Subsidiary.

**SECTION 7.02**      Treatment of Certain Payments. Subject to the terms of any applicable Intercreditor Agreement, any amount received by the Administrative Agent or the Collateral Agent from any Loan Party (or from proceeds of any Collateral) following any acceleration of the Obligations under this Agreement or any Event of Default with respect to the Borrower under Section 7.01(h) or (i), in each case that is continuing, shall be applied: (i) first, ratably, to pay any fees, indemnities or expense reimbursements then due to the Administrative Agent or the Collateral Agent from the Borrower (other than in connection with any Secured Cash Management Agreement or Secured Swap Agreement), (ii) second, towards payment of interest and fees then due from the Borrower hereunder (which, for the avoidance of doubt, shall include payment of scheduled periodic payments in respect of any Secured Swap Agreement), ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, (iii) third, towards payment of unreimbursed L/C Disbursements then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed L/C Disbursements then due to such parties, (iv) fourth, towards payment of other Obligations (including Obligations of the Loan Parties owing under or in respect of any Secured Cash Management Agreement or Secured Swap Agreement not already paid pursuant to (ii) above) then due from the Borrower hereunder, ratably among the parties entitled thereto in accordance with the amounts of such Obligations then due to such parties and (v) last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Requirements of Law.

**SECTION 7.03**      Cure Right. Notwithstanding anything to the contrary contained in Section 7.01, in the event that the Borrower fails (or, but for the operation of this Section 7.03, would fail) to comply with the requirements of the Financial Covenant, from the last day of the applicable fiscal quarter until the expiration of the 10th Business Day subsequent to the date the certificate calculating such Financial Covenant is required to be delivered pursuant to Section 5.04(c), Holdings, the Borrower and any Parent Entity shall have the right to issue Permitted Cure Securities for cash or otherwise receive cash contributions to the capital of such entities, and in each case, to contribute any such cash to the capital of the Borrower (collectively, the "**Cure Right**"), and upon the receipt by the Borrower of such cash (the "**Cure Amount**"), pursuant to the exercise of the Cure Right, the Financial Covenant shall be recalculated giving effect to a pro forma adjustment by which EBITDA shall be increased with respect to such applicable quarter and any four-quarter period that contains such quarter, solely for the purpose of measuring the Financial Covenant and not for any other purpose under this Agreement, by an amount equal to the Cure Amount; provided that (i) in each four consecutive fiscal quarter period there shall be at least two fiscal quarters in which a Cure Right is not exercised, (ii) a Cure Right shall not be exercised more than five times during the term of the **Agreement**, (iii) for purposes of this Section 7.03, the Cure Amount shall be no greater than the amount required for purposes of complying with the Financial Covenant, (iv) there shall be no pro forma reduction in Indebtedness with the proceeds of the exercise of the Cure Right for determining compliance with the Financial Covenant for the fiscal quarter in respect of which such Cure Right is exercised (either directly through prepayment or indirectly as a result of the netting of unrestricted cash) and (v) the Cure Amount shall not build the Available Free Cash Flow

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Amount. If, after giving effect to the adjustments in this Section 7.03, the Borrower shall then be in compliance with the requirements of the Financial Covenant, the Borrower shall be deemed to have satisfied the requirements of the Financial Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of the Financial Covenant that had occurred shall be deemed cured. In the event that (i) no Default exists other than that arising due to failure of the Borrower to comply with Financial Covenant, and (ii) Holdings, the Borrower or such Parent Entity, as applicable, shall have delivered to Administrative Agent written notice of its intention to cause Borrower to exercise the Cure Right (which notice shall be delivered no earlier than 15 days prior to, and no later than the fifth day subsequent to the date the certificate calculating such Financial Covenant is required to be delivered pursuant to Section 5.04(c)), which exercise if fully consummated would be sufficient in accordance with the terms hereof to cause Borrower to be in compliance with the Financial Covenant as of the relevant date of determination, then from and following receipt by Administrative Agent of any such notice and until the date that is the earlier of (x) the 10th day subsequent to the date the certificate calculating such Financial Covenant is required to be delivered pursuant to Section 5.04(c) and (y) the date, if any, on which Holdings, the Borrower or such Parent Entity notifies the Administrative Agent in writing that such Cure Right shall not be exercised, no Default shall be deemed to exist during such period for purposes of this Agreement and neither the Administrative Agent nor any Lender shall exercise any remedies set forth in Section 7.01 hereof during such period solely as a result of the failure by the Borrower to comply with the Financial Covenant.

ARTICLE VIII  
THE AGENTS

**SECTION 8.01**      Appointment and Authority.

(a) Each of the Lenders (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Swap Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Swap Agreements) hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and 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 are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and the Borrower shall not have rights as a third party beneficiary of any of such provisions.

(b) The Administrative Agent shall also act as the “Collateral Agent” under the Loan Documents, and each of the Lenders and the Issuing Banks hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and the Issuing Banks 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 Section 8.05 for purposes of holding or enforcing any Lien on the Collateral

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(or any portion thereof) granted under the Security 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 VIII and Article IX (including Section 9.04(d), 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.

**SECTION 8.02** Rights as a Lender. The person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the person serving as the Administrative Agent hereunder in its individual capacity. Such person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

**SECTION 8.03** Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(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 or that the Administrative 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 the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(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 the person serving as the Administrative Agent or any of its Affiliates in any capacity.

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 7.01 and 9.09) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice describing such Default is given to the Administrative Agent by the Borrower, a Lender or an Issuing Bank.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection

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with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) 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.

**SECTION 8.04** Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper person. The Administrative 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, the Administrative Agent may presume that such condition is satisfactory to such Lender or an Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or an Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative 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.

SECTION 8.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative 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 Related Parties. The exculpatory provisions of this Article VIII shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

SECTION 8.06 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Banks and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Borrower (unless an Event of Default Under Section 7.01(b), (c), (h) or (i) has occurred and is continuing), to appoint a successor, which shall be a bank with an office in the United States of America, or an Affiliate of any such bank with an office in the United States of America, and the Administrative Agent further agrees that for the 30 day period immediately following its notice of resignation, it will not appoint a successor unless the Borrower shall have consented to such successor, such consent not to be unreasonably withheld or delayed. If no such successor shall have been so

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appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent 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 (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except in its capacity as Collateral Agent holding collateral security on behalf of any Secured Parties, it shall continue to hold such collateral security as nominee until such time as a successor Collateral Agent is appointed) and (2) 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 and the Issuing Banks directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 8.06. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent 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 8.06). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article VIII and Section 9.05 shall continue in effect for the benefit of such retiring Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

(b) Any resignation by CS as Administrative Agent pursuant to this Section 8.06 shall also constitute its resignation as Issuing Bank. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank, (b) the retiring Issuing Bank shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) 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.

SECTION 8.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the Issuing Banks acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder

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SECTION 8.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Agents or Joint Lead Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, the Collateral Agent, a Lender or an Issuing Bank hereunder.

SECTION 8.09 Administrative Agent May File Proofs of Claim. 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 L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letters of Credit and all other Loan 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 2.12 and 9.05) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Banks 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 Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.12 and 9.05.

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 the Issuing Banks any plan of reorganization, arrangement, adjustment or composition affecting the Loan Obligations or the rights of any Lender or the Issuing Banks to authorize the Administrative Agent to vote in respect of the claim of any Lender or the Issuing Banks in any such proceeding.

SECTION 8.10      Collateral Agreement.

(a)      The Lenders and the Issuing Banks irrevocably authorize the Collateral Agent, at its option and in its discretion, to

(i)      release any Lien on any property granted to or held by the Collateral Agent under any Loan Document (A) upon termination of the Commitments and payment in full of all Loan Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit (other than Letters

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of Credit as to which other arrangements reasonably satisfactory to the Collateral Agent and the Issuing Banks shall have been made), (B) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (C) subject to Section 9.09, if approved, authorized or ratified in writing by the Required Lenders; and

(ii)      to subordinate any Lien on any property granted to or held by the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02, on terms reasonably acceptable to the Administrative Agent.

(b)      The Lenders and the Issuing Banks irrevocably authorize the Administrative Agent, at its option and in its discretion, to release any guarantor from its obligations under the Collateral Agreement if such person ceases to be a Subsidiary Loan Party as a result of a transaction permitted hereunder.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's or Collateral Agent's, as applicable, authority to release or subordinate its interest in particular types or items of property, or to release any guarantor from its obligations under the Collateral Agreement.

ARTICLE IX  
MISCELLANEOUS

SECTION 9.01      Notices; Communications.

(a)      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 telecopier or other electronic means (e.g., "e-mail" and/or "pdf") 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 any Loan Party, the Administrative Agent, the Collateral Agent or the Issuing Banks as of the Closing Date to the address, telecopier number, electronic mail address or telephone number specified for such person on Schedule 9.01; and

(ii)      if to any other Lender or Issuing Bank, to the address, telecopier number, electronic mail address or telephone number set forth separately in writing and delivered to the Borrower and the Administrative Agent.

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 telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient).  
Notices and

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other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b)      Notices and other communications to the Lenders and each Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent. 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.

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.

(c)      Each of the Borrower, the Administrative Agent and each Issuing Bank may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopy

number, electronic mail address or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and each Issuing Bank. 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 and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, 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 the Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to Holdings, the Borrower, their Subsidiaries or their respective securities for purposes of United States federal or state securities laws.

(d) The Administrative Agent, each Issuing Bank and the Lenders shall be entitled to rely and act upon any notices (including telephonic Borrowing Requests) 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

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Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

SECTION 9.02 Survival of Agreement. All covenants, agreements, representations and warranties made by the Borrower and the other Loan Parties herein, in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and each Issuing Bank and shall survive the making by the Lenders of the Loans, the execution and delivery of the Loan Documents and the issuance of the Letters of Credit, regardless of any investigation made by such persons or on their behalf, and shall continue in full force and effect until the Termination Date. Without prejudice to the survival of any other agreements contained herein, indemnification and reimbursement obligations contained herein (including pursuant to Sections 2.15, 2.16, 2.17 and 9.05) shall survive the Termination Date.

SECTION 9.03 Binding Effect. This Agreement shall become effective when it shall have been executed by Holdings, the Borrower and the Administrative Agent and when the Administrative Agent shall have received copies hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of Holdings, the Borrower, each Issuing Bank, the Administrative Agent and each Lender and their respective permitted successors and assigns.

SECTION 9.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 9.04 (and any 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 (including any Affiliate of an Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in clause (c) of this Section 9.04), and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement or the other Loan Documents.

(b) (i) Subject to the conditions set forth in subclause (ii) below, any Lender may assign to one or more assignees (each, an "Assignee") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans (including for purposes of this Section 9.04(b), participations in Letter of Credit obligations) at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

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(1) the Borrower, which consent, with respect to the assignment of a Term B Loan, will be deemed to have been given if the Borrower has not responded within 10 Business Days after the delivery of any request for such consent; provided that no consent of the Borrower shall be required for an assignment of a Term B Loan to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below), or in the case of assignments during the primary syndication of the Commitments and Loans to persons identified to and agreed by the Borrower in writing prior to the Closing Date, or for an assignment of a Revolving Facility Commitment or Revolving Facility Loan to a Revolving Facility Lender, an Affiliate of a Revolving Facility Lender or Approved Fund with respect to a Revolving Facility Lender, or, in each case, if an Event of Default under Section 7.01(b), (c), (h) or (i) has occurred and is continuing, any other person; and

(2) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender, an Approved Fund, the Borrower or an Affiliate of the Borrower made in accordance with Section 9.04(i) or Section 9.24; and

(3) the Issuing Banks; provided that no consent of the Issuing Banks shall be required for an assignment of all or any portion of a Term Loan.

(ii) Assignments shall be subject to the following additional conditions:

(1) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans under any Facility, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and

Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than (x) \$1,000,000 or an integral multiple of \$1,000,000 in excess thereof in the case of Term Loans and (y) \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof in the case of Revolving Facility Loans or Revolving Facility Commitments, unless each of the Borrower and the Administrative Agent otherwise consent; *provided* that such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds (with simultaneous assignments to or by two or more Related Funds shall be treated as one assignment), if any;

(2) the parties to each assignment shall (1) execute and deliver to the Administrative Agent an Assignment and Acceptance via an electronic settlement system acceptable to the Administrative Agent or

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(2) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the reasonable discretion of the Administrative Agent);

(3) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any tax forms required to be delivered pursuant to Section 2.17; and

(4) the Assignee shall not be the Borrower or any of the Borrower's Affiliates or Subsidiaries except in accordance with Section 9.04(i) or Section 9.24.

For the purposes of this Section 9.04, "**Approved Fund**" shall mean any person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender. Notwithstanding the foregoing or anything to the contrary herein, no Lender shall be permitted to assign or transfer any portion of its rights and obligations under this Agreement to (A) any Ineligible Institution, (B) 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 (B), or (C) a natural person. Notwithstanding the foregoing, each Loan Party and the Lenders acknowledge and agree that the Administrative Agent shall not have any responsibility or obligation to determine whether any Lender or potential Lender is an Ineligible Institution and the Administrative Agent shall have no liability with respect to any assignment made to an Ineligible Institution. Any assigning Lender shall, in connection with any potential assignment, provide to the Borrower a copy of its request (including the name of the prospective assignee) concurrently with its delivery of the same request to the Administrative Agent irrespective of whether or not an Event of Default under Section 7.01(b), (c), (h) or (i) has occurred and is continuing.

(iii) Subject to acceptance and recording thereof pursuant to subclause (v) below, from and after the effective date specified in each Assignment and Acceptance the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.05 (subject to the limitations and requirements of those Sections)). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (d) of this Section 9.04 (except to the extent such participation is not permitted by

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such clause (d) of this Section 9.04, in which case such assignment or transfer shall be null and void).

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal and interest amounts of the Loans and Revolving L/C Exposure owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Issuing Banks 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. In addition, the Administrative Agent shall maintain on the Register, information regarding the designation, and revocation of the designation, of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrower, the Issuing Banks and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an Assignee, the processing and recordation fee referred to in clause (b) of this Section 9.04, if applicable, and any written consent to such assignment required by clause (b) of this Section 9.04 and any applicable tax forms, the Administrative Agent shall accept such Assignment and Acceptance and promptly record the information contained therein in the Register. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this subclause (v).

(c) [Reserved].

(d) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations in Loans and Commitments to one or more banks or other entities other than (I) any Ineligible Institution (to the extent that the list of Ineligible Institutions has been made available to all Lenders; *provided* that regardless of whether the list of Ineligible Institutions has been made available to all Lenders, no Lender may sell participations in Loans or Commitments to an Ineligible Institution without the consent of the Borrower if the list of Ineligible Institutions has been made available to such Lender) or (II) 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 (II) (a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement

(including all or a portion of its Commitments and the Loans owing to it); *provided* that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement 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 and the other Loan Documents; *provided* that (x) such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that both (1) requires the consent of each Lender directly affected thereby pursuant to *clauses (i), (ii), (iii) or (vi)* of the first proviso to *Section 9.09(b)* and (2) directly affects such Participant (but, for the avoidance of doubt, not any waiver of any Default or Event of Default) and (y) no other agreement with respect to amendment, modification or waiver may exist between such Lender and such Participant. Subject to *clause (d)(iii)* of this *Section 9.04*, the Borrower agrees that each Participant shall be entitled to the benefits of *Sections 2.15, 2.16 and 2.17* (subject to the limitations and requirements of those Sections and *Section 2.19*) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to *clause (b)* of this *Section 9.04*. To the extent permitted by law, each Participant also shall be entitled to the benefits of *Section 9.06* as though it were a Lender; *provided* that such Participant shall be subject to *Section 2.18(c)* as though it were a Lender. Notwithstanding the foregoing, each Loan Party and the Lenders acknowledge and agree that the Administrative Agent shall not have any responsibility or obligation to determine whether any Participant or potential Participant is an Ineligible Institution and the Administrative Agent shall have no liability with respect to any participation made to an Ineligible Institution.

(ii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts and interest amounts of each Participant's interest in the Loans or other obligations under the Loan Documents (the "*Participant Register*"). The entries in the Participant Register shall be conclusive absent manifest error, and each party hereto shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. Without limitation of the requirements of this *Section 9.04(d)*, no Lender shall have any obligation to disclose all or any portion of a Participant Register to any person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or other Loan Obligations under any Loan Document), except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other Loan Obligation is in registered form for U.S. federal income tax purposes or is otherwise required by applicable law. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(iii) A Participant shall not be entitled to receive any greater payment under *Sections 2.15, 2.16 or 2.17* than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

(e) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank and in the case of any Lender that is an Approved Fund, any pledge or assignment to any holders of obligations owed, or securities issued, by such Lender, including to any trustee for, or any other representative of,

such holders, and this *Section 9.04* shall not apply to any such pledge or assignment of a security interest; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(f) The Borrower, at its expense and upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in clause (e) above.

(g) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent. Each of Holdings, the Borrower, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; *provided, however*, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto and each Loan Party for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(h) If the Borrower wishes to replace the Loans or Commitments under any Facility with ones having different terms, it shall have the option, with the consent of the Administrative Agent and subject to at least three Business Days' advance notice to the Lenders under such Facility, instead of prepaying the Loans or reducing or terminating the Commitments to be replaced, to (i) require the Lenders under such Facility to assign such Loans or Commitments to the Administrative Agent or its designees and (ii) amend the terms thereof in accordance with *Section 9.09* (with such replacement, if applicable, being deemed to have been made pursuant to *Section 9.09(d)*). Pursuant to any such assignment, all Loans and Commitments to be replaced shall be purchased at par (allocated among the Lenders under such Facility in the same manner as would be required if such Loans were being optionally prepaid or such Commitments were being optionally reduced or terminated by the Borrower), accompanied by payment of any accrued interest and fees thereon and any amounts owing pursuant to *Section 9.05(b)*. By receiving such purchase price, the Lenders under such Facility shall automatically be deemed to have assigned the Loans or Commitments under such Facility pursuant to the terms of the form of Assignment and Acceptance attached hereto as *Exhibit A*, and accordingly no other action by such Lenders shall be required in connection therewith. The provisions of this *clause (h)* are intended to facilitate the maintenance of the perfection and priority of existing security interests in the Collateral during any such replacement.

(i) Notwithstanding anything to the contrary in this Agreement, including *Section 2.18(c)* (which provisions shall not be applicable to *clauses (i) or (j)* of this *Section 9.04*), any of Holdings or its Subsidiaries, including the Borrower, may purchase by way of assignment and become an Assignee with respect to Term Loans at any time and from time to time from Lenders in accordance with *Section 9.04(b)* hereof (each, a "*Permitted Loan*").

consummation of any such Permitted Loan Purchase, the Loans purchased pursuant thereto shall be deemed to be automatically and immediately cancelled and extinguished in accordance with Section 9.04(j), (C) in connection with any such Permitted Loan Purchase, any of Holdings or its Subsidiaries, including the Borrower and such Lender that is the assignor (an “**Assignor**”) shall execute and deliver to the Administrative Agent a Permitted Loan Purchase Assignment and Acceptance (and for the avoidance of doubt, (x) shall make the representations and warranties set forth in the Permitted Loan Purchase Assignment and Acceptance and (y) shall not be required to execute and deliver an Assignment and Acceptance pursuant to Section 9.04(b)(ii)(2)) and shall otherwise comply with the conditions to Assignment and Acceptances under this Section 9.04 and (D) no Default or Event of Default would exist immediately after giving effect on a Pro Forma Basis to such Permitted Loan Purchase.

(j) Each Permitted Loan Purchase shall, for purposes of this Agreement be deemed to be an automatic and immediate cancellation and extinguishment of such Term Loans and the Borrower shall, upon consummation of any Permitted Loan Purchase, notify the Administrative Agent that the Register be updated to record such event as if it were a prepayment of such Loans.

(k) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank or any other Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Applicable Percentage; provided that notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this clause, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

SECTION 9.05 Expenses; Indemnity.

(a) The Borrower agrees to pay (i) all reasonable and documented out-of-pocket expenses (including Other Taxes) incurred by the Administrative Agent or the Collateral Agent in connection with the preparation of this Agreement and the other Loan Documents, or by the Administrative Agent or the Collateral Agent in connection with the administration of this Agreement and any amendments, modifications or waivers of the provisions hereof or thereof, including the reasonable fees, charges and disbursements of Latham & Watkins LLP, counsel for the Administrative Agent, the Collateral Agent and the Joint Lead Arrangers, and, if necessary, the reasonable fees, charges and disbursements of one local counsel per jurisdiction, and (ii) all reasonable and documented out-of-pocket expenses (including Other Taxes) incurred by the

Agents, any Issuing Bank or any Lender in connection with the enforcement of their rights in connection with this Agreement and the other Loan Documents, in connection with the Loans made or the Letters of Credit issued hereunder, including the fees, charges and disbursements of a single counsel for all such persons, taken as a whole, and, if necessary, a single local counsel in each appropriate jurisdiction for all such persons, taken as a whole (and, in the case of an actual or perceived conflict of interest where such person affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel with the Borrower’s prior written consent (not to be unreasonably withheld), of another firm of such for such affected person).

(b) The Borrower agrees to indemnify the Administrative Agent, the Collateral Agent, the Joint Lead Arrangers, each Issuing Bank, each Lender, each of their respective Affiliates, successors and assignors, and each of their respective directors, officers, employees, agents, trustees, advisors and members (each such person being called an “**Indemnitee**”) against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel fees, charges and disbursements (excluding the allocated costs of in house counsel and limited to not more than one counsel for all such Indemnitees, taken as a whole, and, if necessary, a single local counsel in each appropriate jurisdiction for all such Indemnitees, taken as a whole (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel with the Borrower’s prior written consent (not to be unreasonably withheld), of another firm of counsel for such affected Indemnitee)), incurred by or asserted against any Indemnitee arising out of or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto and thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated hereby, (ii) the use of the proceeds of the Loans or the use of any Letter of Credit (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any violation of Environmental Laws by, or liability under Environmental Laws of, the Borrower or any Subsidiary, (iv) any actual or alleged presence, Release or threatened Release of or exposure to Hazardous Materials at, under, on, from or to any property currently or formerly owned, leased or operated by the Borrower or any Subsidiary or (v) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by Holdings, the Borrower or any of their subsidiaries or Affiliates; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or any of its Related Parties, (y) arose from a material breach of such Indemnitee’s or any of its Related Parties’ obligations under any Loan Document (as determined by a court of competent jurisdiction in a final, non-appealable judgment) or (z) arose from any claim, actions, suits, inquiries, litigation, investigation or proceeding that does not involve an act or omission of the Borrower or any of its Affiliates and is brought by an Indemnitee against another Indemnitee (other than any claim, actions, suits, inquiries, litigation, investigation or proceeding against any Agent or a Joint Lead Arranger in its capacity as such). None of the Indemnitees (or any of their respective Affiliates)



shall be responsible or liable to the Investors, Holdings, the Borrower or any of their respective subsidiaries, Affiliates or stockholders or any other person or entity for any special, indirect, consequential or punitive damages, which may be alleged as a result of the Facilities or the Transactions. The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment, satisfaction and discharge of any of the Obligations, the resignation of any Agent or any Issuing Bank, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, any Issuing Bank or any Lender. All amounts due under this Section 9.05 shall be payable within 15 days after written demand therefor accompanied by reasonable documentation with respect to any reimbursement, indemnification or other amount requested.

(c) Except as expressly provided in Section 9.05(a) with respect to Other Taxes, which shall not be duplicative with any amounts paid pursuant to Section 2.17, this Section 9.05 shall not apply to any Taxes (other than Taxes that represent losses, claims, damages, liabilities and related expenses resulting from a non-Tax claim), which shall be governed exclusively by Section 2.17 and, to the extent set forth therein, Section 2.15.

(d) To the fullest extent permitted by applicable law, Holdings and the Borrower shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) To the extent that the Borrower for any reason fails to pay any amount required under subsection (a) or (b) of this Section to be paid by it to any Agent (or any sub agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the applicable Agent (or any such sub agent), the applicable Issuing Bank or such related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, *provided* that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the applicable Agent (or any such sub agent) or the applicable Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Applicable Agent (or any such sub agent) or applicable Issuing Bank in connection with such capacity. The obligations of the Lenders under this subsection (e) are subject to the provisions of Section 2.18(f).

SECTION 9.06 Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or

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special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing by such Lender or such Issuing Bank to or for the credit or the account of Holdings, the Borrower or any other Subsidiary against any of and all the obligations of Holdings or the Borrower now or hereafter existing under this Agreement or any other Loan Document held by such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or such other Loan Document and although the obligations may be unmaturing; *provided* that, in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.23 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and each Issuing Bank under this Section 9.06 are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank may have.

SECTION 9.07 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any Issuing Bank or any Lender, or the Administrative Agent, any Issuing Bank or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and Issuing Bank severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, *plus* interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the Issuing Banks under clause (b) of the preceding sentence shall survive the payment in full of the Loan Obligations and the termination of this Agreement

SECTION 9.08 Applicable Law. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY PRINCIPLE OF CONFLICTS OF LAW THAT COULD REQUIRE THE APPLICATION OF ANY OTHER LAW.

SECTION 9.09 Waivers; Amendment.

(a) No failure or delay of the Administrative Agent, the Collateral Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any Loan

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Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Agent, each Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by Holdings, the Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by clause (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on Holdings, the Borrower or any other Loan Party in any case shall entitle such person to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (x) as provided in Section 2.20, (y) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by Holdings, the Borrower and the Required Lenders (or, (A) with respect to the provisions of Section 4.01 after the Closing Date, solely as they relate to the Revolving Facility Loans and Letters of Credit, the Required Revolving Facility Lenders voting as a single Class, rather than the Required Lenders, or (B) in respect of any waiver, amendment or modification of Section 2.11(b) or (c), the Required Prepayment Lenders, rather than the Required Lenders), and (z) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by each Loan Party party thereto and the Administrative Agent and consented to by the Required Lenders; provided, however, that no such agreement shall:

(i) decrease or forgive the principal amount of, or extend the final maturity of, or decrease the rate of interest on, any Loan or any L/C Disbursement, or extend the stated expiration of any Letter of Credit beyond the applicable Revolving Facility Maturity Date (except as provided in Section 2.05(i)), without the prior written consent of each Lender directly adversely affected thereby; provided that any amendment to the financial definitions in this Agreement shall not constitute a reduction in the rate of interest for purposes of this clause (i),

(ii) increase or extend the Commitment of any Lender, or decrease the Commitment Fees, L/C Participation Fees or any other Fees of any Lender without the prior written consent of such Lender (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default, mandatory prepayments or of a mandatory reduction in the aggregate Commitments shall not constitute an increase or extension of the Commitments of any Lender for purposes of this clause (ii),

(iii) extend or waive any Term Loan Installment Date or reduce the amount due on any Term Loan Installment Date or extend any date on which payment of interest on any Loan or any L/C Disbursement or any Fees is due, without the prior written consent of each Lender directly adversely affected thereby,

(iv) amend or modify the provisions of Section 7.02 or Section 2.18(c) with respect to the pro rata application or sharing of payments required thereby in a

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manner that by its terms modifies the application or sharing of such payments required thereby to be on a less than pro rata basis, without the prior written consent of each Lender adversely affected thereby,

(v) amend or modify the provisions of this Section 9.09 or the definition of the terms "Required Lenders," "Majority Lenders," "Required Prepayment Lenders," "Required Revolving Facility Lenders," or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the prior written consent of each Lender adversely affected thereby, in each case except, for the avoidance of doubt, as otherwise provided in Sections 9.09(d) and (e) (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Loans and Commitments are included on the Closing Date),

(vi) release all or substantially all of the Collateral or all or substantially all of the Subsidiary Loan Parties from their respective Guarantees under the Subsidiary Guarantee Agreement, unless, in the case of a Subsidiary Loan Party, all or substantially all the Equity Interests of such Subsidiary Loan Party is sold or otherwise disposed of in a transaction permitted by this Agreement, without the prior written consent of each Lender other than a Defaulting Lender,

(vii) effect any waiver, amendment or modification that by its terms adversely affects the rights in respect of payments or collateral of Lenders participating in any Facility differently from those of Lenders participating in another Facility, without the consent of the Majority Lenders participating in the adversely affected Facility except, for the avoidance of doubt, as otherwise provided in Sections 9.09(d) and (e) (it being agreed that the Required Lenders may waive, in whole or in part, any prepayment or Commitment reduction required by Section 2.11 so long as the application of any prepayment or Commitment reduction still required to be made is not changed),

(viii) effect any waiver, amendment or modification of Section 5.02 of the Guarantee and Collateral Agreement or any comparable provision of any other Security Document, in a manner that materially adversely affects the rights in respect of payments or collateral of Lenders, without the consent of each Lender so affected,

(ix) effect any waiver, amendment or modification that imposes any additional restrictions on an Lender's ability to assign its Loans, Commitments or other rights and obligations under this Agreement without the prior written consent of each Lender adversely effected thereby,

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Collateral Agent or an Issuing Bank hereunder without the prior written consent of the Administrative Agent, the Collateral Agent or such Issuing Bank acting as such at the effective date of such agreement, as applicable. Each Lender shall be bound

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by any waiver, amendment or modification authorized by this Section 9.09 and any consent by any Lender pursuant to this Section 9.09 shall bind any Assignee of such Lender.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have the right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be affected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(c) Without the consent of any Lender or Issuing Bank, the Loan Parties, the Administrative Agent and the Collateral Agent may (in their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment, modification or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, to include holders of Other First Liens in the benefit of the Security Documents in connection with the incurrence of any Other First Lien Debt, or as required by local law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document.

(d) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent, Holdings and the Borrower (a) to permit additional extensions of credit to be outstanding hereunder from time to time and the accrued interest and fees and other obligations in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Facility Loans and the accrued interest and fees and other obligations in respect thereof and (b) to include appropriately the holders of such extensions of credit in any determination of the requisite lenders required hereunder, including Required Lenders, Required Prepayment Lenders and the Required Revolving Facility Lenders.

(e) Notwithstanding the foregoing, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrower and the Administrative Agent (but without the consent of any Lender) to the extent necessary (A) to integrate any Incremental Term Loan Commitments or Incremental Revolving Facility Commitments in a manner consistent with Section 2.20, including, with respect to Other Revolving Facility Loans or Other Term Loans, as may be necessary to establish such Incremental Term Loan Commitments or Revolving Facility Loans as a separate Class or tranche from the existing Term Loan Commitments or Incremental Revolving Facility Commitments, as applicable, and, in the case of Extended Term Loans, to reduce the scheduled amortization of the related existing Class of Term Loans proportionately, (B) to integrate any Other First Lien Debt or (C) to cure any ambiguity, omission, defect or inconsistency.

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(f) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be necessary to ensure that all Term Loans established pursuant to Section 2.20 after the Closing Date that will be included in an existing Class of Term Loans outstanding on such date (an "**Applicable Date**"), when originally made, are included in each Borrowing of outstanding Term Loans of such Class (the "**Existing Class Loans**"), on a pro rata basis, and/or to ensure that, immediately after giving effect to such new Term Loans (the "**New Class Loans**" and, together with the Existing Class Loans, the "**Class Loans**"), each Lender holding Class Loans will be deemed to hold its Pro Rata Share of each Class Loan on the Applicable Date (but without changing the amount of any such Lender's Term Loans), and each such Lender shall be deemed to have effectuated such assignments as shall be required to ensure the foregoing. The "**Pro Rata Share**" of any Lender on the Applicable Date is the ratio of (1) the sum of such Lender's Existing Class Loans immediately prior to the Applicable Date plus the amount of New Class Loans made by such Lender on the Applicable Date over (2) the aggregate principal amount of all Class Loans on the Applicable Date.

(g) With respect to the incurrence of any secured or unsecured Indebtedness (including any intercreditor agreement relating thereto), the Borrower may elect (in its discretion, but shall not be obligated) to deliver to the Administrative Agent a certificate of a Responsible Officer at least three Business Days prior to the incurrence thereof (or such shorter time as the Administrative Agent may agree in its reasonable discretion), together with either drafts of the material documentation relating to such Indebtedness or a description of such Indebtedness (including a description of the Liens intended to secure the same or the subordination provisions thereof, as applicable) in reasonably sufficient detail to be able to make the determinations referred to in this clause, which certificate shall either, at the Borrower's election, (x) state that the Borrower has determined in good faith that such Indebtedness satisfies the requirements of the applicable provisions of Sections 6.01 and 6.02 (taking into account any other applicable provisions of this Section 9.09), in which case such certificate shall be conclusive evidence thereof, or (y) request the Administrative Agent to confirm, based on the information set forth in such certificate and any other information reasonably requested by the Administrative Agent, that such Indebtedness satisfies such requirements, in which case the Administrative Agent may determine whether, in its reasonable judgment, such requirements have been satisfied (in which case it shall deliver to the Borrower a written confirmation of the same), with any such determination of the Administrative Agent to be conclusive evidence thereof, and the Lenders hereby authorize the Administrative Agent to make such determinations.

(h) Notwithstanding the foregoing, this Agreement may be amended, waived or otherwise modified with the written consent of the Required Revolving Facility Lenders, the Administrative Agent, Holdings and the Borrower with respect to the provisions of Section 4.01, solely as they relate to the Revolving Facility Loans and Letters of Credit.

(i) Notwithstanding the foregoing, this Agreement may be amended, with the written consent of each Revolving Facility Lender, the Administrative Agent, Holdings and the Borrower to the extent necessary to integrate any Alternate Currency.

**SECTION 9.10** Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the applicable interest rate, together with all fees and charges that are treated as interest under applicable law (collectively, the "**Charges**"), as provided for herein or in

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any other document executed in connection herewith, or otherwise contracted for, charged, received, taken or reserved by any Lender or any Issuing Bank, shall exceed the maximum lawful rate (the "**Maximum Rate**") that may be contracted for, charged, taken, received or reserved by such Lender in accordance with applicable law, the rate of interest payable hereunder, together with all Charges payable to such Lender or such Issuing Bank, shall be limited to the

Maximum Rate; provided that such excess amount shall be paid to such Lender or such Issuing Bank on subsequent payment dates to the extent not exceeding the legal limitation.

SECTION 9.11      [Reserved].

SECTION 9.12      Entire Agreement. This Agreement, the other Loan Documents and the agreements regarding certain Fees referred to herein constitute the entire contract between the parties relative to the subject matter hereof. Any previous agreement among or representations from the parties or their Affiliates with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Notwithstanding the foregoing, the Fee Letter shall survive the execution and delivery of this Agreement and remain in full force and effect. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any party other than the parties hereto and thereto any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

SECTION 9.13      WAIVER OF JURY TRIAL. EACH PARTY HERETO 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). EACH PARTY HERETO (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 9.13.

SECTION 9.14      Severability. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions. Without limiting the foregoing provisions of this Section 9.14, 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 and any Issuing Bank, then such provisions shall be deemed to be in effect only to the extent not so limited.

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SECTION 9.15      Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract, and shall become effective as provided in Section 9.03. Delivery of an executed counterpart to this Agreement by facsimile (or other electronic) transmission pursuant to procedures approved by the Administrative Agent shall be as effective as delivery of a manually signed original.

SECTION 9.16      Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 9.17      Jurisdiction; Consent to Service of Process.

(a) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Lender or any Issuing Bank may otherwise have to bring any action or proceeding relating to this Agreement or the other Loan Documents against Holdings, the Borrower or any other Loan Party or their properties in the courts of any jurisdiction.

(b) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any New York State or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each of the parties hereto hereby irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement or any other Loan Document to serve process in any other manner permitted by law.

SECTION 9.18      Confidentiality. Each of the Lenders, each Issuing Bank and each of the Agents agrees that it shall maintain in confidence any information relating to any Parent Entity, Holdings, the Borrower and any Subsidiary furnished to it by or on behalf of any Parent Entity, Holdings, the Borrower or any Subsidiary (other than information that (a) has become generally available to the public other than as a result of a disclosure by such party, (b) has been independently developed by such Lender, such Issuing Bank or such Agent without violating this Section 9.18 or (c) was available to such Lender, such Issuing Bank or such Agent on a nonconfidential basis from a third party having, to such person's knowledge, no obligations of

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confidentiality to any Parent Entity, Holdings, the Borrower or any Subsidiary) and shall not reveal the same other than to its directors, trustees, officers, employees and advisors with a need to know or to any person that approves or administers the Loans on behalf of such Lender (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 9.18), except: (a) to the extent necessary to comply with law or any legal process or the requirements of any Governmental Authority (provided that the Lenders, each Issuing Bank, or the Agents will, to the extent practical, provide reasonable notice to any Parent Entity, Holdings, the Borrower or any Subsidiary to allow them an opportunity to request a protective order or other

measure ensuring confidential treatment of the information), the National Association of Insurance Commissioners or of any securities exchange on which securities of the disclosing party or any Affiliate of the disclosing party are listed or traded, (b) as part of normal reporting or review procedures to Governmental Authorities or the National Association of Insurance Commissioners, (c) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 9.18), (d) in order to enforce its rights under any Loan Document in a legal proceeding, and (e) subject to a written agreement containing provisions substantially similar to this Section 9.18, (1) to any prospective assignee of, or prospective Participant in, any of its rights under this Agreement, or (2) to any direct or indirect contractual counterparty in Swap Agreements or such contractual counterparty's professional advisor (so long as such professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section), (g) 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, or (h) subject to an agreement containing provisions substantially the same as those of this Section.

SECTION 9.19 Direct Website Communications.

(a) Delivery. Each Loan Party hereby agrees that it will provide to the Administrative Agent all information, documents and other materials that it is obligated to furnish to the Administrative Agent pursuant to this Agreement and any other Loan Document, including all notices, requests, financial statements, financial and other reports, certificates and other information materials, but excluding any such communication that (a) relates to a request for a new, or a conversion of an existing, Borrowing or other extension of credit (including any election of an interest rate or interest period relating thereto), (b) relates to the payment of any principal or other amount due under this Agreement prior to the scheduled date therefor, (c) provides notice of any Default or Event of Default under this Agreement or (d) is required to be delivered to satisfy any condition precedent to the effectiveness of this Agreement and/or any Borrowing or other extension of credit hereunder (all such non-excluded communications collectively, the "**Communications**"), by transmitting the Communications in an electronic/soft medium in a format acceptable to the Administrative Agent. In addition, each Loan Party agrees to continue to provide the Communications to the Administrative Agent in the manner specified in this Agreement or any other Loan Document but only to the extent requested by the Administrative Agent. Nothing in this Section 9.19 shall prejudice the right of the Agents, the Joint Lead Arrangers or any Lender or any Loan Party to give any notice or other communication pursuant to this Agreement or any other Loan Document in any other manner specified in this Agreement or any other Loan Document.

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(i) The Administrative Agent agrees that receipt of the Communications by the Administrative Agent at its e-mail address set forth in Section 9.01 shall constitute effective delivery of the Communications to the Administrative Agent for purposes of the Loan Documents. Each Lender agrees that notice to it (as provided in the next sentence) specifying that the Communications have been posted to the Platform (as defined below) shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (a) to notify the Administrative Agent in writing (including by electronic communication) from time to time of such Lender's e-mail address to which the foregoing notice may be sent by electronic transmission and (b) that the foregoing notice may be sent to such e-mail address.

(b) Posting. The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Joint Lead Arrangers will make the Communications available to the Lenders and each Issuing Bank by posting the Communications on IntraLinks or another similar electronic system (the "**Platform**") and (b) certain of the Lenders (each, a "**Public Lender**") may have personnel who do not wish to receive material non-public information with respect to Holdings, the Borrower or their Subsidiaries or Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such person's securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Communications that may be distributed to the Public Lenders and that (w) all such Communications shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Communications "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, each Joint Lead Arranger, each Issuing Bank and the Lenders to treat such Communications as solely containing information that is either (A) publicly available information or (B) not material (although it may be sensitive and proprietary) with respect to Holdings, the Borrower or its Subsidiaries or any of their respective securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Communications constitute Information, they shall be treated as set forth in Section 9.18); (y) all Communications marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and each Joint Lead Arranger shall be entitled to treat any Communications that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

(c) 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 COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE COMMUNICATIONS. 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 COMMUNICATIONS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any liability to the Borrower,

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any 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 Communications 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 nonappealable 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 the Borrower, any Lender, any Issuing Bank or any other person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

SECTION 9.20 Release of Liens and Guarantees.

(a) The Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably agree that the Liens granted to the Collateral Agent by the Loan Parties on any Collateral shall be automatically released: (i) in full upon the occurrence of the Termination Date as set forth in Section 9.20(d) below; (ii) upon the Disposition of such Collateral by any Loan Party to a person that is not (and is not required to become) a Loan Party in a transaction not prohibited by this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party

upon its reasonable request without further inquiry), (iii) to the extent that such Collateral comprises property leased to a Loan Party, upon termination or expiration of such lease (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 9.09), (v) to the extent that the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guarantee in accordance with the Holdings Guarantee and Pledge Agreement, the Subsidiary Guarantee Agreement or clause (b) below (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (vi) as provided in Section 8.10 (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), and (vii) as required by the Collateral Agent to effect any Disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents. Any such release (other than pursuant to clause (i) above) shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any Disposition, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents.

(b) In addition, the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably agree that the Guarantors shall be automatically released from the Guarantees upon consummation of any transaction not prohibited hereunder resulting in such Subsidiary ceasing to constitute a Subsidiary Loan Party or otherwise becoming an Excluded Subsidiary (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry).

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(c) The Lenders, the Issuing Banks and the other Secured Parties hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this Section 9.20, and to return to Holdings or the Borrower all possessory collateral (including share certificates (if any)) held by it in respect of any Collateral so released, all without the further consent or joinder of any Lender or any other Secured Party. Any representation, warranty or covenant contained in any Loan Document relating to any such Collateral or Guarantor shall no longer be deemed to be made. In connection with any release hereunder, the Administrative Agent and the Collateral Agent shall promptly (and the Secured Parties hereby authorize the Administrative Agent and the Collateral Agent to) take such action and execute any such documents as may be reasonably requested by the Borrower and at the Borrower's expense in connection with the release of any Liens created by any Loan Document in respect of such Subsidiary, property or asset; provided that the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower containing such certifications as the Administrative Agent shall reasonably request.

(d) Notwithstanding anything to the contrary contained herein or any other Loan Document, on the Termination Date, all Liens granted to the Collateral Agent by the Loan Parties on any Collateral and all obligations of the Borrower and the other Loan Parties under any Loan Documents (other than such obligations that expressly survive the Termination Date pursuant to the terms hereof) shall, in each case, be automatically released and, upon request of the Borrower, the Administrative Agent and/or the Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to evidence the release its security interest in all Collateral (including returning to Holdings or the Borrower all possessory collateral (including all share certificates (if any)) held by it in respect of any Collateral), and to evidence the release or all obligations under any Loan Document (other than such obligations that expressly survive the Termination Date pursuant to the terms hereof), whether or not on the date of such release there may be any (i) obligations in respect of any Secured Swap Agreements or any Secured Cash Management Agreements and (ii) any contingent indemnification obligations or expense reimburse claims not then due; provided that the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower containing such certifications as the Administrative Agent shall reasonably request. Any such release of obligations shall be deemed subject to the provision that such obligations shall be reinstated if after such release any portion of any payment in respect of the obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made. The Borrower agrees to pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent or the Collateral Agent (and their respective representatives) in connection with taking such actions to release security interest in all Collateral and all obligations under the Loan Documents as contemplated by this Section 9.20(d). A copy of any request, document, instrument or certificate delivered to the Collateral Agent pursuant to this Section 9.20 shall be simultaneously delivered to the Administrative Agent.

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(e) Obligations of the Borrower or any of its Subsidiaries under any Secured Cash Management Agreement or Secured Swap Agreement (after giving effect to all netting arrangements relating to such Secured Swap Agreements) shall be secured and guaranteed pursuant to the Security Documents only to the extent that, and for so long as, the other Obligations are so secured and guaranteed. No person shall have any voting rights under any Loan Document solely as a result of the existence of obligations owed to it under any such Secured Swap Agreement or Secured Cash Management Agreement. For the avoidance of doubt, no release of Collateral or Guarantors effected in the manner permitted by this Agreement shall require the consent of any holder of obligations under Secured Swap Agreements or any Secured Cash Management Agreements.

SECTION 9.21 Intercreditor Agreement Authorization. The Lenders and each other Secured Party hereunder irrevocably authorize and instruct the Collateral Agent to, without any further consent of any Lender or any other Secured Party, enter into (or acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify any Pari First Lien Intercreditor Agreement, any First Lien/Second Lien Intercreditor Agreement, any other Permitted Junior Intercreditor Agreement, any other Permitted Pari Passu Intercreditor Agreement or any other intercreditor agreement with the collateral agent or other representatives of the holders of Indebtedness that is to be secured by a Lien on the Collateral that is not prohibited (including with respect to priority) under this Agreement and to subject the Liens on the Collateral securing the Obligations to the provisions thereof (any of the foregoing, an "Intercreditor Agreement"). The Lenders and the other Secured Parties irrevocably agree that (x) the Collateral Agent may rely exclusively on a certificate of a Responsible Officer of the Borrower as to whether any such other Liens are not prohibited and (y) any Intercreditor Agreement entered into by the Collateral Agent shall be binding on the Secured Parties, and each Lender and the other Secured Parties hereby agree that it will take no actions contrary to the provisions of, if entered into and if applicable, any Intercreditor Agreement.

SECTION 9.22 U.S.A. Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the U.S.A. Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the U.S.A. Patriot Act.

SECTION 9.23 No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Joint Lead Arrangers, the other Agents and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Joint Lead Arranger, the other Agents and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent, each Joint Lead Arranger, each other Agent and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is

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not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other person and (B) neither the Administrative Agent, any Joint Lead Arranger, nor any other Agent or Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Joint Lead Arrangers, the other Agents, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, any Joint Lead Arranger, nor any of other Agent or Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, the Joint Lead Arrangers, the other Agents and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 9.24 Affiliate Lenders.

(a) Each Lender who is an Affiliate of the Borrower, excluding (x) Holdings, the Borrower and their respective Subsidiaries and (y) any Debt Fund Affiliate Lender (each, an "**Affiliate Lender**"; it being understood that (x) neither Holdings, the Borrower, nor any of their Subsidiaries may be Affiliate Lenders and (y) Debt Fund Affiliate Lenders and Affiliate Lenders may be Lenders hereunder in accordance with Section 9.04, subject in the case of Affiliate Lenders, to this Section 9.24), in connection with any (i) consent (or decision not to consent) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document, (ii) other action on any matter related to any Loan Document or (iii) direction to the Administrative Agent, the Collateral Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, agrees that, except with respect to any amendment, modification, waiver, consent or other action (1) described in clauses (i), (ii), (iii) or (iv) of the first proviso of Section 9.09(b) or (2) that adversely affects such Affiliate Lender (in its capacity as a Lender) in a disproportionately adverse manner as compared to other Lenders, such Affiliate Lender shall be deemed to have voted its interest as a Lender without discretion in such proportion as the allocation of voting with respect to such matter by Lenders who are not Affiliate Lenders. Each Affiliate Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Affiliate Lender's attorney-in-fact, with full authority in the place and stead of such Affiliate Lender and in the name of such Affiliate Lender, 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 carry out the provisions of this clause (a).

(b) Notwithstanding anything to the contrary in this Agreement, no Affiliate Lender shall have any right to (1) attend (including by telephone) any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender to which representatives of the Borrower are not then present, (2) receive any information or material prepared by Administrative Agent or any Lender or any communication by or among Administrative Agent and/or one or more Lenders, except to the extent such information or materials have been made available to the Borrower or its representatives, (3) make or bring (or participate in, other than as a passive participant in or recipient of its pro rata benefits of) any claim, in its capacity as a

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Lender, against Administrative Agent, the Collateral Agent or any other Lender with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Lender under the Loan Documents, (4) purchase any Term Loan if, immediately after giving effect to such purchase, Affiliate Lenders in the aggregate would own Term Loans with an aggregate principal amount in excess of 25% of the aggregate principal amount of all Term Loans then outstanding or (5) purchase any Revolving Facility Loans or Revolving Facility Commitments. It shall be a condition precedent to each assignment to an Affiliate Lender that such Affiliate Lender shall have (x) represented to the assigning Lender in the applicable Assignment and Acceptance, and notified the Administrative Agent, that it is (or will be, following the consummation of such assignment) an Affiliate Lender and that the aggregate amount of Term Loans held by it giving effect to such assignments shall not exceed the amount permitted by clause (4) of the preceding sentence and (y) represented in the applicable Assignment and Acceptance that it is not in possession of material non-public information (within the meaning of United States federal and state securities laws) with respect to Holdings, the Borrower, its Subsidiaries or their respective securities (or, if Holdings is not at the time a public reporting company, material information of a type that would not be reasonably expected to be publicly available if Holdings were a public reporting company) that (A) has not been disclosed to the assigning Lender or the Lenders generally (other than because any such Lender does not wish to receive material non-public information with respect to Holdings, the Borrower or its Subsidiaries) and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, the assigning Lender's decision make such assignment.

SECTION 9.25 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures 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 Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the person to whom such obligation was owing against such loss. If the amount of the

Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other person who may be entitled thereto under applicable law).

SECTION 9.26 Agency of the Borrower for the Loan Parties. Each of the other Loan Parties hereby appoints the Borrower as its agent for all purposes relevant to this Agreement and the other Loan Documents, including the giving and receipt of notices and the execution and delivery of all documents, instruments and certificates contemplated herein and therein and all

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modifications hereto and thereto.

SECTION 9.27 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Solely to the extent any Lender or Issuing Bank that is an EEA Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or Issuing Bank that is an 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 or Issuing Bank that is an EEA Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

*[Signature Pages Follow]*

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

EXELA INTERMEDIATE HOLDINGS LLC

By: /s/ Ronald Cogburn  
Name: Ronald Cogburn  
Title: President

EXELA INTERMEDIATE LLC

By: /s/ Ronald Cogburn  
Name: Ronald Cogburn  
Title: President

[Signature Page to First Lien Credit Agreement]

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ROYAL BANK OF CANADA, as Administrative Agent

By: /s/ Yvonne Brazier  
Name: Yvonne Brazier  
Title: Manager, Agency Services

ROYAL BANK OF CANADA, as Issuing Bank and as a Lender

By: /s/ Theodore Brown  
Name: Theodore Brown  
Title: Authorized Signatory



CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Issuing Bank and as a Lender

By: /s/ John Toronto  
Name: John Toronto  
Title: Authorized Signatory

By: /s/ Lingzi Huang  
Name: Lingzi Huang  
Title: Authorized Signatory

[Signature Page to First Lien Credit Agreement]

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NATIXIS, NEW YORK BRANCH, as Issuing Bank and as a Lender

By: /s/ David Lynch  
Name: David Lynch  
Title: Managing Director

By: /s/ Robin Gruner  
Name: Robin Gruner  
Title: Vice President

[Signature Page to First Lien Credit Agreement]

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KKR CORPORATE LENDING LLC, as Issuing Bank and as a Lender

By: /s/ Adam Smith  
Name: Adam Smith  
Title: Authorized Signatory

[Signature Page to First Lien Credit Agreement]

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**AMENDED & RESTATED REGISTRATION RIGHTS AGREEMENT**

by and among

**EXELA TECHNOLOGIES, INC.**

and

**THE HOLDERS**

**Dated as of July 12, 2017**

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**AMENDED & RESTATED REGISTRATION RIGHTS AGREEMENT**

THIS AMENDED & RESTATED REGISTRATION RIGHTS AGREEMENT (this “**Agreement**”) is made as of July 12, 2017 (the “**Effective Date**”) by and among Exela Technologies, Inc., a Delaware corporation (the “**Company**”), and the parties identified as “**Holders**” set forth on Schedule I hereto and any parties identified on the signature page of any joinder agreements executed and delivered pursuant to Section 14 hereof (each a “**Holder**” and, collectively, the “**Holders**”). Capitalized terms used but not otherwise defined herein are defined in Section 1 hereof.

**RECITALS:**

**WHEREAS**, reference is hereby made to that certain Business Combination Agreement, as amended by that certain Consent, Waiver and Amendment, dated June 15, 2017, and as it may hereafter be amended or supplemented (the “**Business Combination Agreement**”), among the Company (f/k/a Quinpario Acquisition Corp. 2), a Delaware corporation, Quinpario Merger Sub I, Inc., a Delaware corporation, Quinpario Merger Sub II, Inc., a

Delaware corporation, Novitex Holdings, Inc., a Delaware corporation, SourceHOV Holdings, Inc., a Delaware corporation, Novitex Parent, L.P. (“**Novitex Parent**”), HOVS LLC, HandsOn Fund 4 I, LLC and Ex-Sigma LLC;

**WHEREAS**, the Company and the investors party thereto are parties to that certain Registration Rights Agreement, dated as of January 15, 2015 (the “**QPAC Registration Rights Agreement**”);

**WHEREAS**, Novitex Holdings, Inc. and the holders party thereto are parties to that certain Registration Rights Agreement, dated as of October 11, 2013 (the “**Novitex Registration Rights Agreement**”); and

**WHEREAS**, the Holders and the Company desire to enter into this Agreement to provide the Holders with certain rights relating to the registration of the Common Stock held by them as of the Effective Date and to amend and restate the Novitex Registration Rights Agreement and to replace the QPAC Registration Rights Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each of the Holders hereby agree as follows:

**1. Definitions.**

“**Affiliate**” of any particular Person means any other Person directly or indirectly controlling, controlled by or under common control with such Person. Notwithstanding the foregoing, with respect to Apollo, the term “Affiliate” shall include any investment fund, the sole owner of which is or, if not the sole owner, the primary investment managers of which are Apollo Management VII, L.P., Apollo Global Management, LLC, or their respective Affiliates (including their respective successors and Subsidiaries, but excluding their respective portfolio companies).

“**Agreement**” has the meaning specified in the first paragraph hereof.

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“**Apollo**” means Novitex Parent and Apollo Novitex Holdings, L.P., in each case, during such time as it holds, directly or indirectly, any Registrable Securities.

“**Apollo Demand Holders**” means, subject to [Section 3\(g\)](#) and [Section 14](#), Apollo.

“**Automatic Shelf Registration Statement**” means an “automatic shelf registration statement” as defined in Rule 405 promulgated under the Securities Act.

“**beneficially own**”, “**beneficial ownership**” and any similar phrase as such terms are used in Rule 13d-3 and Rule 13d-5 promulgated under the Exchange Act, except that in calculating the beneficial ownership of any Holder, such Holder shall be deemed to have beneficial ownership of all securities that such Holder has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition.

“**Board**” means the Board of Directors of the Company.

“**Business Combination Agreement**” has the meaning set forth in the recitals.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by applicable law or executive order to close.

“**Commission**” means the United States Securities and Exchange Commission or any successor governmental agency.

“**Common Stock**” means the shares of common stock, par value \$0.0001 per share, of the Company.

“**Company**” has the meaning specified in the first paragraph hereof.

“**Company Demand Registration Notice**” has the meaning specified in [Section 3\(b\)](#).

“**Company Shelf Takedown Notice**” has the meaning specified in [Section 2\(d\)](#).

“**control**” (including the terms “controlling,” “controlled by” and “under common control with”) means, unless otherwise noted, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting shares, by contract, or otherwise.

“**Counsel to the Holders**” means, with respect to any offering of Registrable Securities hereunder, one firm of counsel, plus any local or foreign counsel, selected by the Holders of a majority of the Registrable Securities requested to be included in such offering and acceptable to the Apollo Demand Holders and the HGM Demand Holders.

“**Demand Holder**” shall mean any of (i) the Apollo Demand Holders and (ii) the HGM Demand Holders.

“**Demand Registration**” has the meaning specified in [Section 3\(a\)](#).

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“**Demand Registration Notice**” has the meaning specified in [Section 3\(b\)](#).

“**Demand Shelf Takedown Notice**” has the meaning specified in [Section 2\(d\)](#).

“**Disclosure Package**” means, with respect to any offering of securities, (i) the preliminary Prospectus, (ii) the price to the public and the number of securities included in the offering; (iii) each Free Writing Prospectus and (iv) all other information that is deemed, under Rule 159 promulgated under the Securities Act, to have been conveyed to purchasers of securities at the time of sale of such securities (including a contract of sale).

“**Effective Date**” has the meaning specified in the first paragraph hereof.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time.

“**FINRA**” means the Financial Industry Regulatory Authority.

“**Forfeiture Agreement**” has the meaning ascribed to such term in the Business Combination Agreement.

“**Form S-1 Shelf**” has the meaning specified in [Section 2\(a\)](#).

“**Form S-3 Shelf**” has the meaning specified in [Section 2\(a\)](#).

“**Founder Shares**” has the meaning specified in [Section 7\(a\)](#).

“**Free Writing Prospectus**” means any “free writing prospectus” as defined in Rule 405 promulgated under the Securities Act.

“**HGM**” has the meaning set forth in the recitals.

“**HGM Demand Holders**” means, subject to [Section 3\(g\)](#) and [Section 14](#), the HGM Group.

“**HGM Group**” means, collectively, HOVS LLC, HOVS Capital III LLC, Stern Capital Partners LLC, Sunraj LLC, Pidgin Associates LLC, HandsOn Fund 4 I, LLC, Sonino LLC, HandsOn Global Management LLC and New LLC.

“**Holder**” and “ **Holders**” have the meanings given to those terms in the first paragraph hereof; provided that Third Party Holders shall not be considered Holders for purposes of Sections 2(c), 2(d) or 3.

“**Holder Free Writing Prospectus**” means each Free Writing Prospectus prepared by or on behalf of the relevant Holder or used or referred to by such Holder in connection with the offering of Registrable Securities.

“**Lock-Up Period**” has the meaning specified in [Section 7\(b\)](#).

“**Long-Form Registration**” has the meaning specified in [Section 3\(a\)](#).

“**Losses**” has the meaning specified in [Section 10\(a\)](#).

“**NASDAQ**” means the NASDAQ Stock Market.

“**New LLC**” has the meaning ascribed to such term in the Business Combination Agreement and, in connection with the PIPE Financing or otherwise as the context so requires, shall also include Ex-Sigma 2 LLC, the special purpose vehicle that is a wholly-owned subsidiary of New LLC and the borrower under the PIPE Financing and which will hold the PIPE Financing Collateral Shares as of the closing of the PIPE Financing.

“**Novitex Registration Rights Agreement**” has the meaning set forth in the recitals.

“**Person**” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, a governmental entity or any department, agency or political subdivision thereof or any other entity.

“**Piggyback Registration**” has the meaning specified in [Section 4\(a\)](#).

“**Piggyback Takedown**” has the meaning specified in [Section 4\(a\)](#).

“**PIPE Financing**” means the financing pursuant to that certain commitment letter among the lenders party thereto and SourceHOV, dated the date hereof, the net proceeds of which will be used to purchase shares of Common Stock and Preferred Stock as part of the PIPE Investment (as defined in the Business Combination Agreement) concurrently with the closing of the transactions contemplated by the Business Combination Agreement.

“**PIPE Financing Collateral Shares**” means the shares of Common Stock and Preferred Stock that will be collateral for the PIPE Financing, including any PIPE Financing Shares issued to New LLC and any shares of Common Stock received by New LLC pursuant to the Business Combination Agreement.

“**PIPE Financing Shares**” means the shares of Common Stock and Preferred Stock issued to New LLC or others as part of the PIPE Investment (as defined in the Business Combination Agreement).

“**Preferred Stock**” means the preferred stock of the Company to be issued as part of the PIPE Investment (as defined in the Business Combination Agreement).

“**Prospectus**” means the prospectus used in connection with a Registration Statement.

“**QPAC Founders**” means Edgar G. Hotard, W. Thomas Jagodinski, Ilan Kaufthal, Roberto Mendoza, Dr. John Rutledge and Shlomo Yanai.

“**QPAC Holders**” means Quinpario Partners 2, LLC and, subject to [Section 14](#), its assignees.

“**QPAC Registration Rights Agreement**” has the meaning set forth in the recitals.

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“**Registrable Securities**” means at any time any shares of Common Stock held or beneficially owned by any Holder, including any Common Stock issued or exchanged pursuant to the Business Combination Agreement, and any PIPE Financing Shares issued as Common Stock to Apollo or HGM Group in connection with the PIPE Financing; provided, however, that as to any Registrable Securities, such securities shall cease to constitute Registrable Securities upon the earliest to occur of: (x) the date on which such securities are disposed of pursuant to an effective registration statement under the Securities Act; (y) the date on which such securities are disposed of pursuant to Rule 144 (or any successor provision) promulgated under the Securities Act; and (z) the date on which such securities cease to be outstanding.

“**Registration Expenses**” means all expenses (other than underwriting discounts and commissions) arising from or incident to the registration of Registrable Securities in compliance with this Agreement, including:

- (i) stock exchange, Commission, FINRA and other registration and filing fees,
- (ii) all fees and expenses incurred in connection with complying with any securities or blue sky laws (including fees, charges and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities),
- (iii) all printing, messenger and delivery expenses,
- (iv) the fees, charges and disbursements of counsel to the Company and of its independent public accountants and any other accounting and legal fees, charges and expenses incurred by the Company (including any expenses arising from any special audits or “*comfort letters*” required in connection with or incident to any sale of Registrable Securities pursuant to a registration),
- (v) the fees and expenses incurred in connection with the listing of the Registrable Securities on NASDAQ (or any other national securities exchange),
- (vi) the fees and expenses incurred in connection with any “*road show*” for underwritten offerings, including travel expenses, and
- (vii) reasonable and documented out-of-pocket fees, charges and disbursements of Counsel to the Holders, including, for the avoidance of doubt, any expenses of Counsel to the Holders in connection with the filing or amendment of any Registration Statement, Prospectus or Free Writing Prospectus hereunder;

Provided that, in no instance shall Registration Expenses include Selling Expenses.

“**Registration Statement**” means any registration statement filed hereunder or in connection with a Piggyback Takedown.

“**Requesting Holder**” has the meaning specified in [Section 3\(a\)](#).

“**Restricted Shares**” has the meaning specified in [Section 7\(a\)](#).

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“**Securities Act**” means the Securities Act of 1933, as amended from time to time.

“**Selling Expenses**” means the underwriting fees, discounts, selling commissions and stock transfer taxes applicable to all Registrable Securities registered by the Holders and legal expenses not included within the definition of Registration Expenses.

“**Shelf**” has the meaning specified in [Section 2\(a\)](#).

“**Shelf Registration**” means a registration of securities pursuant to a registration statement filed with the Commission in accordance with and pursuant to Rule 415 promulgated under the Securities Act (or any successor rule then in effect).

“**Shelf Takedown**” means either an Underwritten Shelf Takedown or a Piggyback Takedown.

“**Short-Form Registration**” has the meaning specified in [Section 3\(a\)](#).

“**Subsequent Shelf Registration**” has the meaning specified in [Section 2\(b\)](#).

“**Suspension Period**” has the meaning specified in [Section 6\(a\)](#).

“**Transfer**” has the meaning specified in [Section 7\(a\)](#).

“**Third Party Holders**” means the Holders (including any Person who receives the SourceHOV Merger Consideration (as defined in the Business Combination Agreement) and who elects to be treated as a Holder and Third Party Holder hereunder pursuant to its Letter of Transmittal) other than Quinpario Partners 2, LLC, members of the HGM Group, Apollo and, subject to Section 14, their respective assignees (provided that, in connection with any distribution of shares of Common Stock or Preferred Stock by New LLC to the holders of membership interests of New LLC as contemplated by Section 14,

such assignees: (i) who are members of the HGM Group shall be deemed to be Holders; and (ii) who are not members of the HGM Group shall have the right to elect to be Third Party Holders.)

“**Underwritten Block Trade**” means an Underwritten Shelf Takedown by means of an underwritten block trade or similar transaction or other transaction with a two-day (or shorter) marketing period.

“**Underwritten Shelf Takedown**” has the meaning specified in Section 2(c).

“**Well-Known Seasoned Issuer**” means a “*well-known seasoned issuer*” as defined in Rule 405 promulgated under the Securities Act and which (i) is a “*well-known seasoned issuer*” under paragraph (1)(i)(A) of such definition or (ii) is a “*well-known seasoned issuer*” under paragraph (1)(i)(B) of such definition and is also eligible to register a primary offering of its securities relying on General Instruction I.B.1 of Form S-3 or Form F-3 under the Securities Act.

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## 2. Shelf Registrations.

(a) Filing. The Company shall file as promptly as practicable, and in no event later than 45 days after the Effective Date, a Registration Statement for a Shelf Registration on Form S-3 (the “**Form S-3 Shelf**”) or, if the Company is ineligible to use a Form S-3 Shelf, a Registration Statement for a Shelf Registration on Form S-1 (the “**Form S-1 Shelf**,” and together with the Form S-3 Shelf (and any Subsequent Shelf Registration), the “**Shelf**”) covering the resale of the Registrable Securities on a delayed or continuous basis. The Company shall use reasonable best efforts to cause the Shelf to become effective as soon as practicable after such filing. The Shelf shall provide for the resale of Registrable Securities from time to time, and pursuant to any method or combination of methods legally available to, and requested by, the Holders. The Company shall maintain the Shelf in accordance with the terms hereof, and shall prepare and file with the Commission such amendments, including post-effective amendments, and supplements as may be necessary to keep such Shelf effective and in compliance with the provisions of the Securities Act until such time as there are no longer any Registrable Securities. In the event the Company files a Form S-1 Shelf, the Company shall use its reasonable best efforts to convert the Form S-1 Shelf (and any Subsequent Shelf Registration) to a Form S-3 Shelf as soon as practicable after the Company is eligible to use Form S-3.

(b) Subsequent Shelf Registration. If any Shelf ceases to be effective under the Securities Act for any reason at any time while Registrable Securities are still outstanding, the Company shall use its commercially reasonable efforts to as promptly as is reasonably practicable cause such Shelf to again become effective under the Securities Act (including obtaining the prompt withdrawal of any order suspending the effectiveness of such Shelf), and shall use its commercially reasonable efforts to as promptly as is reasonably practicable amend such Shelf in a manner reasonably expected to result in the withdrawal of any order suspending the effectiveness of such Shelf or file an additional registration statement as a Shelf Registration (a “**Subsequent Shelf Registration**”) registering the resale from time to time by the Holders thereof of all securities that are Registrable Securities as of the time of such filing. If a Subsequent Shelf Registration is filed, the Company shall use its commercially reasonable efforts to (i) cause such Subsequent Shelf Registration to become effective under the Securities Act as promptly as is reasonably practicable after the filing thereof (it being agreed that the Subsequent Shelf Registration shall be an Automatic Shelf Registration Statement if the Company is a Well-Known Seasoned Issuer) and (ii) keep such Subsequent Shelf Registration continuously effective and usable until there are no longer any Registrable Securities. Any such Subsequent Shelf Registration shall be on Form S-3 to the extent that the Company is eligible to use such form. Otherwise, such Subsequent Shelf Registration shall be on another appropriate form and shall provide for the registration of such Registrable Securities for resale by the Holders in accordance with any reasonable method of distribution elected by the Demand Holders and the QPAC Holders. Notwithstanding the foregoing, the Company shall not be required to file a Subsequent Shelf Registration if (i) the aggregate amount of Registrable Securities represents less than 5% of the then outstanding Common Stock and (ii) the Company is ineligible to use a Form S-3 Shelf; provided that the Company shall be required to file a Subsequent Shelf Registration if it thereafter becomes eligible to use a Form S-3 Shelf.

(c) Requests for Underwritten Shelf Takedowns. At any time and from time to time after the Shelf has been declared effective by the Commission, any Apollo Demand

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Holder or HGM Demand Holder may request to sell all or any portion of their Registrable Securities in an underwritten offering that is registered pursuant to the Shelf (each, an “**Underwritten Shelf Takedown**”).

(d) Demand Notices. All requests for Underwritten Shelf Takedowns shall be made by giving written notice to the Company (the “**Demand Shelf Takedown Notice**”). Each Demand Shelf Takedown Notice shall specify the approximate number of Registrable Securities proposed to be sold in the Underwritten Shelf Takedown and the expected price range (net of underwriting discounts and commissions) of such Underwritten Shelf Takedown. Within three days after receipt of any Demand Shelf Takedown Notice (except with respect to an Underwritten Block Trade for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing), the Company shall give written notice of such requested Underwritten Shelf Takedown to all other Holders of Registrable Securities (the “**Company Shelf Takedown Notice**”) and, subject to the provisions of Section 5 below, shall include in such Underwritten Shelf Takedown all Registrable Securities with respect to which the Company has received written requests for inclusion therein within ten days after sending the Company Shelf Takedown Notice.

(e) Selection of Underwriters. Apollo and the HGM Group, acting together, (or the HGM Group, acting alone, with respect to an Underwritten Block Trade for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing) shall have the right to select the investment banker(s) and manager(s) to administer the offering (which shall consist of one or more reputable nationally recognized investment banks), subject to the Company’s prior approval which shall not be unreasonably withheld, conditioned or delayed.

(f) Other Registration Rights. The Company represents and warrants that it is not a party to, or otherwise subject to, any other agreement granting registration rights to any other Person with respect to any securities of the Company, including securities convertible, exercisable or exchangeable into or for shares of any equity securities of the Company, except for (i) the provisions of Section 7.16(h) of the Business Combination Agreement, (ii) that certain Warrant Agreement, dated January 15, 2015, between the Company and Continental Stock Transfer & Trust Company, providing for the registration of the resale of an aggregate of 17,500,000 shares of Common Stock issuable upon the exercise of an aggregate of 35,000,000 warrants to

purchase Common Stock, each warrant entitling the holder thereof to purchase one-half of one share of Common Stock and (iii) registration rights pursuant to those certain Subscription Agreements, dated June 15, 2017, by and between the Company and Avenue PPF Opportunities Fund, L.P., Avenue Special Opportunities Fund II, L.P., Apollo Novitex Holdings, L.P., Cantor Fitzgerald & Co., Credit Suisse Securities (USA) LLC, Delos Investment Fund, LP, Deutsche Bank Securities Inc., Ex-Sigma LLC, HOVS LLC and HandsOn Fund 4 I, LLC, Greenlight Capital Qualified, L.P., Greenlight Capital, L.P., Greenlight Capital (Gold), LP, Greenlight Capital Offshore Partners, Greenlight Reinsurance, Ltd., Greenlight Capital Offshore Master (Gold), Ltd., HandsOn Global Management, LLC, Halcyon Solutions Master Fund LP and HCN LP, Harperbee, LLC, Morgan Stanley & Co. LLC, RBC Capital Markets, LLC, Rothschild Inc., Scoggin International Fund Ltd, Sunrise Partners Limited Partnership, THIRD POINT Loan LLC, Union Square Park Capital Management, LLC, Watermill Institutional

Trading LLC, York Capital Management, L.P., and York Select, L.P.; and registration rights pursuant to that certain Letter Agreement, dated July 12, 2017, by and between the Company and Morgan Stanley Bank, N.A., Loomis, Sayles & Company, L.P., North Haven Credit Partners II, L.P. and Scoggin International Fund Ltd. Without the prior written consent of Apollo and the HGM Group, the Company will not grant to any holder or prospective holder of any securities of the Company registration rights with respect to such securities which are senior to or otherwise conflict in any material respect with the rights granted pursuant to this Agreement.

### 3. Demand Registrations.

(a) **Requests for Registration.** At any time after the Effective Date, any Demand Holder (in such capacity, the “**Requesting Holder**”) may request (i) registration under the Securities Act of all or any portion of the Registrable Securities held by such Requesting Holder on Form S-3 or any similar short-form registration (a “**Short-Form Registration**”), if available, and (ii) registration under the Securities Act of all or any portion of the Registrable Securities held by such Requesting Holder on Form S-1 or similar long-form registration (a “**Long-Form Registration**”) if Short-Form Registration is not available (any registration under this Section 3(a), a “**Demand Registration**”); provided that, in the case of a Demand Registration, such Demand Holder will be entitled to make such demand only if the total offering price of the Registrable Securities to be sold in such offering (including piggyback shares and before deduction of underwriting discounts) is reasonably expected to exceed, in the aggregate, \$25,000,000 (or in the case of the HGM Group, the remaining balance of the PIPE Financing if lower). Any Requesting Holder may request that any offering conducted under a Long-Form Registration or a Short-Form Registration be underwritten.

(b) **Demand Registration Notices.** All requests for Demand Registrations shall be made by giving written notice to the Company (the “**Demand Registration Notice**”). Each Demand Registration Notice shall specify (i) whether such Demand Registration shall be an underwritten offering, (ii) the approximate number of Registrable Securities proposed to be sold in the Demand Registration and (iii) the expected price range (net of underwriting discounts and commissions) of such Demand Registration. Within five days after receipt of any Demand Registration Notice (except with respect to an Underwritten Block Trade for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing), the Company shall give written notice of such requested Demand Registration to all other Holders of Registrable Securities (the “**Company Demand Registration Notice**”) and, subject to the provisions of Section 5 below, shall include in such Demand Registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within 10 days after sending the Company Demand Registration Notice.

(c) **Demand Registration Effectiveness.** A registration shall not count as one of the permitted Demand Registrations until both (i) it has become effective (unless such Demand Registration has not become effective due solely to the fault of the Demand Holder requesting such registration) and (ii) the Demand Holder initially requesting such registration is able to register and sell pursuant to such registration at least 80% of the Registrable Securities requested to be included in such registration either at the time of the registration or within 90 days thereafter; provided that a Demand Registration which is withdrawn at the sole request of

the Demand Holder who demanded such Demand Registration will count as a Demand Registration unless the Company is reimbursed by such Demand Holder for all reasonable out-of-pocket expenses incurred by the Company in connection with such registration, including reasonable attorney and accounting fees.

(d) **Short-Form Registrations.** Demand Registrations shall be Short-Form Registrations whenever the Company is permitted to use an applicable short form. The Company shall use its reasonable best efforts to make Short-Form Registrations on Form S-3 (or any successor form) available for the sale of Registrable Securities.

(e) **Restrictions on Demand Registrations.**

(i) Except in connection with any Demand Registration made by the HGM Demand Holders for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing, the Company shall not be obligated to effect (a) any Long-Form Registration within 90 days or (b) any Short-Form Registration within 45 days, in each case, after the effective date of a previous Demand Registration or a previous registration in which the Holders of Registrable Securities were given piggyback rights pursuant to Section 4 of this Agreement and in which such Holders were able to register and sell at least 80% of the number of Registrable Securities requested to be included therein. In addition, except in connection with any Demand Registration made by the HGM Demand Holders for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing, the Company shall not be obligated to effect any Demand Registration during the period starting with the date that is 60 days prior to the Board’s good faith estimate of the date of filing of, and ending on the date that is 120 days (unless the underwriting agreement requires a longer period of time) after the effective date of, a Company initiated registration statement, provided that the Company is actively employing in good faith all commercially reasonable efforts to cause such registration to become effective, and provided further that the aggregate number of days that any one or more Demand Registrations are suspended or delayed by operation of this Section 3(e)(i) shall not exceed 120 days in any 12-month period. In the event of any such suspension or delay, the Holder of Registrable Securities initially requesting a Demand Registration that is suspended by operation of this Section 3(e)(i) shall be entitled to withdraw such request and, if such request is withdrawn, such Demand Registration shall not count as one of the permitted Demand Registrations hereunder, and, notwithstanding the proviso in Section 3(c), the Company shall pay all Registration Expenses in connection with such registration.

(ii) The Apollo Demand Holders and the HGM Demand Holders shall each be entitled to request up to five Demand Registrations. In addition, the HGM Demand Holders shall be entitled to request up to three Demand Registrations for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing.

(f) Selection of Underwriters. The Holders of a majority of the Registrable Securities requested to be included in a Demand Registration which is an underwritten offering (or the HGM Group, acting alone, with respect to an Underwritten Block Trade for the purpose

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of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing) shall have the right to select the investment banker(s) and manager(s) to administer the offering (which shall consist of one or more reputable nationally recognized investment banks), subject to the approval of the Company, the Apollo Demand Holders and the HGM Demand Holders (except with respect to an Underwritten Block Trade for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing), which shall not be unreasonably withheld, conditioned or delayed.

(g) Transfer of Demand Rights. The rights of a Holder under this Section 3 may be transferred, assigned or otherwise conveyed in whole or in part, to any transferee or assignee, including any distribution of shares of Common Stock or Preferred Stock by New LLC to the holders of membership interests of New LLC, (other than a transfer pursuant to a registration statement or under Rule 144 promulgated under the Securities Act) who, following such transfer, assignment or conveyance, holds at least 20% of the outstanding Common Stock held by such Holder as of the Effective Date, provided that the requirements of Section 14 are satisfied. For the avoidance of doubt, any transferee of an Apollo Demand Holder or HGM Demand Holder shall be deemed to be an Apollo Demand Holder or HGM Demand Holder, as applicable, for all purposes of this Agreement (provided that, in connection with any distribution of shares of Common Stock or Preferred Stock by New LLC to the holders of membership interests of New LLC as contemplated by Section 14, such transferees shall only be an HGM Demand Holder if they are members of the HGM Group or otherwise designated as an HGM Demand Holder by New LLC). In the case of any such assignment, the applicable Demand Holder shall inform the Company how many remaining Demand Registrations the transferee shall have, which shall not exceed the maximum number set forth in Section 3(e)(ii).

#### 4. **Piggyback Takedowns.**

(a) Right to Piggyback. Whenever the Company proposes to register any of its securities (whether or not following a request by a Demand Holder), including a registration pursuant to any registration rights agreement not prohibited by this agreement (a "**Piggyback Registration**"), or proposes to offer any Common Stock pursuant to a registration statement in an underwritten offering of Common Stock under the Securities Act (whether or not following a request by a Demand Holder) (together with a Piggyback Registration, a "**Piggyback Takedown**"), the Company shall give prompt written notice to all Holders of Registrable Securities of its intention to effect such Piggyback Takedown. In the case of a Piggyback Takedown that is an underwritten offering under a shelf registration statement, such notice shall be given not less than ten Business Days prior to the expected date of commencement of marketing efforts for such Piggyback Takedown. In the case of a Piggyback Takedown that is an underwritten offering under a registration statement that is not a shelf registration statement, such notice shall be given not less than ten Business Days prior to the expected date of filing of such registration statement. The Company shall, subject to the provisions of Section 5 below, include in such Piggyback Takedown, as applicable, all Registrable Securities with respect to which the Company has received written requests for inclusion therein within five Business Days after sending the Company's notice. Notwithstanding anything to the contrary contained herein, (i) the Company may determine not to proceed with any Piggyback Takedown upon written notice to the Holders of Registrable Securities requesting to include their Registrable Securities in such

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Piggyback Takedown; provided, however, that nothing in this clause (i) shall impair the right of any Demand Holder to request that such registration be effected pursuant to Section 2 or Section 3; (ii) any Holder of Registrable Securities may withdraw its request for inclusion by giving written notice to the Company of its intention to withdraw that registration; provided, however, that the withdrawal shall be irrevocable and after making the withdrawal, a Holder shall no longer have any right to include its Registrable Securities in that Piggyback Takedown; and (iii) the provisions of this Section 4 shall not apply to any Underwritten Block Trade for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing.

(b) Selection of Underwriters. If any Piggyback Takedown is an underwritten offering, the Company will have the sole right to select the investment banker(s) and manager(s), acceptable to the Apollo Demand Holder and the HGM Demand Holders, for the offering.

#### 5. **Priority.**

(a) Priority on Primary Offerings and Offerings Initiated by Holders of Other Registration Rights. If the Company determines, after consultation with the Apollo Demand Holders, the HGM Demand Holders and the managing underwriter in any underwritten Piggyback Takedown that was not initiated by a Demand Holder pursuant to this Agreement, that less than all of the Registrable Securities requested to be included in such underwritten offering can be sold in an orderly manner within a price range acceptable to the Company or the holders of the Company's securities demanding such Piggyback Takedown pursuant to a registration rights agreement not prohibited by this agreement, as applicable, after consultation with the Apollo Demand Holders and the HGM Demand Holders, then the Company shall include in such underwritten Piggyback Registration the number which can be so sold in the following order of priority:

- (i) first, the securities the Company proposes to sell;
- (ii) second, the Registrable Securities requested to be included in such Piggyback Registration by New LLC for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing; and
- (iii) third, the other Registrable Securities requested to be included in such Piggyback Registration by the Apollo Demand Holders, the HGM Demand Holders, the QPAC Holders, the Third Party Holders and the holders entitled to participate in such Piggyback Takedown pursuant



to a registration rights agreement not prohibited by this agreement, *pro rata* on the basis of the number of shares of Common Stock owned by such Holders; and

(iv) fourth, other securities requested to be included in such underwritten Piggyback Takedown.

(b) Priority on Offerings Initiated by Demand Holders. If the Holders of a majority of the Registrable Securities requested to be included in any underwritten offering initiated by a Demand Holder pursuant to this Agreement determine, after consultation with the Company and the managing underwriter in such offering, that less than all of the Registrable

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Securities requested to be included in such underwritten offering can be sold in an orderly manner within a price range acceptable to such Holders, then the Company shall include in such underwritten offering the number which can be so sold in the following order of priority:

- (i) first, the Registrable Securities requested to be included in accordance with this Agreement by New LLC for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing;
- (ii) second, the Registrable Securities requested to be included in accordance with this Agreement by the Apollo Demand Holders, the HGM Demand Holders, the QPAC Holders, the Third Party Holders and the holders entitled to participate in such Piggyback Takedown pursuant to a registration rights agreement not prohibited by this agreement, *pro rata* on the basis of the number of shares of Common Stock owned by such Holders;
- (iii) third, the securities the Company proposes to sell; and
- (iv) fourth, other securities requested to be included in such underwritten offering.

## 6. Suspension Period.

(a) Suspension Period. Notwithstanding any provision of this Agreement to the contrary, if the Board determines in good faith that the registration and distribution of Registrable Securities (i) would reasonably be expected to materially impede, delay or interfere with, or require premature disclosure of, any material financing, offering, acquisition, merger, corporate reorganization, segment reclassification or discontinuance of operations that is required to be reflected in pro forma or restated financial statements that amends historical financial statement of the Company, or other significant transaction or any negotiations, discussions or pending proposals with respect thereto, involving the Company or any of its subsidiaries, or (ii) would require disclosure of non-public material information, the disclosure of which would reasonably be expected to materially and adversely affect the Company, the Company shall be entitled to suspend, for not more than 60 days (a "**Suspension Period**"), the use of any Registration Statement or Prospectus and shall not be required to amend or supplement the Registration Statement, any related Prospectus or any document incorporated therein by reference; provided that a Suspension Period may not suspend more than 30 days with respect to the use of any Registration Statement or Prospectus for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing. The Company promptly will give written notice of any such Suspension Period to each Person that has securities registered on a Registration Statement filed hereunder.

(b) Limitations on Suspension Periods. Notwithstanding anything contained in this Section 6 to the contrary, the Company shall not be entitled to more than two Suspension Periods in any 12-month period.

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## 7. Holdback Agreements.

(a) During the period commencing on the Effective Date and continuing until the calendar date that is six months following the Effective Date, no Holder shall offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of or distribute ("**Transfer**") any shares of Common Stock or any securities convertible into, exercisable for, exchangeable for Common Stock, whether now owned or hereinafter acquired but excluding in all cases any PIPE Financing Shares, owned directly by the Holder (including securities held as a custodian) or with respect to which the Holder has beneficial ownership within the rules and regulations of the Commission (collectively, the "**Restricted Shares**"), except in the event the underwriters managing any Shelf Takedown or other underwritten public equity offering by the Company otherwise agree by written consent or pursuant to a Transfer permitted by Section 7(c). For the avoidance of doubt, the foregoing restriction does not apply to shares of Common Stock purchased by the Holder for cash. The foregoing restriction is expressly agreed to preclude each Holder from engaging in any hedging or other transaction which is designed to or which reasonably could be expected to lead to or result in a sale or disposition of the Restricted Shares even if such Restricted Shares would be disposed of by someone other than such Holder. Such prohibited hedging or other transactions include any short sale or any purchase, sale or grant of any right (including any put or call option) with respect to any of the Restricted Shares of the applicable Holder or with respect to any security that includes, relates to, or derives any significant part of its value from such Restricted Shares. Notwithstanding any other provision to the contrary, the restrictions set forth in this Section 7(a) shall not apply to (i) an aggregate of 3,016,071 shares of Common Stock held by the QPAC Holders and the QPAC Founders, as designated by the QPAC Holders pursuant to the Forfeiture Agreement, which may be offered, sold, pledged or otherwise disposed of as of the Effective Date (the "**Founder Shares**"), (ii) any person who ceases to be employed by Novitex after the date of the Business Combination Agreement or (iii) any person who was a director of Novitex prior to the Closing (as defined in the Business Combination Agreement) and is or was not a director of the Company immediately subsequent to the Closing.

(b) Holdings of Registrable Securities. In connection with any Shelf Takedown or other underwritten public offering of equity securities by the Company (for the avoidance of doubt, excluding any Underwritten Block Trade for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing), subject to Section 7(c), no Holder of more than 5% of the equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such securities, shall Transfer any Restricted Shares (other than those Registrable Securities included in such registration pursuant to this Agreement), without the prior written consent of the Company, during the seven days prior to and the 90-day period beginning on the date of pricing of such Shelf Takedown or other underwritten public offering (the "**Lock-Up Period**"), except in the event the underwriters managing the Shelf Takedown or other underwritten public equity offering by the Company otherwise agree by written consent or pursuant to a Transfer permitted by Section 7(c). Each such Holder agrees to execute a lock-up agreement in favor of

the Company's underwriters to such effect (in each case on substantially the same terms and conditions as all such Holders) and, in any event, that the Company's underwriters in any relevant Shelf Takedown or other underwritten public offering shall be third party beneficiaries of this Section 7(b); provided that each such Holder shall only be required to

execute such lock-up if the directors and executive officers of the Company have executed a lock-up on terms at least as restrictive with respect to the relevant Shelf Takedown or other underwritten public offering. The provisions of this Section 7(b) will no longer apply to a Holder once such Holder ceases to hold Registrable Securities or 5% or less of the equity securities of the Company.

(c) Permitted Transfers. Notwithstanding anything to the contrary set forth in this Section 7, a Holder may Transfer Restricted Shares (i) as a *bona fide* gift; (ii) to any trust or entity wholly owned by one or more trusts for the direct or indirect benefit of (A) the Holder or its stockholders, partners, members or beneficiaries or (B) of any individual related to such Holder or to the stockholders, partners, members or beneficiaries of such Holder, by blood, marriage or adoption and not more remote than first cousin; (iii) if a Holder is a corporation, limited liability company, partnership or trust, such Holder may Transfer Restricted Shares to any wholly-owned subsidiary thereof, or to the Affiliates, stockholders, partners, members or beneficiaries of such Holder; (iv) pursuant to any take-over bid, acquisition, sale or merger involving the Company; (v) with the prior written consent of the Company and each other Holder; provided that in each case such distributees or transferees agree to be bound by the restrictions set forth in this Section 7. In addition, notwithstanding anything to the contrary set forth in this Section 7, a Holder may Transfer shares of Common Stock pursuant to (1) any pledge made by New LLC in connection with the PIPE Financing, (2) any Transfer made by New LLC in connection with a default under the PIPE Financing, (3) any Transfer by New LLC for the purpose of generating proceeds to repay the PIPE Financing or for the purpose of satisfying any collateral maintenance requirement pursuant to the PIPE Financing, or (4) any distribution of shares of Common Stock or Preferred Stock by New LLC to the holders of membership interests of New LLC upon repayment of the PIPE Financing, provided that the requirements of Section 14 are satisfied in connection with such distribution.

(d) The Company. In connection with any Shelf Takedown, the Company shall not effect any public sale or distribution of its equity securities, or any securities convertible into or exchangeable or exercisable for such securities (except pursuant to registrations on Form S-8 or Form S-4 under the Securities Act), during the seven days prior to and the 90-day period beginning on the date of pricing of such Shelf Takedown or such other period provided in the underwriting, placement or similar agreement executed in connection with such Shelf Takedown.

## 8. Company Undertakings.

Whenever Registrable Securities are registered pursuant to this Agreement, the Company shall use its commercially reasonable efforts to effect the registration and the sale of such Registrable Securities as soon as reasonably practicable in accordance with the intended method of disposition thereof and pursuant thereto the Company shall as expeditiously as possible:

(a) before filing a Registration Statement or Prospectus or any amendments or supplements thereto, at the Company's expense, furnish to the Holders whose securities are covered by the Registration Statement copies of all such documents, other than documents that are incorporated by reference, proposed to be filed and such other documents reasonably

requested by such Holders, which documents shall be subject to the review and comment of the counsel to such Holders;

(b) notify each Holder of Registrable Securities of the effectiveness of each Registration Statement and prepare and file with the Commission such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for a period ending on the date on which all Registrable Securities have been sold under such Registration Statement or have otherwise ceased to be Registrable Securities, and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such Registration Statement;

(c) furnish to each seller of Registrable Securities, and the managing underwriters, without charge, such number of copies of the applicable Registration Statement, each amendment and supplement thereto, the Prospectus included in such Registration Statement (including each preliminary Prospectus, final Prospectus, and any other Prospectus (including any Prospectus filed under Rule 424, Rule 430A or Rule 430B promulgated under the Securities Act and any "issuer free writing prospectus" as such term is defined under Rule 433 promulgated under the Securities Act)), all exhibits and other documents filed therewith and such other documents as such seller or such managing underwriters may reasonably request including in order to facilitate the disposition of the Registrable Securities owned by such seller, and upon request, a copy of any and all transmittal letters or other correspondence to or received from, the Commission or any other governmental authority relating to such offer;

(d) use its commercially reasonable efforts (i) to register or qualify such Registrable Securities under such other securities or blue sky laws of such jurisdictions as any seller reasonably requests, (ii) to keep such registration or qualification in effect for so long as such Registration Statement remains in effect, and (iii) to do any and all other acts and things which may be reasonably necessary or advisable to enable such seller to consummate the disposition in such jurisdictions of the Registrable Securities owned by such seller (provided that the Company shall not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subsection, (B) subject itself to taxation in any such jurisdiction or (C) consent to general service of process in any such jurisdiction);

(e) notify each seller of such Registrable Securities, Counsel to the Holders and the managing underwriters: (i) at any time when a Prospectus relating to the applicable Registration Statement is required to be delivered under the Securities Act, (A) upon discovery that, or upon the happening of any event as a result of which, such Registration Statement, or the Prospectus or Free Writing Prospectus relating to such Registration Statement, or any document incorporated or deemed to be incorporated therein by reference contains an untrue statement of a material fact or omits any fact necessary to make the statements in the Registration Statement or the Prospectus or Free Writing Prospectus relating thereto not misleading or otherwise requires the making of any changes in such Registration Statement, Prospectus, Free Writing Prospectus or document, and, at the request of any such seller and subject to Section 6(a) hereof, the Company shall promptly prepare a supplement or amendment to such Prospectus or Free Writing

Prospectus, furnish a reasonable number of copies of such supplement or amendment to each seller of such Registrable Securities, Counsel to the Holders and the managing underwriters and file such supplement or amendment with the Commission so that, as thereafter delivered to the purchasers of such Registrable Securities, such Prospectus or Free Writing Prospectus as so amended or supplemented shall not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading, (B) as soon as the Company becomes aware of any comments or inquiries by the Commission or any requests by the Commission or any Federal or state governmental authority for amendments or supplements to a Registration Statement or related Prospectus or Free Writing Prospectus covering Registrable Securities or for additional information relating thereto, (C) as soon as the Company becomes aware of the issuance or threatened issuance by the Commission of any stop order suspending or threatening to suspend the effectiveness of a Registration Statement covering the Registrable Securities or (D) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any Registrable Security for sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose; (ii) when each Registration Statement or any amendment thereto has been filed with the Commission and when each Registration Statement or the related Prospectus or Free Writing Prospectus or any Prospectus supplement or any post effective amendment thereto has become effective; and (iii) if at any time the Company has reason to believe that the representations and warranties of the Company contained in any agreement contemplated by Section 8(h) below relating to any applicable offering cease to be true and correct.

(f) use its best efforts to cause all such Registrable Securities (i) to be listed on the NASDAQ Global Select Market (or such other NASDAQ market on which shares of then Common Stock are then listed), (ii) if the Common Stock is not then listed on NASDAQ, to, as promptly as practicable, and in no event later than the six month anniversary of the Closing (as defined in the Business Combination Agreement), be listed on NASDAQ, the New York Stock Exchange or another national securities exchange, and (iii) to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the sellers thereof to consummate the disposition of the Registrable Securities;

(g) provide and cause to be maintained a transfer agent and registrar for all such Registrable Securities from and after the effective date of the applicable Registration Statement;

(h) enter into and perform under such customary agreements (including underwriting agreements in customary form, including customary representations and warranties and provisions with respect to indemnification and contribution) and take all such other actions as the Holders of a majority of the Registrable Securities included in such Shelf Takedown or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Securities (including effecting a stock split, a combination of shares, or other recapitalization) and provide reasonable cooperation, including causing appropriate officers to attend and participate in “road shows” and analyst or investor presentations and such other selling or other informational meetings organized by the underwriters, if any, to the extent reasonably requested by the lead or managing underwriters, with all out of pocket costs and expenses incurred by the Company or such officers in connection with such attendance and participation to be paid by the Company;

(i) for a reasonable period prior to the filing of any Registration Statement or the commencement of marketing efforts for a Shelf Takedown, as applicable, pursuant to this Agreement, make available for inspection and copying by any Holder of Registrable Securities, Counsel to the Holders, any underwriter participating in any disposition pursuant to such Registration Statement or Shelf Takedown, as applicable, and any other attorney, accountant or other agent retained by any such Holder or underwriter, all financial and other records and pertinent corporate documents of the Company, and cause the Company’s officers, directors, employees and independent accountants to supply all information and participate in any due diligence sessions reasonably requested by any such Holder, underwriter, attorney, accountant or agent in connection with such Registration Statement or Shelf Takedown, as applicable, provided that recipients of such financial and other records and pertinent corporate documents agree in writing to keep the confidentiality thereof pursuant to a written agreement reasonably acceptable to the Company and the applicable underwriter (which shall contain customary exceptions thereto);

(j) permit any Holder of Registrable Securities, Counsel to the Holders, any underwriter participating in any disposition pursuant to a Registration Statement, and any other attorney, accountant or other agent retained by such Holder of Registrable Securities or underwriter, to participate (including, but not limited to, reviewing, commenting on and attending all meetings) in the preparation of such Registration Statement and any Prospectus supplements relating to a Shelf Takedown, if applicable;

(k) in the event of the issuance or threatened issuance of any stop order suspending the effectiveness of a Registration Statement, or of any order suspending or preventing the use of any related Prospectus or suspending the qualification of any Common Stock included in such Registration Statement for sale in any jurisdiction, the Company shall use its commercially reasonable efforts promptly to (i) prevent the issuance of any such stop order, and in the event of such issuance, to obtain the withdrawal of such order and (ii) obtain the withdrawal of any order suspending or preventing the use of any related Prospectus or Free Writing Prospectus or suspending qualification of any Registrable Securities included in such Registration Statement for sale in any jurisdiction at the earliest practicable date;

(l) obtain and furnish to each such Holder of Registrable Securities, including Registrable Securities in a Shelf Takedown or underwritten offering, a signed counterpart of (i) a customary cold comfort and bring down letter from the Company’s independent public accountants, (ii) a customary legal opinion of counsel to the Company addressed to the relevant underwriters and/or such Holders of Registrable Securities, in each case in customary form and covering such matters of the type customarily covered by such letters as the managing underwriters and/or Holders of a majority of the Registrable Securities included in such Shelf Takedown reasonably request, (iii) a negative assurances letter of counsel to the Company in customary form and covering such matters of the type customarily covered by such letters as the managing underwriters and/or Holders of a majority of the Registrable Securities included in such Shelf Takedown reasonably request, and (iv) customary certificates executed by authorized officers of the Company as may be requested by any Holder or any underwriter of such Registrable Securities included in such Shelf Takedown;

(m) with respect to each Free Writing Prospectus or other materials to be included in the Disclosure Package, ensure that no Registrable Securities be sold “by means of” (as defined in Rule 159A(b) promulgated under the Securities Act) such Free Writing Prospectus or other

materials without the prior written consent of a majority of the Holders of the Registrable Securities that are being sold pursuant to such Free Writing Prospectus, which Free Writing Prospectuses or other materials shall be subject to the review of Counsel to the Holders; provided, however, the Company shall not be responsible or liable for any breach by a Holder that has not obtained the prior written consent of the Company pursuant to Section 16(l);

(n) provide or maintain a CUSIP number for the Registrable Securities prior to the effective date of the first Registration Statement including Registrable Securities;

(o) promptly notify in writing the Holders, the sales or placement agent, if any, therefor and the managing underwriters of the securities being sold, (i) when such Registration Statement or related Prospectus or Free Writing Prospectus or any Prospectus amendment or supplement or post-effective amendment has been filed, and, with respect to any such Registration Statement or any post-effective amendment, when the same has become effective and (ii) of any written comments by the Commission and by the blue sky or securities commissioner or regulator of any state with respect thereto;

(p) (i) prepare and file with the Commission such amendments and supplements to each Registration Statement as (A) reasonably requested by any Holder (to the extent such request related to information relating to such Holder) or (B) may be necessary to comply with the provisions of the Securities Act, including post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement continuously effective for the applicable time period required hereunder, and if applicable, file any Registration Statements pursuant to Rule 462(b) promulgated under the Securities Act; (ii) cause the related Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 (or any similar provisions then in force) promulgated under the Securities Act; (iii) comply with the provisions of the Securities Act and the Exchange Act and any applicable securities exchange or other recognized trading market with respect to the disposition of all securities covered by such Registration Statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented; (iv) provide additional information related to each Registration Statement as requested by, and obtain any required approval necessary from, the Commission or any Federal or state governmental authority; and (v) respond promptly to any comments received from the Commission and request acceleration of effectiveness promptly after it learns that the Commission will not review the Registration Statement or after it has satisfied comments received from the Commission;

(q) cooperate with each Holder of Registrable Securities and each underwriter participating in the disposition of such Registrable Securities and underwriters' counsel in connection with any filings required to be made with FINRA, including using commercially reasonable efforts to obtain FINRA's pre-clearance and pre-approval of the Registration Statement and applicable Prospectus upon filing with the Commission;

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(r) within the deadlines specified by the Securities Act, make all required filing fee payments in respect of any Registration Statement or Prospectus used under this Agreement (and any offering covered thereby);

(s) if requested by any participating Holder of Registrable Securities or the managing underwriters, promptly include in a Prospectus supplement or amendment such information as the Holder or managing underwriters may reasonably request, including in order to permit the intended method of distribution of such securities, and make all required filings of such Prospectus supplement or such amendment as soon as reasonably practicable after the Company has received such request;

(t) in the case of certificated Registrable Securities, cooperate with the participating Holders of Registrable Securities and the managing underwriters to facilitate the timely preparation and delivery of certificates (not bearing any legends) representing Registrable Securities to be sold after receiving written representations from each participating Holder that the Registrable Securities represented by the certificates so delivered by such Holder will be transferred in accordance with the Registration Statement, and enable such Registrable Securities to be in such denominations and registered in such names as the Holders or managing underwriters may reasonably request at least two Business Days prior to any sale of Registrable Securities;

(u) pay the fees of the Company's transfer agent and any reasonable, documented legal fees of outside counsel to the Company to provide an opinion to the effect that such transfer is permitted under the Securities Act and applicable state laws (or if outside counsel to the Company is unwilling or unavailable to provide such opinion, the reasonable, documented legal fees of one outside counsel to the Holders to provide such opinion) to effectuate the transfer of Registrable Securities from Holders to other Persons, as permitted by Section 7(c); provided, in each case, that such Holders shall provide such certificates and other documentation as the Company shall reasonably request in connection with such opinions and transfers;

(v) if the registration statement referred to in Section 7.16(h) of the Business Combination Agreement has not been declared effective as of the Effective Date, use reasonable best efforts to cause such registration statement to become effective as soon as practicable after the Effective Date, and to use reasonable best efforts to cause such registration statement to remain effective; provided, however, that the obligations contained in this Section 8(v) shall terminate upon the earliest to occur of: (x) the date on which the securities included on such registration statement are disposed of pursuant to an effective registration statement under the Securities Act; (y) the date on which such securities are disposed of pursuant to Rule 144 (or any successor provision) promulgated under the Securities Act; and (z) the date on which such securities cease to be outstanding; and

(w) use its commercially reasonable efforts to take all other actions necessary to effect the registration and sale of the Registrable Securities contemplated hereby.

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## 9. Registration Expenses.

All Registration Expenses shall be borne by the Company. For the avoidance of doubt, subject to the proviso in Section 3(c) of this Agreement, all Registration Expenses in connection with any registration initiated as a Demand Registration shall be borne by the Company regardless of whether or not such registration has become effective and whether or not such registration has counted as one of the permitted Long-Form Registrations pursuant to Section 3(c) of this Agreement. All Selling Expenses relating to Registrable Securities registered shall be borne by the selling Holders of such Registrable Securities *pro rata* on the basis of the number of Registrable Securities sold.

## 10. Indemnification; Contribution.

(a) Indemnification by the Company. The Company agrees to indemnify and hold harmless each Holder of Registrable Securities, the Affiliates, directors, officers, employees, members, managers and agents of each such Holder and each Person who controls any such Holder within the meaning of either the Securities Act or the Exchange Act, to the fullest extent permitted by applicable law, from and against any losses, claims, expenses, damages and liabilities or whatever kind (including legal or other expenses reasonably incurred in connection with investigating, preparing or defending same and the cost of enforcing any right to indemnification hereunder) (collectively, “Losses”) to which they or any of them may become subject insofar as such Losses (or actions in respect thereof) arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in a Registration Statement as originally filed or in any amendment thereof, or the Disclosure Package, or any preliminary, final or summary Prospectus or Free Writing Prospectus included in any such Registration Statement, or in any amendment thereof or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any other federal law, any state or foreign securities law, or any rule or regulation promulgated under of the foregoing laws, relating to the offer or sale of the Registrable Securities, and in any such case, the Company agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by them in connection with investigating, preparing or defending any such Loss, claim, damage, liability, action or investigation (whether or not the indemnified party is a party to any proceeding); provided, however, that the Company will not be liable in any case to the extent that any such Loss arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information relating to such Holder furnished to the Company by or on behalf of any such Holder specifically for inclusion therein, including any notice and questionnaire. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

(b) Indemnification by the Holders. Each Holder severally (and not jointly) agrees to indemnify and hold harmless the Company and each of its Affiliates, directors, employees, members, managers and agents and each Person who controls the Company within the meaning of either the Securities Act or the Exchange Act, to the fullest extent permitted by applicable law, from and against any and all Losses to which they or any of them may become

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subject insofar as such Losses arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in a Registration Statement as originally filed or in any amendment thereof, or in the Disclosure Package or any Holder Free Writing Prospectus, preliminary, final or summary Prospectus included in any such Registration Statement, or in any amendment thereof or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, to the extent, but only to the extent, that any such untrue statement or alleged untrue statement or omission or alleged omission is contained in any written information relating to such Holder furnished to the Company by or on behalf of such Holder specifically for inclusion therein; provided, however, that the total amount to be indemnified by such Holder pursuant to this Section 10(b) shall be limited to the net proceeds (after deducting underwriters’ discounts and commissions) received by such Holder in the offering to which such Registration Statement or Prospectus relates; provided, further, that a Holder shall not be liable in any case to the extent that prior to the filing of any such Registration Statement or Disclosure Package, or any amendment thereof or supplement thereto, such Holder has furnished in writing to the Company, information expressly for use in, and within a reasonable period of time prior to the effectiveness of such Registration Statement or Disclosure Package, or any amendment thereof or supplement thereto which corrected or made not misleading information previously provided to the Company. This indemnity agreement will be in addition to any liability which any such Holder may otherwise have.

(c) Conduct of Indemnification Proceedings. Promptly after receipt by an indemnified party under this Section 10 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 10, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve the indemnifying party from liability under Section 10(a) or Section 10(b) above unless and to the extent such action and such failure results in material prejudice to the indemnifying party and forfeiture by the indemnifying party of substantial rights and defenses; and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in Section 10(a) or Section 10(b) above. The indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, except as provided in the next sentence, after notice from the indemnifying party to such indemnified party of its election to so assume the defense thereof, the indemnifying party shall not be liable to such indemnified party for any legal expenses of other counsel or any other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. Notwithstanding the indemnifying party’s rights in the prior sentence, the indemnified party shall have the right to employ one firm of separate counsel (and one local counsel), and the indemnifying party shall bear the reasonable, documented fees, costs and expenses of such separate counsel if:

(i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with an actual or potential conflict of interest;

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(ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party;

(iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within 10 days after notice of the institution of such action or such earlier time as may be necessary to pursue appropriate defenses, rights, and remedies; or

(iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party.

No indemnifying party shall, in connection with any one action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general circumstances or allegations, be liable for the fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all indemnified parties. An indemnifying party shall not be liable under this Section 10 to any indemnified party regarding any settlement or

compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent is consented to by such indemnifying party, which consent shall not be unreasonably withheld. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each indemnified party, consent to entry of any judgment or enter into any settlement or compromise that (x) does not include as an unconditional term thereof the giving by the claimant or plaintiff therein, to such indemnified party, of a full and final release from all liability in respect to such claim or litigation or (y) includes a statement as to, or an admission of, fault, culpability or a failure to act by or on behalf of such indemnified party.

(d) Contribution.

(i) In the event that the indemnity provided in Section 10(a) or Section 10(b) above is unavailable to or insufficient to hold harmless an indemnified party for any reason, then each applicable indemnifying party agrees to contribute to the aggregate Losses to which such indemnifying party may be subject in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party on the one hand and by the indemnified party on the other from the offering of the Common Stock. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the indemnifying party on the one hand and the indemnified party on the other in connection with the statements or omissions which resulted in such Losses (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to

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information supplied by the indemnifying party on the one hand or the indemnified party on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(ii) The parties agree that it would not be just and equitable if contribution pursuant to this Section 10(d) were determined by *pro rata* allocation (even if the Holders of Registrable Securities or any agents or underwriters or all of them were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 10(d). The amount paid or payable by an indemnified party as a result of the Losses (or actions in respect thereof) referred to above in this Section 10(d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating, preparing or defending any such action or claim.

(iii) For purposes of this Section 10, each Person who controls any Holder of Registrable Securities, agent or underwriter within the meaning of either the Securities Act or the Exchange Act and each director, officer, employee and agent of any such Holder, agent or underwriter shall have the same rights to contribution as such Holder, agent or underwriter, and each Person who controls the Company within the meaning of either the Securities Act or the Exchange Act and each officer and director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this Section 10(d).

(e) The provisions of this Section 10 will remain in full force and effect, regardless of any investigation made by or on behalf of any Holder of Registrable Securities or the Company or any of the officers, directors or controlling Persons referred to in this Section 10 hereof, and will survive the transfer of Registrable Securities.

(f) To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 10 to the fullest extent permitted by law; provided, however, that: (i) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities pursuant to such Shelf Registration.

**11. Participation in Underwritten Offering/Sale of Registrable Securities.**

(a) No Person may participate in any underwritten offering hereunder unless such Person (i) agrees to enter into an underwriting agreement in customary form and provide the representations and warranties, and indemnities to the underwriters and the Company and to sell such Person's securities on the basis provided in any such underwriting agreement and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting

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arrangements; provided that no Holder of Registrable Securities included in any underwritten offering shall be required to make any representations or warranties to the Company or the underwriters (other than representations and warranties regarding (A) such Holder's ownership of its Registrable Securities to be sold or transferred free and clear of liens, (B) such Holder's power and authority to effect, and lack of conflicts in effecting, such transfer and (C) such matters pertaining to compliance with securities laws as may be reasonably requested) or to undertake any indemnification obligations to the Company, except as otherwise provided in Section 10(b) hereof, or to the underwriters, except to the extent of the indemnification being given to the Company and its controlling persons in Section 10(b) hereof.

(b) Each Holder agrees that, upon receipt of any notice contemplated in Section 6(a), such Holder will promptly discontinue the disposition of its Registrable Securities pursuant to the applicable Registration Statement.

**12. Rule 144.**

With a view to making available to the Holders of Registrable Securities the benefits of Rule 144 promulgated under the Securities Act, the Company covenants that it will (a) make available information necessary to comply with Rule 144, if available with respect to resales of the Registrable Securities under the Securities Act, at all times, and (b) take such further action as such Holder may reasonably request, all to the extent required from time to

time to enable such Holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 promulgated under the Securities Act (if available with respect to resales of the Registrable Securities), as such rule may be amended from time to time. Upon the reasonable request of any Holder of Registrable Securities, the Company will deliver to such Holder a written statement as to whether it has complied with such information requirements, and, if not, the specific reasons for non-compliance.

### 13. Private Placement

Except for Section 7(a) and Section 7(b), the Company agrees that nothing in this Agreement shall prohibit the Holders, at any time and from time to time, from selling or otherwise transferring Registrable Securities pursuant to a private placement or other transaction which is not registered pursuant to the Securities Act. To the extent requested by a Holder, the Company shall take all reasonable steps to assist and cooperate with such Holder to facilitate such sale or transfer, including providing reasonable due diligence access to potential purchasers.

### 14. Transfer of Registration Rights.

The rights of a Holder hereunder may be transferred, assigned, or otherwise conveyed on a *pro rata* basis in connection with any transfer, assignment, or other conveyance of Registrable Securities to any transferee or assignee, including any distribution of shares of Common Stock or Preferred Stock by New LLC to the holders of membership interests of New LLC, (other than a transfer pursuant to a registration statement or under Rule 144 promulgated under the Securities Act, and except with respect to transfers of Demand Registration rights which may be transferred in whole and not in part as provided in Section 3(g)); provided that all

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of the following additional conditions are satisfied with respect to any transfer, assignment or conveyance of rights hereunder: (a) such transfer or assignment is effected in accordance with applicable securities laws; (b) such transferee or assignee agrees in writing to become subject to the terms of this Agreement by executing a joinder or similar document; and (c) the Company is given written notice by such Holder of such transfer or assignment, stating the name and address of the transferee or assignee, identifying the Registrable Securities with respect to which such rights are being transferred or assigned and specifying whether or not the Demand Registration rights pursuant to Section 3 have been assigned. Any transfer, assignment or other conveyance of the rights of a Holder in breach of this Agreement shall be void and of no effect. For the avoidance of doubt, nothing in this Agreement shall prohibit the assignment of any rights hereunder by New LLC to a lender in connection with the PIPE Financing.

### 15. Amendment, Modification and Waivers; Further Assurances.

(a) Amendment. This Agreement may be amended with the consent of the Company and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company shall have obtained the written consent of each of the Apollo Demand Holders, the HGM Demand Holders and the QPAC Holders to such amendment, action or omission to act; provided that no such amendment, action or omission that adversely affects, alters or changes the rights of any Holder in a manner disproportionate to other similarly situated Holders shall be effective against such Holder without the prior written consent of such Holder.

(b) Consents and Actions of Demand Holders. Subject to Section 3(g), if any action or consent is requested of the Apollo Demand Holders or the HGM Demand Holders, such action may be taken and any such consent shall be deemed granted if and only if holders of a majority of the Registrable Securities held by the Apollo Demand Holders and holders of a majority of the Registrable Securities held by the HGM Demand Holders take such action or grant such consent. Notwithstanding the foregoing, any Apollo Demand Holder or HGM Demand Holder may request a Demand Registration, in accordance with the terms of Section 3(a).

(c) Effect of Waiver. No waiver of any terms or conditions of this Agreement shall operate as a waiver of any other breach of such terms and conditions or any other term or condition, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision hereof. No written waiver hereunder, unless it by its own terms explicitly provides to the contrary, shall be construed to effect a continuing waiver of the provisions being waived and no such waiver in any instance shall constitute a waiver in any other instance or for any other purpose or impair the right of the party against whom such waiver is claimed in all other instances or for all other purposes to require full compliance with such provision. The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of such provision and shall not affect the right of such party thereafter to enforce each provision of this Agreement in accordance with its terms.

(d) Further Assurances. Each of the parties hereto shall execute all such further instruments and documents and take all such further action as any other party hereto may reasonably require in order to effectuate the terms and purposes of this Agreement.

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### 16. Miscellaneous.

(a) Adjustments. If, and as often as, there are any changes in the Common Stock by way of stock split, stock dividend, combination or reclassification, or through merger, consolidation, reorganization, recapitalization or sale, or by any other means, appropriate adjustment shall be made in the provisions of this Agreement, as may be required, so that the rights, privileges, duties and obligations hereunder shall continue with respect to the Common Stock as so changed.

(b) Successors and Assigns. All covenants and agreements in this Agreement by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto (including any trustee in bankruptcy) whether so expressed or not. In addition, whether or not any express assignment has been made, the provisions of this Agreement which are for the benefit of purchasers or Holders of Registrable Securities are also for the benefit of, and enforceable by, any subsequent Holder of Registrable Securities. No assignment or delegation of this Agreement by the Company, or any of the Company's rights, interests or obligations hereunder, shall be effective against any Holder without the prior written consent of such Holder.

(c) Remedies; Specific Performance. Any Person having rights under any provision of this Agreement shall be entitled to enforce such rights specifically, to recover damages caused by reason of any breach of any provision of this Agreement and to exercise all other rights existing in their favor. The parties hereto agree and acknowledge that money damages would not be an adequate remedy for any breach of the provisions of this Agreement and that any party may in its sole discretion apply to any court of law or equity of competent jurisdiction for specific performance and/or injunctive relief (without posting any bond or other security) in order to enforce or prevent violation of the provisions of this Agreement and shall not be required to prove irreparable injury to such party or that such party does not have an adequate remedy at law with respect to any breach of this Agreement (each of which elements the parties admit). The parties hereto further agree and acknowledge that each and every obligation applicable to it contained in this Agreement shall be specifically enforceable against it and hereby waives and agrees not to assert any defenses against an action for specific performance of their respective obligations hereunder. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies available under this Agreement or otherwise.

(d) Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be delivered by hand, facsimile, electronic mail or postage prepaid mail (registered or certified) or nationally recognized overnight courier service and shall be deemed given when so delivered by hand, facsimile or electronic mail, or if mailed, three days after mailing (one Business Day in the case of overnight courier service), and shall be given to such party at the address or facsimile number specified for such party on Schedule I hereto. If any time period for giving notice or taking action hereunder expires on a day which is a Saturday, Sunday or legal holiday in the State of New York or the jurisdiction in which the Company's principal office is located, the time period shall automatically be extended to the Business Day immediately following such Saturday, Sunday or legal holiday.

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(e) No Inconsistent Agreements. The Company shall not hereafter enter into any agreement with respect to its securities which is inconsistent with or violates the rights granted to the Holders of Registrable Securities in this Agreement.

(f) Counterparts. This Agreement may be executed in one or more counterparts, and may be delivered by means of facsimile or electronic transmission in portable document format, each of which shall be deemed to be an original and shall be binding upon the party who executed the same, but all of such counterparts shall constitute the same agreement.

(g) Descriptive Headings; Interpretation; No Strict Construction. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular forms of nouns, pronouns, and verbs shall include the plural and vice versa. Reference to any agreement, document, or instrument means such agreement, document, or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and, if applicable, hereof. The words "include," "includes" or "including" in this Agreement shall be deemed to be followed by "without limitation." The use of the words "or," "either" or "any" shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. All references to laws, rules, regulations and forms in this Agreement shall be deemed to be references to such laws, rules, regulations and forms, as amended from time to time or, to the extent replaced, the comparable successor thereto in effect at the time. All references to agencies, self-regulatory organizations or governmental entities in this Agreement shall be deemed to be references to the comparable successors thereto from time to time.

(h) Delivery by Facsimile and Electronic Means. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or other electronic means, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

(i) Arm's Length Agreement. Each of the parties to this Agreement agrees and acknowledges that this Agreement has been negotiated in good faith, at arm's length, and not by any means prohibited by law.

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(j) Sophisticated Parties; Advice of Counsel. Each of the parties to this Agreement specifically acknowledges that (i) it is a knowledgeable, informed, sophisticated Person capable of understanding and evaluating the provisions set forth in this Agreement and (ii) it has been fully advised and represented by legal counsel of its own independent selection and has relied wholly upon its independent judgment and the advice of such counsel in negotiating and entering into this Agreement.

(k) Attorneys' Fees. In the event of litigation or other proceedings in connection with or related to this Agreement, the prevailing party in such litigation or proceeding shall be entitled to reimbursement from the opposing party of all reasonable expenses, including reasonable attorneys' fees and expenses of investigation in connection with such litigation or proceeding.

(l) FWP Consent. No Holder shall use a Holder Free Writing Prospectus without the prior written consent of the Company, which consent shall not be unreasonably withheld.

(m) Notification of Status. Each Holder shall provide written notice to the Company within ten Business Days from the first day on which the Holder no longer holds Registrable Securities.

(n) Governing Law. This Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of New York or any



other jurisdiction) to the extent such rules or provisions would cause the application of the laws of any jurisdiction other than the State of New York.

(o) Submission to Jurisdiction. Any action, suit or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby must be brought and determined in the Supreme Court of the State of New York (or, solely if such courts decline jurisdiction, in United States District Court for the Southern District of New York), and each party hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, in any such action, suit or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such, action, suit or proceeding in any such court or that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(p) Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH

OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 16(p).

(q) Complete Agreement. This Agreement and any certificates, documents, instruments and writings that are delivered pursuant hereto, represent the complete agreement between the parties hereto as to all matters covered hereby, and supersedes any prior agreements or understandings among the parties.

(r) Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

(s) Termination. The obligations of any Holder and of the Company with respect to such Holder, other than those obligations contained in Section 10, shall terminate as soon as both (i) such Holder no longer holds any Registrable Securities and (ii) such Holder is no longer an Affiliate of the Company or otherwise subject to the volume limitations set forth in Rule 144(e) promulgated under the Securities Act or any successor provision.

(t) Amendment and Restatement. The QPAC Registration Rights Agreement is hereby terminated and shall be of no further force and effect and this Agreement shall amend and restate in full the Novitex Registration Rights Agreement.

\* \* \* \* \*

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Registration Rights Agreement as of the date first written above.

EXELA TECHNOLOGIES, INC.

By: /s/ James Reynolds  
Name: James Reynolds  
Title: Chief Financial Officer

*Signature Page for Amended and Restated Registration Rights Agreement*

**HOLDERS**

**Apollo Novitex Holdings, L.P.**

By: /s/ Laurie Medley  
Name: Laurie D. Medley  
Title: Vice President & Secretary

Address:  
Facsimile:

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Novitex Parent, L.P.**

By: /s/ Giovanni Visentin  
Name: Giovanni Visentin  
Title: Chief Executive Officer

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Address:  
Facsimile:

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**HandsOn Global Management, LLC**

By: /s/ James Reynolds  
Name: James Reynolds  
Title: Manager

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Address:  
Facsimile:

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Ex-Sigma LLC**

By: /s/ James Reynolds  
Name: James Reynolds  
Title: Secretary

---

Address:  
Facsimile:

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Ex-Sigma 2 LLC**

By: /s/ James Reynolds  
Name: James Reynolds  
Title: Secretary

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Address:  
Facsimile:

**HOLDERS**

**Michelle Tierney**

By: /s/ Michelle Tierney  
Name: Michelle Tierney

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Anthony Dupree**

By: /s/ Anthony Dupree  
Name: Anthony Dupree

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Joseph Trost**

By: /s/ Joseph Trost  
Name: Joseph Trost

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Giovanni Visentin**

By: /s/ Giovanni Visentin  
Name: Giovanni Visentin

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Tatiana Koleva**

By: /s/ Tatiana Koleva  
Name: Tatiana Koleva

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Irina Novoselsky**

By: /s/ Irinia Novoselsky  
Name: Irina Novoselsky

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*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Rubin McDougal**

By: /s/ Rubin McDougal  
Name: Rubin McDougal

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*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Robert Rooney**

By: /s/ Robert Rooney  
Name: Robert Rooney

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*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Theresa Mohan**

By: /s/ Theresa Mohan  
Name: Theresa Mohan

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*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**John Garippa**

By: /s/ John Garippa  
Name: John Garippa

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*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Erik Mengwall**

By: /s/ Erik Mengwall  
Name: Erik Mengwall

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*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Kenneth Bechard**

By: /s/ Kenneth Bechard  
Name: Kenneth Bechard

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Nathaniel Lipman**

By: /s/ Nathaniel Lipman  
Name: Nathaniel Lipman

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Quinpario Partners 2, LLC**

By: /s/ Jeffry Quinn  
Name: Jeffry N. Quinn  
Title: Managing Member of Quinpario Partners LLC, the  
Managing Member

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**John Rutledge**

By: /s/ John Rutledge  
Name: John Rutledge

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Ilan Kaufthal**

By: /s/ Ilan Kaufthal  
Name: Ilan Kaufthal

*Signature Page for Amended and Restated Registration Rights Agreement*

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**HOLDERS**

**Shlomo Yanai**

By: /s/ Shlomo Yanai  
Name: Shlomo Yanai

**HOLDERS**

**W. Thomas Jagodinski**

By: /s/ W. Thomas Jagodinski  
Name: W. Thomas Jagodinski

Signature Page for Amended and Restated Registration Rights Agreement

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**HOLDERS**

**Edgar Hotard**

By: /s/ Edgar Hotard  
Name: Edgar Hotard

Signature Page for Amended and Restated Registration Rights Agreement

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**HOLDERS**

**Roberto Mendoza**

By: /s/ Roberto Mendoza  
Name: Roberto Mendoza

Signature Page for Amended and Restated Registration Rights Agreement

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**Schedule I**

**List of Holders (as of July 12, 2017)**

<b>Name</b>	<b>Address for Notice</b>	<b>Shares of Common Stock</b>
Apollo Novitex Holdings, L.P.	Apollo Novitex Holdings, L.P. c/o Apollo Management VII, L.P. 9 West 57th Street, 43rd Floor New York, New York 10019 Telephone: (212) 515-3200 Facsimile: (212) 515-3264 Email: lmedley@apollohp.com Attention: Laurie Medley, General Counsel  With a copy to: Akin Gump Strauss Hauer & Feld LLP One Bryant Park New York, New York 10036 Telephone: (212) 872-8112 Facsimile: (212) 872-1002 Email: aweinstein@akingump.com Attention: Adam K. Weinstein	
Novitex Parent L.P.	Apollo Novitex Holdings, L.P. c/o Apollo Management VII, L.P. 9 West 57th Street, 43rd Floor New York, New York 10019 Telephone: (212) 515-3200 Facsimile: (212) 515-3264 Email: lmedley@apollohp.com	

Attention: Laurie Medley, General Counsel

With a copy to:  
Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036  
Telephone: (212) 872-8112  
Facsimile: (212) 872-1002  
Email: aweinstein@akingump.com  
Attention: Adam K. Weinstein

Giovanni Visentin  
Joseph Trost  
Irina Novoselsky  
Michele Tierney  
Ken Bechard

John Garippa  
Tatiana Koleva  
Erik Mengwall  
Theresa Mohan  
Robert Rooney  
Anthony Dupree  
Rubin McDougal  
Nathaniel Lipman

HOVS LLC  
c/o HandsOn Global Management, LLC  
3003 Pennsylvania Avenue  
Santa Monica, CA 90404  
Email: pchadha@hgmfund.com  
Attention: Par Chadha  
Chief Executive Officer

With a copy to:

Willkie Farr & Gallagher LLP  
787 7th Ave  
New York, NY 10019  
Facsimile: (212) 728 8111  
Email: mlefkort@willkie.com  
Attention: Maurice Lefkort

HOVS Capital III LLC  
c/o HandsOn Global Management, LLC  
3003 Pennsylvania Avenue  
Santa Monica, CA 90404  
Email: pchadha@hgmfund.com  
Attention: Par Chadha  
Chief Executive Officer

With a copy to:

Willkie Farr & Gallagher LLP  
787 7th Ave  
New York, NY 10019  
Facsimile: (212) 728 8111  
Email: mlefkort@willkie.com  
Attention: Maurice Lefkort

HandsOn Global Management, LLC  
3003 Pennsylvania Avenue  
Santa Monica, CA 90404  
Email: pchadha@hgmfund.com  
Attention: Par Chadha  
Chief Executive Officer

With a copy to:

Willkie Farr & Gallagher LLP  
787 7th Ave  
New York, NY 10019  
Facsimile: (212) 728 8111  
Email: mlefkort@willkie.com  
Attention: Maurice Lefkort

Stern Capital Partners LLC  
Sunraj LLC

Pidgin Associates LLC  
HandsOn Fund 4 I, LLC

c/o HandsOn Global Management, LLC  
3003 Pennsylvania Avenue  
Santa Monica, CA 90404  
Email: pchadha@hgmfund.com  
Attention: Par Chadha  
Chief Executive Officer

With a copy to:

Willkie Farr & Gallagher LLP  
787 7th Ave  
New York, NY 10019  
Facsimile: (212) 728 8111  
Email: mlefkort@willkie.com  
Attention: Maurice Lefkort

Sonino LLC

29 Warner Road  
Grosse Pointe Farms, MI 48236  
Email: jreynolds@hgmfund.com

Ex-Sigma LLC

c/o HandsOn Global Management, LLC  
3003 Pennsylvania Avenue  
Santa Monica, CA 90404  
Email: pchadha@hgmfund.com  
Attention: Par Chadha  
Chief Executive Officer

With a copy to:

Willkie Farr & Gallagher LLP  
787 7th Ave  
New York, NY 10019  
Facsimile: (212) 728 8111  
Email: mlefkort@willkie.com  
Attention: Maurice Lefkort

Ex-Sigma 2 LLC

c/o HandsOn Global Management, LLC  
3003 Pennsylvania Avenue  
Santa Monica, CA 90404

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Email: pchadha@hgmfund.com  
Attention: Par Chadha  
Chief Executive Officer

With a copy to:

Willkie Farr & Gallagher LLP  
787 7th Ave  
New York, NY 10019  
Facsimile: (212) 728 8111  
Email: mlefkort@willkie.com  
Attention: Maurice Lefkort

Quinpario Partners 2, LLC

Edgar G. Hotard

W. Thomas Jagodinski

Ilan Kaufthal

Roberto Mendoza

Dr. John Rutledge

Shlomo Yanai

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## EXELA TECHNOLOGIES, INC.

## DIRECTOR NOMINATION AGREEMENT

This Director Nomination Agreement (this "**Agreement**") is made as of **July 12, 2017**, between Exela Technologies, Inc., a Delaware corporation (the "**Company**"), and the stockholder party hereto (the "**Stockholder**"). Unless otherwise specified herein, all of the capitalized terms used herein are defined in Section 3 hereof.

**WHEREAS**, the Company has agreed to permit the Stockholder, or its permitted assignees, as applicable, who, together with its Affiliates, Beneficially Own approximately 21.5% of the issued and outstanding shares of common stock, par value, \$0.0001 per share, of the Company (the "**Common Stock**"), at the Effective Time to designate up to two persons for nomination for election to the board of directors of the Company (the "**Board**") on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

Section 1. Board of Directors.

(a) Subject to the terms and conditions of this Agreement, from and after the Effective Time and until a Termination Event (as defined below) shall have occurred, the Stockholder, or its permitted assignees, as applicable, shall have the right to designate up to two (2) persons to be appointed or nominated, as the case may be, for election to the Board (including any successor, each, a "**Nominee**") by giving written notice to the Company not later than ten (10) days after receiving notice of the date of the applicable meeting of stockholders or equityholders provided to the Stockholder, or its permitted assignees, as applicable; *provided, however*, the initial Nominees shall be appointed as set forth in Section 1(b).

(b) The Company shall take all necessary and desirable actions within its control such that, as of the Effective Time (i) two (2) existing Directors resign or are removed from the Board (ii) Matthew H. Nord shall be appointed as a Class C Director with a term ending at the 2020 Annual Meeting of Stockholders and Joshua M. Black shall be appointed as a Class B Director with a term ending at the 2019 Annual Meeting of Stockholders and (iii) the size of the Board is set at eight (8) Directors.

(c) Subject to the terms and conditions of this Agreement, from and after the Effective Time and until a Termination Event shall have occurred, the Company will, as promptly as practicable, take all necessary and desirable actions within its control (including, without limitation, calling special meetings of the Board and the stockholders and recommending, supporting and soliciting proxies), so that:

(i) for so long as the Stockholder (together with its Affiliates and permitted assignees) Beneficially Own a number of shares of Common Stock equal to or greater than 15% of the total number of shares of Common Stock issued and outstanding

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(on a non-fully diluted basis) of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Stockholder, or its permitted assignees, as applicable, shall have the right to nominate, in the aggregate, a number of Nominees equal to two (2) less the number of Stockholder Directors who are not up for election; and

(ii) for so long as the Stockholder (together with its Affiliates and permitted assignees) Beneficially Owns a number of shares of Common Stock equal to or greater than 5% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis) but fewer than 15% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Stockholder, or its permitted assignees, as applicable, shall have the right to nominate, in the aggregate, a number of Nominees equal to one (1) less the number of Stockholder Directors who are not up for election.

(d) The Company shall take all actions necessary to ensure that: (i) the applicable Nominees are included in the Board's slate of nominees to the stockholders of the Company for each election of Directors; and (ii) each applicable Nominee up for election is included in the proxy statement prepared by management of the Company in connection with soliciting proxies for every meeting of the stockholders of the Company called with respect to the election of members of the Board, and at every adjournment or postponement thereof, and on every action or approval by written consent of the stockholders of the Company or the Board with respect to the election of members of the Board.

(e) If a vacancy occurs because of the death, disability, disqualification, resignation, or removal of a Stockholder Director or for any other reason, the Stockholder, or its permitted assignees, as applicable, shall be entitled to designate such person's successor, and the Company will, within ten (10) days of such designation, take all necessary and desirable actions within its control such that such vacancy shall be filled with such successor Nominee. Notwithstanding anything to the contrary, the director position for such Stockholder Director shall not be filled pending such designation and appointment, unless the Stockholder, or its permitted assignees, as applicable, fails to designate such Nominee for more than fifteen (15) days, after which the Company may appoint a successor Director until the Stockholder, or its permitted assignees, as applicable, makes such designation.

(f) If a Nominee is not elected because of such Nominee's death, disability, disqualification, withdrawal as a nominee or for any other reason, the Stockholder, or its permitted assignees, as applicable, shall be entitled to designate promptly another Nominee and the Company will take all necessary and desirable actions within its control such that the director position for which such Nominee was nominated shall not be filled pending such designation or the size of the Board shall be increased by one and such vacancy shall be filled with such successor Nominee within ten (10) days of such designation. Notwithstanding anything to the contrary, the director position for which such Nominee was nominated shall not be filled pending such designation and appointment, unless the Stockholder, or its permitted assignees, as applicable, fails to designate such Nominee for more than thirty (30) days, after which the Company may appoint a successor nominee who may serve as a director if duly elected until the Stockholder, or its permitted assignees, as applicable, makes such designation.

(g) The Company shall pay the reasonable, documented out-of-pocket expenses incurred by each Stockholder Director in connection with his or her services provided to or on behalf of the Company, including attending meetings or events attended explicitly on behalf of the Company at the Company's request.

(h) In accordance with the Company's Bylaws, the Board may from time to time by resolution establish and maintain one or more committees of the Board, each committee to consist of one or more Directors. To the extent feasible, the Company shall notify the Stockholder, or its permitted assignees, as applicable, in writing of any new committee of the Board to be established at least fifteen (15) days prior to the effective establishment of such committee. If requested by the Stockholder, or its permitted assignees, as applicable, the Company shall take all necessary steps to cause at least one Stockholder Director as requested by Stockholder, or its permitted assignees, as applicable, to be appointed as a member of each such committee of the Board unless such designation would violate any legal restriction on such committee's composition or the rules and regulations of any applicable exchange on which the Company's securities may be listed.

(i) The Company shall (i) purchase directors' and officers' liability insurance in an amount determined by the Board to be reasonable and customary and (ii) for so long as any Director to the Board nominated pursuant to the terms of this Agreement serves as a Director of the Company, maintain such coverage with respect to such Director; *provided* that upon removal or resignation of such Director for any reason, the Company shall take all actions reasonably necessary to extend such directors' and officers' liability insurance coverage for a period of not less than six (6) years from any such event in respect of any act or omission occurring at or prior to such event.

(j) For so long as any Stockholder Director serves as a Director of the Company, the Company shall not amend, alter or repeal any right to indemnification or exculpation covering or benefiting any Director nominated pursuant to this Agreement as and to the extent consistent with applicable law, including but not limited to Article Sixth of the Second Amended and Restated Certificate of Incorporation of the Company and Article VII of the Amended and Restated Bylaws of the Company (whether such right is contained in the Second Amended and Restated Certificate of Incorporation, Amended and Restated Bylaws or another document) (except to the extent such amendment or alteration permits the Company to provide broader indemnification or exculpation rights on a retroactive basis than permitted prior thereto).

(k) Notwithstanding anything herein to the contrary, if the Stockholder, or its permitted assignees, as applicable, has the right to designate one or more Nominees and either has not exercised such right or such Nominee has not been elected as a Stockholder Director, then the Stockholder, or its permitted assignees, as applicable, may elect at such time in its sole discretion to designate one Board observer (regardless of how many rights to designate such Stockholder, or its permitted assignees, as applicable, has) (each, a "**Board Observer**") to attend and participate in all meetings of the Board or any committees thereof, in a non-voting capacity by the giving of written notice to the Company of such election ("**Observation Election**"). In connection therewith, the Company shall simultaneously give such Board Observer copies of all notices, consents, minutes and other materials, financial or otherwise, which the Company provides to the Board, provided, however, that if the Board Observer does not, upon the request

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of the Company, before attending any meetings of the Board, execute and deliver to the Company an agreement to abide by all Company policies applicable to members of the Board and a confidentiality agreement reasonably acceptable to the Company, the Board Observer may be excluded from access to any material or meeting or portion thereof if the Board determines in good faith that such exclusion is reasonably necessary to protect highly confidential proprietary information of the Company or confidential proprietary information of third parties that the Company is required to hold in confidence, or for other similar reasons. The Stockholder, or its permitted assignees, as applicable, may revoke any such Observation Election at any time upon written notice to the Company after which the Stockholder, or its permitted assignees, as applicable, shall be entitled to designate a replacement Board Observer.

(l) The Nominees and any nominees designated by the HGM Group may, but do not need to qualify as "independent" pursuant to listing standards of the Nasdaq stock market ("**NASDAQ**"). All other directors of the Board other than the Chief Executive Officer of the Company shall qualify as "independent" pursuant to listing standards of NASDAQ.

## Section 2. Negative Covenants/Actions Requiring Special Approval.

(a) Actions Requiring Special Approval. Without the prior approval of the Stockholder, or its permitted assignees, as applicable, from and after the Effective Time until such time as when the Stockholder (together with its Affiliates and permitted assignees) ceases to Beneficially Own a number of shares of Common Stock equal to or greater than 15% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Company shall not, and shall cause each of its subsidiaries not to, take or omit to take, as applicable, or agree to take or omit to take, as applicable, directly or indirectly, any of the actions enumerated in the following clauses (i) through (x) (the "**Consent Actions**"):

(i) any engagement by the Company or any subsidiary of the Company, directly or indirectly, in one or a series of related transactions with (1) any Affiliate of the Company (2) any member of the HGM Group or any of their respective Affiliates (3) any Person that Beneficially Owns at least 10% of the issued and outstanding Common Stock or any of such Person's Affiliates, or (4) any parent, child, sibling or spouse who resides with, or is a dependent of, any Person described in the foregoing clauses (1)-(3), in each case other than (i) those transactions set forth on Schedule 2(a) or (ii) transactions entered into on arm's-length terms that are approved in accordance with the Company's "Related Party Policy" or such successor policy; provided, however, that in respect of a transaction pursuant to clause (ii) herein involving aggregate consideration in excess of \$10 million, the Company will deliver an opinion to the Board as to the fairness to the Company or such subsidiary issued by an accounting, appraisal or investment banking firm of national standing;

(ii) adopting any equity incentive plan other than such plan approved by all parties as of the Effective Time or amending such equity incentive plan to increase the number of securities that may be granted under such plan;

(iii) any issuance of equity of the Company or any subsidiary of the Company, including any options, warrants or other securities convertible or exchangeable

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for any equity securities other than (A) equity securities issued pursuant to an approved equity incentive plan (B) equity securities with a fair market value of \$100 million or less (or rights, options or warrants to purchase such equity securities) issued solely in consideration for the acquisition (by merger or otherwise) of assets of, or equity interests in, another entity or (C) equity securities (or rights, options or warrants to purchase equity securities) issued to lenders, equipment lessors, other financing sources or vendors who have provided the Company with financing or services, as applicable; provided, that such arrangements are approved by the majority vote of the Board;

(iv) any amendment to the Certificate of Incorporation, Bylaws or any other organizational documents of the Company or any subsidiary of the Company that either (x) adversely affects Stockholder's, or its permitted assignees', as applicable, rights under this agreement or (y) has a disproportionate impact on the interests of the Stockholder, or its permitted assignees, as applicable;

(v) entrance into any line of business or a change in an existing line of business that is unrelated to any line of business conducted by the Company or any subsidiary of the Company as of the Effective Time; or

(vi) an increase or decrease in the size of the Board (other than in compliance with the obligations of this Agreement) or a change to the classes on which the Board members serve.

Notwithstanding the foregoing, in the event that the Company has requested in writing (consistent with Section 6) the prior approval of the Stockholder, or its permitted assignees, as applicable, to take an action set forth in this Section 2(a), and the Stockholder, or its permitted assignees, as applicable, has not responded within ten (10) business days after receiving such request, the Stockholder, or its permitted assignees, as applicable, shall be deemed to have provided its prior approval for purposes of this Section 2(a).

### Section 3. Definitions.

**"Affiliate"** means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person. For the avoidance of doubt, Novitex Parent, L.P. is an Affiliate of Apollo.

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

**"Apollo"** means Apollo Novitex Holdings, L.P.

**"Beneficially Own"** has the meaning ascribed to it in Section 13(d) of the Securities Exchange Act of 1934, as amended.

**"Board"** has the meaning set forth in recitals.

**"Board Observer"** has the meaning set forth in Section 1(k).

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**"Business Combination Agreement"** means that certain Business Combination Agreement, dated as of February 21, 2017, among Quinpario Acquisition Corp. 2, Quinpario Merger Sub I, Inc., Quinpario Merger Sub II, Inc., Novitex Holdings, Inc., SourceHOV Holdings, Inc., Novitex Parent, L.P., HOVS LLC and HandsOn Fund 4 I, LLC, as amended or modified from time to time.

**"Business Day"** means any day that is not a Saturday, Sunday, legal holiday or other day on which commercial banks in New York, New York are authorized or required by applicable law to close.

**"Bylaws"** means the Company's Bylaws, as in effect on the date hereof, as the same may be amended from time to time.

**"Certificate of Incorporation"** means the Company's Certificate of Incorporation, as in effect on the date hereof, as the same may be amended from time to time.

**"Common Stock"** has the meaning set forth in the recitals.

**"Company"** has the meaning set forth in the preamble.

**"Director"** means a member of the Board until such individual's death, disability, disqualification, resignation, or removal.

**"Effective Time"** means the time immediately after the consummation of the transactions contemplated by the Business Combination Agreement (including all issuances of Common Stock) on the date hereof.

**"HGM Group"** means, collectively, HOVS LLC, HOVS Capital III LLC, Stern Capital Partners LLC, Sunraj LLC, Pidgin Associates LLC, HandsOn Fund 4 I, LLC, HandsOn Global Management LLC, Sonino LLC, Ex-Sigma LLC and Ex-Sigma 2 LLC.

**"NASDAQ"** has the meaning set forth in Section 1(l).

**"Nominee"** has the meaning set forth in Section 1(a).

**"Observation Election"** has the meaning set forth in Section 1(k).

**"Person"** means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

**"Stockholder"** has the meaning set forth in the preamble.

“**Stockholder Director**” means an individual elected to the Board that has been nominated by the Stockholder, or its permitted assignees, as applicable, pursuant to this Agreement.

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“**Stockholder Shares**” means the number of shares of Common Stock held by the Stockholder (together with its Affiliates and permitted assignees) (as such number of shares may be equitably adjusted or exchanged pursuant to Section 7).

“**Termination Event**” has the meaning set forth in Section 17.

“**Transfer**” means any sale, transfer, assignment or other disposition of (whether with or without consideration and whether voluntary or involuntary or by operation of law) of Common Stock.

Section 4. Assignment; Benefit of Parties; Transfer. No party may assign this Agreement or any of its rights or obligations hereunder and any assignment hereof will be null and void except that the Stockholder who is entitled to designate any Nominees hereunder may assign, in whole, but not in part, this Agreement as part of a transfer of its Common Stock and provided that the assignee executes a joinder agreement pursuant to which such assignee agrees to be bound by the terms hereof as a Stockholder hereunder. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, legal representatives and assignees for the uses and purposes set forth and referred to herein. Nothing herein contained shall confer or is intended to confer on any third party or entity that is not a party to this Agreement any rights under this Agreement.

Section 5. Remedies. The Company and the Stockholder shall be entitled to enforce their rights under this Agreement specifically, to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights existing in their favor. The parties hereto agree and acknowledge that a breach of this Agreement would cause irreparable harm and money damages would not be an adequate remedy for any such breach and that, in addition to other rights and remedies hereunder, the Company and the Stockholder shall be entitled to specific performance and/or injunctive or other equitable relief (without posting a bond or other security) from any court of law or equity of competent jurisdiction in order to enforce or prevent any violation of the provisions of this Agreement.

Section 6. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed first class mail (postage prepaid, return receipt requested) or sent by reputable overnight courier service (charges prepaid) to the Company at the addresses set forth below and to the Stockholder, or its permitted assignees, as applicable, at the addresses set forth in the Registration Rights Agreement, dated as of the Effective Time, among the Company and the stockholders party thereto. Notices shall be deemed to have been given hereunder when delivered personally, three days after deposit in the U.S. mail and one day after deposit with a reputable overnight courier service.

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Exela Technologies, Inc.  
12935 N. Forty Drive, Suite 201  
St. Louis, MO 63141  
Telephone: (314) 548-6200  
Facsimile: (775) 206-7966  
Email: djsrivalis@quinpario.com

Attention: D. John Srivisal

Section 7. Adjustments. If, and as often as, there are any changes in the Common Stock by way of stock split, stock dividend, combination or reclassification, or through merger, consolidation, reorganization, recapitalization or sale, or by any other means, appropriate adjustment shall be made in the provisions of this Agreement, as may be required, so that the rights, privileges, duties and obligations hereunder shall continue with respect to the Common Stock as so changed.

Section 8. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

Section 9. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or give to, any person or entity other than the parties hereto and their respective successors and assigns any remedy or claim under or by reason of this Agreement or any terms, covenants or conditions hereof, and all of the terms, covenants, conditions, promises and agreements contained in this Agreement shall be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns.

Section 10. Further Assurances. Each of the parties hereby agrees that it will hereafter execute and deliver any further document, agreement, instruments of assignment, transfer or conveyance as may be necessary or desirable to effectuate the purposes hereof.

Section 11. Counterparts. This Agreement may be executed in one or more counterparts, and may be delivered by means of facsimile or electronic transmission in portable document format, each of which shall be deemed to be an original and shall be binding upon the party who executed the same, but all of such counterparts shall constitute the same agreement.

Section 12. Governing Law. All issues and questions concerning the construction, validity, interpretation and enforceability of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

Section 13. Mutual Waiver of Jury Trial. The parties hereto hereby irrevocably waive any and all rights to trial by jury in any legal proceeding arising out of or related to this Agreement. Any action or proceeding whatsoever between the parties hereto relating to this Agreement shall be

Section 14. Complete Agreement; Inconsistent Agreements. This Agreement represents the complete agreement between the parties hereto as to all matters covered hereby, and supersedes any prior agreements or understandings between the parties.

Section 15. Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 16. Amendment and Waiver. Except as otherwise provided herein, no modification, amendment or waiver of any provision of this Agreement shall be effective against the Company or the Stockholder, or its permitted assignees, as applicable, unless such modification is approved in writing by the Company and the Stockholder, or its permitted assignees, as applicable. The failure of any party to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms.

Section 17. Termination. Notwithstanding anything to the contrary contained herein, if the Stockholder (together with its Affiliates and permitted assignees) ceases to Beneficially Own a number of shares of Common Stock equal to or greater than 5% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis) ("**Termination Event**"), then this Agreement shall expire and terminate automatically; provided, however, that Sections 1(g),(i),(j) and (k) and 3-16 shall survive the termination of this Agreement.

[SIGNATURE PAGES FOLLOW]

**Schedule 2(a).**

1. Master Agreement (and corresponding schedules) between Rule 14, LLC and SourceHOV, LLC dated January 1, 2015
2. Master Agreement (and corresponding schedules) between Athena LLC and SourceHOV, LLC dated September 6, 2015
3. Master Agreement (and corresponding schedules) between Peri Technologies LLC and SourceHOV, LLC, dated October 28, 2015
4. Master Agreement (and corresponding schedules) between Teletype LLC and SourceHOV, LLC, dated November 30, 2015
5. Master Agreement (and corresponding schedules) between BNCM8 LLC and SourceHOV, LLC, dated April 12, 2016
6. Master Agreement (and corresponding schedules) between Zuma Technologies LLC and SourceHOV, LLC, dated January 30, 2016
7. Master Agreement (and corresponding schedules) between RDH Technologies LLC and SourceHOV, LLC, dated December 15, 2016
8. Master Agreement (and corresponding schedules) between JET Technologies LLC and SourceHOV, LLC, dated December 2, 2015
9. Master Agreement (and corresponding schedules) between Go Speak Up LLC and SourceHOV, LLC, dated December 2, 2015
10. Master Agreement (and corresponding schedules) between Spring Health LLC and SourceHOV, LLC, November 24, 2015
11. Lease agreement between HOVG, LLC (aka Bay Area Credit Service LLC) and HOVRe LLC in connection with the lease of a facility in Antioch, CA, dated December 1, 2008
12. Affiliate lease agreement for rental property occupied by Banc Tec India Private Ltd. on SB Road in Pune, India
13. HOV Services, Ltd. providing IT services to HOV Services, Inc., dated July 1, 2016.
14. HOV Services, Ltd. providing Firefly services to HOV Services, Inc., dated July 1, 2016
15. HOVS LLC Services Limited providing certain software support and consultancy services for HOVS LLC, effective from July 1, 2016.
16. HOV Services Limited providing certain data conversion services and software support and consultancy services for Source HOV, LLC, effective from July 1, 2016.
17. Trademark License Agreement, dated April 29, 2011, by and between HOF 2 LLC and SourceHOV
18. Agreement between HOVG, LLC (aka Bay Area Credit Service LLC) and HOV Services Limited in connection with software and IT support and maintenance dated October 15, 2013 and related work orders effective from July 2016.
19. Master Agreement between Rule 14, LLC and DFG2, LLC dated January 8, 2014
20. The Tripartite Agreement between HOV Services Limited, BancTec TPS India Private Limited, and TransCentra FTS Private Limited, dated November 14, 2016
21. Lease and License Agreement between HOV Services Limited and BancTec TPS India Private Limited, dated October 27, 2015

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

**Company:**

**EXELA TECHNOLOGIES, INC.**

By: /s/ James Reynolds

Name: James Reynolds

Title: Chief Financial Officer

**Stockholder:**

**APOLLO NOVITEX HOLDINGS, L.P.**

By: Novitex Parent GP, LLC, its general partner

By: /s/ Laurie Medley

Name: Laurie D. Medley

Title: Vice President and Secretary

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## EXELA TECHNOLOGIES, INC.

## DIRECTOR NOMINATION AGREEMENT

This Director Nomination Agreement (this "**Agreement**") is made as of **July 12, 2017**, between Exela Technologies, Inc., a Delaware corporation (the "**Company**"), and the stockholders party hereto (the "**Stockholders**"). Unless otherwise specified herein, all of the capitalized terms used herein are defined in Section 3 hereof.

**WHEREAS**, the Company has agreed to permit the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, who, together with their Affiliates, Beneficially Own approximately 58.7% of the issued and outstanding shares of common stock, par value, \$0.0001 per share, of the Company (the "**Common Stock**"), at the Effective Time to designate up to three persons for nomination for election to the board of directors of the Company (the "**Board**") on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

Section 1. Board of Directors.

(a) Subject to the terms and conditions of this Agreement, from and after the Effective Time and until a Termination Event (as defined below) shall have occurred, the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall have the right to designate up to three (3) persons to be appointed or nominated, as the case may be, for election to the Board (including any successor, each, a "**Nominee**") by giving written notice to the Company not later than ten (10) days after receiving notice of the date of the applicable meeting of stockholders or equityholders provided to the Stockholders; *provided, however*, the initial Nominees shall be appointed as set forth in Section 1(b).

(b) The Company shall take all necessary and desirable actions within its control such that, as of the Effective Time, (i) three (3) existing Directors resign or are removed from the Board, (ii) Par Chadha shall be appointed as a Class C Director with a term ending at the 2020 Annual Meeting of Stockholders, Jim Reynolds shall be appointed as a Class B Director with a term ending at the 2019 Annual Meeting of Stockholders, and Ronald Cogburn shall be appointed as a Class A Director with a term ending at the 2018 Annual Meeting of Stockholders, and (iii) the size of the Board is set at eight (8) Directors.

(c) Subject to the terms and conditions of this Agreement, from and after the Effective Time and until a Termination Event shall have occurred, the Company will, as promptly as practicable, take all necessary and desirable actions within its control (including, without limitation, calling special meetings of the Board and the stockholders and recommending, supporting and soliciting proxies), so that:

(i) for so long as the Stockholders (together with their Affiliates and permitted assignees) Beneficially Own a number of shares of Common Stock equal to or

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greater than 35 % of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall have the right to nominate, in the aggregate, a number of Nominees equal to three (3) less the number of Stockholder Directors who are not up for election;

(ii) for so long as the Stockholders (together with their Affiliates and permitted assignees) Beneficially Own a number of shares of Common Stock equal to or greater than 15% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis) but fewer than 35% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall have the right to nominate, in the aggregate, a number of Nominees equal to two (2) less the number of Stockholder Directors who are not up for election; and

(iii) for so long as the Stockholders (together with their Affiliates and permitted assignees) Beneficially Own a number of shares of Common Stock equal to or greater than 5 % of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis) but fewer than 15% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall have the right to nominate, in the aggregate, a number of Nominees equal to one (1) less the number of Stockholder Directors who are not up for election.

(d) The Company shall take all actions necessary to ensure that: (i) the applicable Nominees are included in the Board's slate of nominees to the stockholders of the Company for each election of Directors; and (ii) each applicable Nominee up for election is included in the proxy statement prepared by management of the Company in connection with soliciting proxies for every meeting of the stockholders of the Company called with respect to the election of members of the Board, and at every adjournment or postponement thereof, and on every action or approval by written consent of the stockholders of the Company or the Board with respect to the election of members of the Board.

(e) If a vacancy occurs because of the death, disability, disqualification, resignation, or removal of a Stockholder Director or for any other reason, the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall be entitled to designate such person's successor, and the Company will, within ten (10) days of such designation, take all necessary and desirable actions within its control such that such vacancy shall be filled with such successor Nominee. Notwithstanding anything to the contrary, the director position for such Stockholder Director shall not be filled pending such designation and appointment, unless the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, fail to designate such Nominee for more than fifteen (15) days, after which the Company may appoint a successor Director until the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, make such designation.

(f) If a Nominee is not elected because of such Nominee's death, disability, disqualification, withdrawal as a nominee or for any other reason, the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall be entitled to designate promptly another Nominee and the Company will take all necessary and desirable actions within its control such that the director position for which such Nominee was nominated shall not be filled pending such designation or the size of the Board shall be increased by one and such vacancy shall be filled with such successor Nominee within ten (10) days of such designation. Notwithstanding anything to the contrary, the director position for which such Nominee was nominated shall not be filled pending such designation and appointment, unless the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, fail to designate such Nominee for more than thirty (30) days, after which the Company may appoint a successor nominee who may serve as a director if duly elected until the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, make such designation.

(g) The Company shall pay the reasonable, documented out-of-pocket expenses incurred by each Stockholder Director in connection with his or her services provided to or on behalf of the Company, including attending meetings or events attended explicitly on behalf of the Company at the Company's request.

(h) In accordance with the Company's Bylaws, the Board may from time to time by resolution establish and maintain one or more committees of the Board, each committee to consist of one or more Directors. To the extent feasible, the Company shall notify the Stockholders, or their permitted assignees, as applicable, in writing of any new committee of the Board to be established at least fifteen (15) days prior to the effective establishment of such committee. If requested by the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, the Company shall take all necessary steps to cause at least one Stockholder Director as requested by Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, to be appointed as a member of each such committee of the Board unless such designation would violate any legal restriction on such committee's composition or the rules and regulations of any applicable exchange on which the Company's securities may be listed.

(i) The Company shall (i) purchase directors' and officers' liability insurance in an amount determined by the Board to be reasonable and customary and (ii) for so long as any Director to the Board nominated pursuant to the terms of this Agreement serves as a Director of the Company, maintain such coverage with respect to such Director; *provided that* upon removal or resignation of such Director for any reason, the Company shall take all actions reasonably necessary to extend such directors' and officers' liability insurance coverage for a period of not less than six (6) years from any such event in respect of any act or omission occurring at or prior to such event.

(j) For so long as any Stockholder Director serves as a Director of the Company, the Company shall not amend, alter or repeal any right to indemnification or exculpation covering or benefiting any Director nominated pursuant to this Agreement as and to the extent consistent with applicable law, including but not limited to Article Sixth of the Second Amended and Restated Certificate of Incorporation of the Company and Article VII of the

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Amended and Restated Bylaws of the Company (whether such right is contained in the Second Amended and Restated Certificate of Incorporation, Amended and Restated Bylaws or another document) (except to the extent such amendment or alteration permits the Company to provide broader indemnification or exculpation rights on a retroactive basis than permitted prior thereto).

(k) Notwithstanding anything herein to the contrary, if the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, have the right to designate one or more Nominees and either has not exercised such right or such Nominee has not been elected as a Stockholder Director, then the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, may elect at such time in their sole discretion to designate one Board observer (regardless of how many rights to designate such Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, have) (each, a "**Board Observer**") to attend and participate in all meetings of the Board or any committees thereof, in a non-voting capacity by the giving of written notice to the Company of such election ("**Observation Election**"). In connection therewith, the Company shall simultaneously give such Board Observer copies of all notices, consents, minutes and other materials, financial or otherwise, which the Company provides to the Board, provided, however, that if the Board Observer does not, upon the request of the Company, before attending any meetings of the Board, execute and deliver to the Company an agreement to abide by all Company policies applicable to members of the Board and a confidentiality agreement reasonably acceptable to the Company, the Board Observer may be excluded from access to any material or meeting or portion thereof if the Board determines in good faith that such exclusion is reasonably necessary to protect highly confidential proprietary information of the Company or confidential proprietary information of third parties that the Company is required to hold in confidence, or for other similar reasons. The Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, may revoke any such Observation Election at any time upon written notice to the Company after which the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall be entitled to designate a replacement Board Observer.

(l) The Nominees and any nominees designated by Apollo may, but do not need to qualify as "independent" pursuant to listing standards of the Nasdaq stock market ("**NASDAQ**"). All other directors of the Board other than the Chief Executive Officer of the Company shall qualify as "independent" pursuant to listing standards of NASDAQ.

## Section 2. Negative Covenants/Actions Requiring Special Approval.

(a) Actions Requiring Special Approval. Without the prior approval of the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, from and after the Effective Time until such time as when the Stockholders (together with their Affiliates and permitted assignees) cease to Beneficially Own a number of shares of Common Stock equal to or greater than 15% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis), the Company shall not, and shall cause each of its subsidiaries not to, take or omit to take, as applicable, or agree to take or omit to take, as applicable, directly or indirectly, any of the actions enumerated in the following clauses (i) through (x) (the "**Consent Actions**"):

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(i) any engagement by the Company or any subsidiary of the Company, directly or indirectly, in one or a series of related transactions with (1) any Affiliate of the Company, (2) Apollo or any of its respective Affiliates, (3) any Person that Beneficially Owns at least 10% of the issued and outstanding Common Stock or any of such Person's Affiliates, or (4) any parent, child, sibling or spouse who resides with, or is a dependent of, any Person described in the foregoing clauses (1)-(3), in each case other than (i) those transactions set forth on Schedule 2(a) or (ii) transactions entered into on arm's-length terms that are approved in accordance with the Company's "Related Party Policy" or such successor policy; provided, however, that in respect of a transaction pursuant to clause (ii) herein involving aggregate consideration in excess of \$10 million, the Company will deliver an opinion to the Board as to the fairness to the Company or such subsidiary issued by an accounting, appraisal or investment banking firm of national standing;

(ii) adopting any equity incentive plan other than such plan approved by all parties as of the Effective Time or amending such equity incentive plan to increase the number of securities that may be granted under such plan;

(iii) any issuance of equity of the Company or any subsidiary of the Company, including any options, warrants or other securities convertible or exchangeable for any equity securities other than (A) equity securities issued pursuant to an approved equity incentive plan, (B) equity securities with a fair market value of \$100 million or less (or rights, options or warrants to purchase such equity securities) issued solely in consideration for the acquisition (by merger or otherwise) of assets of, or equity interests in, another entity or (C) equity securities (or rights, options or warrants to purchase equity securities) issued to lenders, equipment lessors, other financing sources or vendors who have provided the Company with financing or services, as applicable; provided, that such arrangements are approved by the majority vote of the Board;

(iv) any amendment to the Certificate of Incorporation, Bylaws or any other organizational documents of the Company or any subsidiary of the Company that either (x) adversely affects Stockholders' rights under this agreement or (y) has a disproportionate impact on the interests of the Stockholder;

(v) entrance into any line of business or a change in an existing line of business that is unrelated to any line of business conducted by the Company or any subsidiary of the Company as of the Effective Time; or

(vi) an increase or decrease in the size of the Board (other than in compliance with the obligations of this Agreement) or a change to the classes on which the Board members serve.

Notwithstanding the foregoing, in the event that the Company has requested in writing (consistent with Section 6) the prior approval of the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, to take an action set forth in this Section 2(a), and the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, have not responded within ten (10) business days after

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receiving such request, the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, shall be deemed to have provided their prior approval for purposes of this Section 2(a).

### Section 3. Definitions.

**"Affiliate"** means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

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

**"Apollo"** means Apollo Novitex Holdings, L.P.

**"Beneficially Own"** has the meaning ascribed to it in Section 13(d) of the Securities Exchange Act of 1934, as amended.

**"Board"** has the meaning set forth in recitals.

**"Board Observer"** has the meaning set forth in Section 1(k).

**"Business Combination Agreement"** means that certain Business Combination Agreement, dated as of February 21, 2017, among Quinpario Acquisition Corp. 2, Quinpario Merger Sub I, Inc., Quinpario Merger Sub II, Inc., Novitex Holdings, Inc., SourceHOV Holdings, Inc., Novitex Parent, L.P., HOVS LLC and HandsOn Fund 4 I, LLC, as amended or modified from time to time.

**"Business Day"** means any day that is not a Saturday, Sunday, legal holiday or other day on which commercial banks in New York, New York are authorized or required by applicable law to close.

**"Bylaws"** means the Company's Bylaws, as in effect on the date hereof, as the same may be amended from time to time.

**"Certificate of Incorporation"** means the Company's Certificate of Incorporation, as in effect on the date hereof, as the same may be amended from time to time.

**"Common Stock"** has the meaning set forth in the recitals.

**"Company"** has the meaning set forth in the preamble.

**"Director"** means a member of the Board until such individual's death, disability, disqualification, resignation, or removal.

**"Effective Time"** means the SourceHOV Effective Time (as defined in the Business Combination Agreement).

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“**HGM Group**” means, collectively, HOVS LLC, HOVS Capital III LLC, Stern Capital Partners LLC, Sunraj LLC, Pidgin Associates LLC, HandsOn Fund 4 I, LLC, HandsOn Global Management LLC, Sonino LLC, Ex-Sigma LLC and Ex-Sigma 2 LLC.

“**NASDAQ**” has the meaning set forth in Section 1(l).

“**Nominee**” has the meaning set forth in Section 1(a).

“**Observation Election**” has the meaning set forth in Section 1(k).

“**Person**” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

“**Stockholders**” has the meaning set forth in the preamble.

“**Stockholder Director**” means an individual elected to the Board that has been nominated by the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable, pursuant to this Agreement.

“**Stockholders Shares**” means the number of shares of Common Stock held by the Stockholders (together with their Affiliates and permitted assignees) (as such number of shares may be equitably adjusted or exchanged pursuant to Section 7).

“**Termination Event**” has the meaning set forth in Section 17.

“**Transfer**” means any sale, transfer, assignment or other disposition of (whether with or without consideration and whether voluntary or involuntary or by operation of law) of Common Stock.

Section 4. Assignment; Benefit of Parties; Transfer. No party may assign this Agreement or any of its rights or obligations hereunder and any assignment hereof will be null and void except that any Stockholder who is entitled to designate any Nominees hereunder may assign, in whole, but not in part, this Agreement as part of a transfer of its Common Stock and provided that the assignee executes a joinder agreement pursuant to which such assignee agrees to be bound by the terms hereof as a Stockholder hereunder. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, legal representatives and assignees for the uses and purposes set forth and referred to herein. Nothing herein contained shall confer or is intended to confer on any third party or entity that is not a party to this Agreement any rights under this Agreement.

Section 5. Remedies. The Company and the Stockholders shall be entitled to enforce their rights under this Agreement specifically, to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights existing in their favor. The parties hereto agree and acknowledge that a breach of this Agreement would cause irreparable harm and money damages would not be an adequate remedy for any such breach and that, in addition to other rights and remedies hereunder, the Company and the Stockholders shall be entitled to

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specific performance and/or injunctive or other equitable relief (without posting a bond or other security) from any court of law or equity of competent jurisdiction in order to enforce or prevent any violation of the provisions of this Agreement.

Section 6. Notices. Any notice provided for in this Agreement shall be in writing and shall be either personally delivered, or mailed first class mail (postage prepaid, return receipt requested) or sent by reputable overnight courier service (charges prepaid) to the Company at the addresses set forth below and to the Stockholders at the addresses set forth in the Registration Rights Agreement, dated as of the Effective Time, among the Company and the stockholders party thereto. Notices shall be deemed to have been given hereunder when delivered personally, three days after deposit in the U.S. mail and one day after deposit with a reputable overnight courier service.

Exela Technologies, Inc.  
12935 N. Forty Drive, Suite 201  
St. Louis, MO 63141  
Telephone: (314) 548-6200  
Facsimile: (775) 206-7966  
Email: djsrival@quinpario.com

Attention: D. John Srivisal

Section 7. Adjustments. If, and as often as, there are any changes in the Common Stock by way of stock split, stock dividend, combination or reclassification, or through merger, consolidation, reorganization, recapitalization or sale, or by any other means, appropriate adjustment shall be made in the provisions of this Agreement, as may be required, so that the rights, privileges, duties and obligations hereunder shall continue with respect to the Common Stock as so changed.

Section 8. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party.

Section 9. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or give to, any person or entity other than the parties hereto and their respective successors and assigns any remedy or claim under or by reason of this Agreement or any terms, covenants or conditions hereof, and all of the terms, covenants, conditions, promises and agreements contained in this Agreement shall be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns.

Section 10. Further Assurances. Each of the parties hereby agrees that it will hereafter execute and deliver any further document, agreement, instruments of assignment, transfer or conveyance as may be necessary or desirable to effectuate the purposes hereof.

Section 11. Counterparts. This Agreement may be executed in one or more counterparts, and may be delivered by means of facsimile or electronic transmission in portable

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document format, each of which shall be deemed to be an original and shall be binding upon the party who executed the same, but all of such counterparts shall constitute the same agreement.

Section 12. Governing Law. All issues and questions concerning the construction, validity, interpretation and enforceability of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

Section 13. Mutual Waiver of Jury Trial. The parties hereto hereby irrevocably waive any and all rights to trial by jury in any legal proceeding arising out of or related to this Agreement. Any action or proceeding whatsoever between the parties hereto relating to this Agreement shall be tried in a court of competent jurisdiction by a judge sitting without a jury.

Section 14. Complete Agreement; Inconsistent Agreements. This Agreement represents the complete agreement between the parties hereto as to all matters covered hereby, and supersedes any prior agreements or understandings between the parties.

Section 15. Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 16. Amendment and Waiver. Except as otherwise provided herein, no modification, amendment or waiver of any provision of this Agreement shall be effective against the Company or the Stockholders, or their permitted assignees, as applicable, unless such modification is approved in writing by the Company and the Stockholders holding a majority of the Stockholders Shares, or their permitted assignees, as applicable. The failure of any party to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms.

Section 17. Termination. Notwithstanding anything to the contrary contained herein, if the Stockholders (together with their Affiliates and permitted assignees) cease to Beneficially Own a number of shares of Common Stock equal to or greater than 5% of the total number of shares of Common Stock issued and outstanding (on a non-fully diluted basis) ("**Termination Event**"), then this Agreement shall expire and terminate automatically; provided, however, that Sections 1(g), (i), (j) and (k) and 3-16 shall survive the termination of this Agreement.

[SIGNATURE PAGES FOLLOW]

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Schedule 2(a)

1. Master Services Agreement, by and between Apollo Management Holdings, L.P. and Novitex Enterprise Solutions, Inc., dated as of November 18, 2014, as amended, supplemented or otherwise modified from time to time.
2. Master Services Agreement, by and between CEC Entertainment Concepts, L.P. and Novitex Enterprise Solutions, Inc., dated as of February 2016, as amended, supplemented or otherwise modified from time to time.
3. Master Purchase and Professional Services Agreement, by and between Caesars Enterprise Services, LLC and Novitex Enterprise Solutions, Inc., dated as of January 18, 2017, as amended, supplemented or otherwise modified from time to time.
4. Master Services Agreement, by and between ADT, LLC and Novitex Enterprise Solutions, Inc., dated as of May 5, 2017, as amended, supplemented or otherwise modified from time to time.
5. Master Services Agreement, dated as of April 22, 2016, by and between Novitex Enterprise Solutions, Inc. and Presidio Networked Solutions Group, LLC.
6. Novitex is in the process of negotiating an agreement to provide Diamond Resorts Centralized Services Company with commercial print and promotional items productions services with expected revenue of \$4.8 million annually. This agreement is expected to be signed during the month of July 2017.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Company:

EXELA TECHNOLOGIES, INC.

By: /s/ James Reynolds  
Name: James Reynolds  
Title: Chief Financial Officer

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**Stockholder:**

**HOVS LLC**

By: /s/ James Reynolds  
Name: James Reynolds  
Title: Manager

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**HOVS CAPITAL III LLC**

By: /s/ Par Chadha  
Name: Par Chadha  
Title: Manager

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**STERN CAPITAL PARTNERS LLC**

By: /s/ Surinder Rametra  
Name: Surinder Rametra  
Title: Manager

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**SUNRAJ LLC**

By: /s/ Sunil Rajadhysksha  
Name: Sunil Rajadhysksha  
Title: Manager

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**PIDGIN ASSOCIATES LLC**

By: /s/ Xin Cheng  
Name: Xin Cheng  
Title: Manager

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**HANDSON FUND 4 I, LLC**

By: /s/ Par Chadha  
Name: Par Chadha  
Title: Manager

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**SONINO LLC**

By: /s/ James Reynolds  
Name: James Reynolds

Title: Manager

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**EX-SIGMA LLC**

By: /s/ James Reynolds  
Name: James Reynolds  
Title: President

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## Independent Auditors' Report

The Board of Directors  
SourceHOV Holdings, Inc.:

We have audited the accompanying consolidated balance sheets of SourceHOV Holdings, Inc. and subsidiaries as of December 31, 2016 and 2015, and the related consolidated statements of operations, comprehensive loss, stockholders' deficit, and cash flows for each of the years in the three-year period ended December 31, 2016. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the auditing standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of SourceHOV Holdings, Inc. and subsidiaries as of December 31, 2016 and 2015, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2016 in conformity with U.S. generally accepted accounting principles.

/s/ KPMG LLP

Dallas, Texas  
April 3, 2017

## SourceHOV Holdings, Inc. and Subsidiaries

## Consolidated Balance Sheets

As of December 31, 2016 and 2015

(in thousands of United States dollars except share and per share amounts)

	December 31,	
	2016	2015
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 8,361	\$ 16,619
Restricted cash	25,892	22,403
Accounts receivable, net of allowance for doubtful accounts of \$3,200, respectively	138,421	145,162
Inventories, net	11,195	13,742
Prepaid expenses and other current assets	12,202	11,514
<b>Total current assets</b>	<b>196,071</b>	<b>209,440</b>
Property, plant and equipment, net	81,600	78,303
Goodwill	373,291	359,459
Intangible assets, net	298,739	285,229
Deferred income tax assets	9,654	4,602
Other noncurrent assets	10,131	23,015
<b>Total assets</b>	<b>\$ 969,486</b>	<b>\$ 960,048</b>
<b>Liabilities and Stockholders' Deficit</b>		
<b>Liabilities</b>		
Current liabilities		
Accounts payable	\$ 42,212	\$ 26,778
Related party payables	9,344	8,906
Income tax payable	1,031	624
Accrued liabilities	29,492	26,291
Accrued compensation and benefits	31,200	33,518
Customer deposits	18,729	8,307
Deferred revenue	17,235	14,189
Obligation for claim payment	25,892	22,403
Current portion of capital lease obligations	6,507	5,009
Current portion of long-term debt	55,833	45,253
<b>Total current liabilities</b>	<b>237,475</b>	<b>191,278</b>
Long-term debt, net of current maturities	983,502	975,142
Capital lease obligations, net of current maturities	18,439	14,606
Pension liability	28,712	19,415
Deferred income tax liabilities	26,223	34,764
Long-term income tax liability	3,063	3,388
Long-term related party payable	—	2,590
Other long-term liabilities	11,973	10,354
<b>Total liabilities</b>	<b>1,309,387</b>	<b>1,251,537</b>
Commitment and Contingencies (Note 11)		

**Stockholders' deficit**

Common stock, par value of \$0.001 per share; 331,000 shares authorized; 144,399 shares issued and outstanding at December 31, 2016 and 2015; Preferred stock, par value of \$0.01 per shares; 400,000 shares authorized and no shares issued or outstanding at December 31, 2016 and 2015	—	—
Additional paid in capital	(57,389)	(57,389)
Equity-based compensation	27,342	20,256
Accumulated deficit	(293,968)	(245,865)
Accumulated other comprehensive loss:		
Foreign currency translation adjustment	(3,547)	(3,415)
Unrealized pension actuarial losses, net of tax	(12,339)	(5,076)
Total accumulated other comprehensive loss	(15,886)	(8,491)
<b>Total stockholders' deficit</b>	<b>(339,901)</b>	<b>(291,489)</b>
<b>Total liabilities and stockholders' deficit</b>	<b>\$ 969,486</b>	<b>\$ 960,048</b>

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

**SourceHOV Holdings, Inc. and Subsidiaries**

**Consolidated Statements of Operations**

**For the years ended December 31, 2016, 2015 and 2014**

(in thousands of United States dollars except share and per share amounts)

	Years ended December 31,		
	2016	2015	2014
Revenue	789,926	805,232	650,918
Cost of revenue (exclusive of depreciation and amortization)	519,121	559,846	451,539
<b>Gross profit</b>	<b>270,805</b>	<b>245,386</b>	<b>199,379</b>
Selling, general and administrative expenses	130,437	120,691	131,864
Depreciation and amortization	79,639	75,408	65,227
Impairment of goodwill and other intangible assets	—	—	154,454
Related party expense	10,493	8,977	19,080
<b>Operating income (loss)</b>	<b>50,236</b>	<b>40,310</b>	<b>(171,246)</b>
<b>Other expense (income), net:</b>			
Interest expense, net	109,414	108,779	48,045
Loss on extinguishment of debt	—	—	18,548
Sundry expense (income), net	712	3,247	(2,201)
<b>Net loss before income taxes</b>	<b>(59,890)</b>	<b>(71,716)</b>	<b>(235,638)</b>
Income tax benefit	11,787	26,812	38,003
<b>Net loss</b>	<b>\$ (48,103)</b>	<b>\$ (44,904)</b>	<b>\$ (197,635)</b>
Net loss per share—basic and diluted	\$ 333.13	\$ 310.97	\$ 1,368.67
Shares used in computing basic net loss per share	144,399	144,399	144,399

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

**SourceHOV Holdings, Inc. and Subsidiaries**

**Consolidated Statements of Comprehensive Loss**

**For the years ended December 31, 2016, 2015 and 2014**

(in thousands of United States dollars)

	Years ended December 31,		
	2016	2015	2014
<b>Net Loss</b>	<b>\$ (48,103)</b>	<b>\$ (44,904)</b>	<b>\$ (197,635)</b>
<b>Other comprehensive income (loss), net of tax</b>			
Foreign currency translation adjustments	(132)	(1,990)	(223)
Unrealized plan amendment gains, net of tax	—	—	193
Unrealized pension actuarial (losses) gains, net of tax	(7,263)	3,655	(9,244)
<b>Comprehensive loss</b>	<b>\$ (55,498)</b>	<b>\$ (43,239)</b>	<b>\$ (206,909)</b>

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

**Consolidated Statements of Stockholders' Deficit**

**December 31, 2016, 2015 and 2014**

**(in thousands of United States dollars)**

	Common Stock		Preferred Stock Shares				Additional Paid in- Capital	Equity-Based Compensation	Accumulated Other Comprehensive Loss			Total Stockholders' Deficit	
	Shares	Amount	Series 1	Series 2	Series 3	Series 4			Amount	Cumulative Translation Adjustments	Pension Benefits		Accumulated Deficit
<b>Balances at</b>													
<b>January 1, 2014</b>	—	\$ —	81,968	101,967	132,130	13,545	320,542	\$ —	\$ —	\$ (124)	\$ —	\$ (3,326)	\$ 317,092
Net loss January 1 to December 31, 2014	—	—	—	—	—	—	—	—	—	—	—	(197,635)	(197,635)
Equity-based compensation	—	—	—	—	—	—	—	—	12,134	—	—	—	12,134
Preferred shares converted to common shares	79,611	—	—	—	(66,065)	(13,545)	36,958	(36,958)	—	—	—	—	—
TRG redemption	—	—	(81,968)	(101,967)	(66,065)	—	(357,500)	—	—	—	—	—	(357,500)
Pangea opening equity (Note 1)	64,788	—	—	—	—	—	—	(20,431)	—	(1,078)	320	—	(21,189)
Foreign currency translation adjustment	—	—	—	—	—	—	—	—	—	(223)	—	—	(223)
Net realized plan amendment gains, net of tax	—	—	—	—	—	—	—	—	—	—	193	—	193
Net realized pension actuarial losses, net of tax	—	—	—	—	—	—	—	—	—	—	(9,244)	—	(9,244)
<b>Balances at</b>													
<b>December 31, 2014</b>	<b>144,399</b>	<b>\$ —</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>\$(57,389)</b>	<b>\$ 12,134</b>	<b>\$(1,425)</b>	<b>\$(8,731)</b>	<b>\$(200,961)</b>	<b>\$(256,372)</b>
Net loss January 1 to December 31, 2015	—	—	—	—	—	—	—	—	—	—	—	(44,904)	(44,904)
Equity-based compensation	—	—	—	—	—	—	—	—	8,122	—	—	—	8,122
Foreign currency translation adjustment	—	—	—	—	—	—	—	—	—	(1,990)	—	—	(1,990)
Net realized pension actuarial gains, net of tax	—	—	—	—	—	—	—	—	—	—	3,655	—	3,655
<b>Balances at</b>													
<b>December 31, 2015</b>	<b>144,399</b>	<b>\$ —</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>\$(57,389)</b>	<b>\$ 20,256</b>	<b>\$(3,415)</b>	<b>\$(5,076)</b>	<b>\$(245,865)</b>	<b>\$(291,489)</b>
Net loss January 1 to December 31, 2016	—	—	—	—	—	—	—	—	—	—	—	(48,103)	(48,103)
Equity-based compensation	—	—	—	—	—	—	—	—	7,086	—	—	—	7,086
Foreign currency translation adjustment	—	—	—	—	—	—	—	—	—	(132)	—	—	(132)
Net realized pension actuarial gains, net of tax	—	—	—	—	—	—	—	—	—	—	(7,263)	—	(7,263)
<b>Balances at</b>													
<b>December 31, 2016</b>	<b>144,399</b>	<b>\$ —</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>\$(57,389)</b>	<b>\$ 27,342</b>	<b>\$(3,547)</b>	<b>\$(12,339)</b>	<b>\$(293,968)</b>	<b>\$(339,901)</b>

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

**SourceHOV Holdings, Inc. and Subsidiaries**

**Consolidated Statements of Cash Flows**

**(in thousands of United States dollar)**

	Years ended December 31,		
	2016	2015	2014
<b>Cash flows from operating activities</b>			
Net loss	\$ (48,103)	\$ (44,904)	\$ (197,635)



Adjustments to reconcile net loss			
Depreciation and amortization	79,639	75,408	65,227
Original issue discount and debt issuance cost amortization	13,684	12,974	5,573
Loss on extinguishment of debt	—	—	18,548
Impairment of goodwill and other intangible assets	—	—	154,454
Provision (recovery) for doubtful accounts	756	1,105	(1,168)
Deferred income tax benefit	(15,729)	(27,177)	(37,918)
Share-based compensation expense	7,086	8,122	12,134
Foreign currency remeasurement	193	150	379
Loss on sale of property, plant and equipment	2,245	632	869
Change in operating assets and liabilities, net of effect from acquisitions			
Accounts receivable	20,801	11,583	32,036
Related party receivable	—	—	777
Prepaid expenses and other assets	4,969	892	(149)
Accounts payable and accrued liabilities	5,544	(28,644)	(19,082)
Related party payables	(2,427)	(2,703)	13,728
<b>Net cash provided by operating activities</b>	<b>68,658</b>	<b>7,438</b>	<b>47,773</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	(7,926)	(10,669)	(10,250)
Additions to developed technology	—	—	(811)
Additions to internally developed software	(13,017)	(3,279)	(400)
Additions to outsourcing contract costs	(14,636)	(7,882)	(876)
Cash paid for TransCentra (Note 3)	—	(12,810)	—
Cash acquired in TransCentra acquisition (Note 3)	3,351	—	—
Proceeds from sale of property, plant and equipment	626	208	118
Cash acquired in the Reorganization (Note 1)	—	—	8,477
<b>Net cash used in investing activities</b>	<b>(31,602)</b>	<b>(34,432)</b>	<b>(3,742)</b>
<b>Cash flows from financing activities</b>			
Change in bank overdraft	(1,331)	938	602
Proceeds from financing obligations	5,429	5,554	—
TRG redemption	—	—	(353,000)
Proceeds from new credit facility	—	—	1,006,100
Retirement of previous credit facilities	—	—	(507,200)
Retirement of Pangea credit facilities	—	—	(144,520)
Cash paid for debt issuance costs	—	—	(36,448)
Other financing activities	—	—	(743)
Borrowings from revolver and swing-line loan	53,700	157,400	24,600
Repayments from revolver and swing line loan	(53,200)	(108,800)	(17,600)
Principal payments on long-term obligations	(47,853)	(33,474)	(10,447)
<b>Net cash (used in) provided by financing activities</b>	<b>(43,255)</b>	<b>21,618</b>	<b>(38,656)</b>
Effect of exchange rates on cash	(2,059)	(672)	(120)
<b>Net (decrease) increase in cash and cash equivalents</b>	<b>(8,258)</b>	<b>(6,048)</b>	<b>5,255</b>
Cash and cash equivalents			
Beginning of period	16,619	22,667	17,412
End of period	<u>\$ 8,361</u>	<u>\$ 16,619</u>	<u>\$ 22,667</u>
<b>Supplemental cash flow data:</b>			
Income tax payments, net of refunds received	\$ 3,771	\$ 1,784	\$ 2,029
Interest paid	96,166	87,302	42,668
<b>Noncash investing and financing activities:</b>			
Assets acquired through capital lease arrangements	11,925	6,021	2,528
Leasehold improvements funded by lessor	5,186	665	81
Accrued capital expenditures	\$ 580	\$ 878	\$ 1,468

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

## SourceHOV Holdings, Inc. and Subsidiaries

### Notes to the Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

#### 1. Description of the Business

##### Organization

SourceHOV Holdings, Inc. and subsidiaries (collectively “the Company”) is a holding company with no operations, which owns 100% of SourceHOV LLC and its wholly owned subsidiaries (“SourceHOV LLC”). The Company provides mission-critical information and transaction processing solutions services to clients across three major industry verticals. The Company manages information and document driven business processes and offers solutions and services to fulfill specialized knowledge-based processing and consulting requirements, enabling clients to concentrate on their core competencies.

The Company consists of the following segments:

- Information & Transaction Processing Solutions (“ITPS”). ITPS provides industry solutions for banking and financial services, including lending solutions for mortgages and auto loans, and banking solutions for clearing, anti-money laundering, sanctions, and interbank cross-border settlement; property and casualty insurance solutions for origination, enrollments, claims processing, and benefits administration communications; public sector solutions for income tax processing, benefits administration, and record management; multi-industry solutions for payment processing and reconciliation, integrated receivable and payables management, document logistics and location services, records management and electronic storage of data / documents; and software, hardware, professional services and maintenance related to information and transaction processing automation, among others.
- Healthcare Solutions (“HS”). HS offerings include revenue cycle solutions, integrated accounts payable and accounts receivable, and information management for both the healthcare payer and provider markets. Payer service offerings include claims processing, claims adjudication and auditing services, enrollment processing and policy management, and scheduling and prescription management. Provider service offerings include medical coding and insurance claim generation, underpayment audit and recovery, and medical records management.
- Legal and Loss Prevention Services (“LLPS”) Solutions. LLPS solutions include processing of legal claims for class action and mass action settlement administrations, involving project management support, notification and outreach to claimants, collection, analysis and distribution of settlement funds. Additionally, LLPS provides data and analytical services in the context of litigation consulting, economic and statistical analysis, expert witness services, and revenue recovery services for delinquent accounts receivable.

## The Reorganization

Prior to October 31, 2014, SourceHOV LLC was wholly owned by Solaris Holding Corporation (“Solaris”). On October 31, 2014, Solaris merged with SHC Merger Sub Inc. (“SHC”), a Delaware corporation (“First Merger”). Upon consummation of this First Merger, SHC ceased to exist and Solaris continued to be the sole surviving corporation of the First Merger. At this time, Solaris and SourceHOV Holdings, Inc. were merged, resulting in the common stock of Solaris becoming common stock of the Company. Immediately following the First Merger, the Company, BT Merger Sub Inc. (“BT”) and Pangea Acquisitions, Inc. (“Pangea”) merged (“Second Merger”). Upon consummation of the Second Merger, BT ceased to exist and Pangea became a wholly-owned subsidiary of the Company. As part of the transaction, the Company redeemed all preferred shares owned directly, or indirectly, by The Rohatyn Group (“TRG”) for \$357.5 million, of which \$353.0 million was paid on October 31, 2014 and the remaining \$4.5 million is payable over two years. All remaining preferred holders in the Company converted their preferred shares into common shares of the Company, resulting in a change of control from a collaborative group to one affiliated group of entities. Shareholders of Pangea received common shares of the Company in exchange for their Pangea shares. In addition, all existing debt facilities of Pangea and Solaris were refinanced as part of the reorganization (the “Reorganization”). Because Pangea was controlled by the same shareholders that now control the Company at the date of the Reorganization, the merger with Pangea was reflected at carrying value.

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## The TransCentra Acquisition

On September 28, 2016, SourceHOV LLC acquired TransCentra Inc. (“TransCentra”), a wholly-owned subsidiary of FTS Parent, Inc. (“FTS”), a Delaware corporation. TransCentra is an outsourced biller, outsourced payment processor, and a provider of insourced imaging and payment processing platforms and software. TransCentra’s outsourced business operated through wholly-owned subsidiary Regulus Holding Inc. provides printing and payment processing to its customers. The outsourced business utilizes internally developed software to provide printing and remittance services to customers and is the predominant revenue contributor for TransCentra. TransCentra’s insourced business operated through wholly-owned subsidiary J&B Software, Inc. provides imaging and payment processing software to customers who choose to process their own remittances. TransCentra was incorporated in the State of Delaware on May 12, 2011 as Columbus Acquisition Corporation, Inc. and changed its name to TransCentra, Inc. via an amended and restated certificate of incorporation in December 2011. The acquisition was accounted for as a business combination using the acquisition method of accounting. Refer to *Note 3—Business Combinations*.

## 2. Basis of Presentation and Summary of Significant Accounting Policies

### Principles of Consolidation

The accompanying consolidated financial statements and related notes to the consolidated financial statements include the accounts of the Company and subsidiaries. Newly acquired subsidiaries have been included in the consolidated financial statements from the date of acquisition. In addition, the Company evaluates its relationships with other entities to identify whether they are variable interest entities as defined by Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 810-10, Consolidation and whether the Company is the primary beneficiary. Consolidation is required if both of these criteria are met. All intercompany accounts and transactions have been eliminated in consolidation.

### Use of Estimates

The preparation of consolidated financial statements in conformity with United States (“U.S.”) generally accepted accounting principles (“U.S. GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period.

Key estimates and judgments relied upon in preparing these consolidated financial statements include revenue recognition for multiple element arrangements, allowance for doubtful accounts, income taxes, depreciation, amortization, employee benefits, equity-based compensation, contingencies, goodwill, intangible assets, fair value of assets and liabilities acquired in acquisitions, and liability valuations. The Company regularly assesses these estimates and records changes in estimates in the period in which they become known. The Company bases its estimates on historical experience and various other assumptions that the Company believes to be reasonable under the circumstances. Actual results could differ from those estimates.

### Cash and Cash Equivalents

Cash and cash equivalents include cash deposited with financial institutions and liquid investments with original maturity dates equal to or less than three months. All bank deposits and money market accounts are considered cash and cash equivalents. The Company holds cash and cash equivalents at major financial institutions, which often exceed Federal Deposit Insurance Corporation insured limits. Historically, the Company has not experienced any losses due to such bank depository concentration.

## Restricted Cash

As part of the Company's legal claims processing service, the Company holds cash for various settlement funds once the fund is in the wind down stage and claims have been paid. The cash is used to pay tax obligations and other liabilities of the settlement funds. The Company recorded an offsetting liability in obligation for claim payment in the accompanying consolidated balance sheets for the settlement funds received of \$25.9 million and \$22.4 million at December 31, 2016 and 2015, respectively. Of the total amount of settlement funds received, \$17.1 million and \$20.3 million were not subject to legal restrictions on use as of December 31, 2016 and 2015, respectively. TransCentra maintains a collateral certificate of deposit account required by its insurance carrier for unsettled workers' compensation claims. The Company records an offsetting liability in accrued compensation and benefits in the accompanying consolidated balance sheets.

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## Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are carried at the original invoice amount less an estimate made for doubtful accounts. Revenue that has been earned but remains unbilled at the end of the period is recorded as a component of accounts receivable, net. The Company specifically analyzes accounts receivable and historical bad debts, customer credit-worthiness, current economic trends, and changes in customer payment terms and collection trends when evaluating the adequacy of its allowance for doubtful accounts. The Company writes off accounts receivable balances against the allowance for doubtful accounts, net of any amounts recorded in deferred revenue, when it becomes probable that the receivable will not be collected.

## Inventories

Inventories are valued at the lower of cost or market and include the cost of raw materials, labor, factory overhead, and purchased subassemblies. Cost is determined using the first-in, first-out and weighted average methods.

At least quarterly, the Company evaluates the carrying amount of inventory based on the identification of excess and obsolete inventory. The Company's evaluation involves a multi factor approach incorporating the stratification of inventory by time held and by risk category, among other factors. The approach incorporates both recent historical information and management analysis of inventory usage. The Company's approach is intended to take into consideration potential excess and obsolescence caused by a decreasing installed base, engineering changes and changes in manufacturing demands. If any of the factors of the Company's estimate were to deteriorate, additional reserves may be required. The inventory reserve calculations are reviewed periodically and additional reserves are recorded as deemed necessary.

## Property, Plant and Equipment

Property, plant, and equipment are recorded at cost less accumulated depreciation. Depreciation is computed using the straight-line method (which approximates the use of the assets) over the estimated useful lives of the assets. When these assets are sold or otherwise disposed of, the asset and related depreciation is relieved, and any gain or loss is included in the consolidated statements of operations for the period of sale or disposal. Leasehold improvements are amortized over the lease term or the useful life of the asset, whichever is shorter. Assets under capital leases are amortized over the lease term unless ownership is transferred by the end of the lease or there is a bargain purchase option, in which case assets are amortized normally on a straight-line basis over the useful life that would be assigned if the assets were owned. The amortization of these capital lease assets is recorded in depreciation expense in the consolidated statements of operations. Repair and maintenance costs are expensed as incurred.

## Intangible Assets

### *Customer Relationships*

Customer relationship intangible assets represent customer contracts and relationships obtained as part of acquired businesses. Customer relationship values are estimated by evaluating various factors including historical attrition rates, contractual provisions and customer growth rates, among others. The estimated average useful lives of customer relationships range from three to 16 years depending on facts and circumstances. These intangible assets are primarily amortized based on undiscounted cash flows. The Company evaluates the remaining useful life of intangible assets on an annual basis to determine whether events and circumstances warrant a revision to the remaining useful life.

### *Trade Names*

The Company has determined that its trade name intangible assets are indefinite-lived assets and therefore are not subject to amortization. The Company's valuation of trade names at the reporting unit level utilizes the Relief-from-Royalty method that represents the present value of the future economic benefits generated by ownership of the trade names and approximates the amount that the Company would have to pay as a royalty to a third party to license such names.

### *Trademarks*

The Company has determined that its trademark intangible assets resulting from the acquisition of TransCentra (See *Note 3—Business Combinations*) are definite-lived assets and therefore are subject to amortization. The Company amortizes trademarks on a straight-line basis over the estimated useful life, which is typically ten years.

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### *Developed Technology*

The Company has various developed technologies embedded in its technology platform. Developed technology is an integral asset to the Company in providing solutions to customers and is recorded as an intangible asset. The Company amortizes developed technology on a straight-line basis over the estimated useful life, which is typically five years.

## Capitalized Software Costs

The Company capitalizes certain costs incurred to develop software products to be sold, leased or otherwise marketed after establishing technological feasibility in accordance with ASC section 985-20, Software—Costs of Software to Be Sold, Leased, or Marketed, and the Company capitalizes costs to develop or purchase internal-use software in accordance with ASC section 350-40, Intangibles—Goodwill and Other—Internal-Use Software. Significant estimates and assumptions include determining the appropriate period over which to amortize the capitalized costs based on estimated useful lives and estimating the marketability of the commercial software products and related future revenues. The Company amortizes capitalized software costs on a straight-line basis over the estimated useful life, which is typically five years.

## Outsourced Contract Costs

Costs of outsourcing contracts, including costs incurred for bid and proposal activities, are generally expensed as incurred. However, certain costs incurred upon initiation of an outsourcing contract are deferred and expensed on a straight-line basis over the estimated contract life. These costs represent incremental external costs or certain specific internal costs that are directly related to the contract acquisition or transition activities and can be separated into two principal categories: contract commissions and transition/set-up costs. Examples of such capitalized costs include hourly labor and related fringe benefits and travel costs.

## Impairment of Long-Lived Assets

The Company reviews the recoverability of its long-lived assets, including trade names, trademarks, customer relationships, developed technology, capitalized software costs, outsourced contract costs and property, plant and equipment, when events or changes in circumstances occur that indicate that the carrying value of the asset may not be recoverable. The assessment of possible impairment is based on our ability to recover the carrying value of the asset from the expected future pre-tax cash flows (undiscounted and without interest charges) of the related operations. If these cash flows are less than the carrying value of such asset, an impairment loss is recognized for the difference between estimated fair value and carrying value. Our primary measure of fair value is based on discounted cash flows based in part on our financial results and our expectation of future performance.

The Company did not record any material impairment related to its property, plant, and equipment, customer relationships, developed technology, capitalized software, outsourced contract costs or trademarks for the years ended December 31, 2016, 2015, and 2014.

## Trade name impairment

The Company experienced a decline in revenues for the LLPS reporting unit during the year ended December 31, 2014. The decline in revenues resulted from a loss of a major customer and the Company's inability to replace the revenues with new customers. The Company completed the analysis as of the annual impairment testing date of October 1, 2014, and determined that the carrying value of LLPS trade name exceeded the fair value, and recorded an impairment charge of \$16.6 million. Fair value of the trade name was determined using the Relief-from-Royalty method of the Income Approach. The impairment charge resulted in a decrease to the carrying value of the LLPS trade name and is included within Impairment of goodwill and intangible assets in the consolidated statement of operations for the year ended December 31, 2014. The Company did not record any impairment related to its trade names for the years ended December 31, 2016 and 2015. Refer to *Note 7—Intangibles Assets and Goodwill*.

## Goodwill

Goodwill represents the excess purchase price over tangible and intangible assets acquired less liabilities assumed arising from business combinations. Goodwill is generally allocated to reporting units based upon relative fair value (taking into consideration other factors such as synergies) when an acquired business is integrated into multiple reporting units. The Company's reporting units are at the operating segment level, which discrete financial information is prepared and regularly

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reviewed by management. When a business within a reporting unit is disposed of, goodwill is allocated to the disposed business using the relative fair value method.

The Company conducts its annual goodwill impairment tests on October 1st of each year, or more frequently if indicators of impairment exist. When performing the annual impairment test, the Company has the option of performing a qualitative or quantitative assessment to determine if an impairment has occurred. If a qualitative assessment indicates that it is more likely than not that the fair value of a reporting unit is less than its carrying amount, the Company would be required to perform a quantitative impairment test for goodwill. Goodwill is tested for impairment using a two-step process at the reporting unit level. In the first step, the fair value of each reporting unit is determined and compared to the reporting unit's carrying value, including goodwill. If the fair value of a reporting unit is less than its carrying value, the second step of the goodwill impairment test is performed to measure the amount of impairment, if any. In the second step, the fair value of the reporting unit is allocated to the assets and liabilities of the reporting unit as if it had been acquired in a business combination and the purchase price was equivalent to the fair value of the reporting unit. The excess of the fair value of the reporting unit over the amounts assigned to its assets and liabilities is referred to as the implied fair value of goodwill. If the implied fair value of goodwill at the reporting unit level is less than its carrying value, an impairment loss is recorded to the extent that the implied fair value of goodwill at the reporting unit is less than its carrying value. The Company uses a market multiples approach to determine the reporting unit fair value. During the year ended December 31, 2014, due to a decline in revenues for the LLPS reporting unit, the Company recorded an impairment charge of \$137.9 million. No impairment charges were recorded for the years ended December 31, 2015 and 2016. Refer to *Note 7—Intangibles Assets and Goodwill*.

## Benefit Plan Accruals

The Company has defined benefit plans in the U.K. and Germany, under which participants earn a retirement benefit based upon a formula set forth in the plan. The Company records expense related to this plan using actuarially determined amounts that are calculated under the provisions of ASC 715, *Compensation—Retirement Benefits*. Key assumptions used in the actuarial valuations include the discount rate, the expected rate of return on plan assets and the rate of increase in future compensation levels. Refer to *Note 10—Employee Benefit Plans*.

## Leasing

Leases are classified as capital leases whenever the terms of the lease transfer substantially all of the risks and rewards of ownership to the lessee. All other leases are classified as operating leases. Assets held under a capital lease are initially recognized as assets of the Company at their fair value at the inception of the lease, or if lower, at the present value of the minimum lease payments. The corresponding liability to the lessor is included in the other long-term obligations in the consolidated balance sheets. Operating lease payments are initially recognized as an expense on a straight-line basis over the lease term, except where another systematic basis is more representative of the time pattern in which the economic benefits from the leased asset are consumed.

### **Equity-Based Compensation**

Equity-based awards may be granted to certain employees, officers, directors, consultants and advisors of the Company. Compensation expense for equity-based awards is measured at the fair value of the awards at the grant date and recognized as compensation expense on a straight-line basis over the vesting period. The fair value of the awards on the grant date is determined using the Enterprise Value (“EV”) model. Refer to *Note 13—Equity-Based Compensation*.

### **Revenue Recognition**

The majority of the Company’s revenues are comprised of: (1) ITPS, (2) HS offerings, (3) LLPS solutions, and (4) some combination thereof. Revenue is realized or realizable and earned when persuasive evidence of an arrangement exists, delivery has occurred, the sales price is fixed or determinable and collectability is probable. Delivery does not occur until services have been provided to the client, risk of loss has transferred to the client, and either client acceptance has been obtained, client acceptance provisions have lapsed, or the Company has objective evidence that the criteria specified in the client acceptance provisions have been satisfied. The sales price is not considered to be fixed or determinable until all contingencies related to the sale have been resolved.

ITPS revenues are primarily generated from a transaction-based pricing model for the various types of volumes processed, licensing and maintenance fees for technology sales, and a mix of fixed management fee and transactional revenue for document logistics and location services. HS revenues are primarily generated from a transaction-based pricing model for

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the various types of volumes processed for healthcare payers and providers. LLPS revenues are primarily based on a time and materials pricing as well as through transactional services priced on a per item basis.

If a contract involves the provision of a single element, revenue is generally recognized when the product or service is provided and the amount earned is not contingent upon any future event. Revenue from time and materials arrangements is recognized as the services are performed.

The Company records deferred revenue when it receives payments or invoices in advance of the delivery of products or the performance of services. The deferred revenue is recognized into earnings when underlying performance obligations are achieved.

The Company includes reimbursements from clients, such as postage costs, in revenue, while the related costs are included in cost of revenue in the consolidated statement of operations.

#### *Multiple Element Arrangements*

Certain of the Company’s revenue is generated from multiple element arrangements involving various combinations. The deliverables within these arrangements are evaluated at contract inception to determine whether they represent separate units of accounting, and if so, contract consideration is allocated to each deliverable based on relative selling price. The relative selling price of each deliverable within these arrangements is determined using vendor specific objective evidence (“VSOE”) of fair value, third-party evidence or best estimate of selling price. Revenue is then recognized in accordance with the appropriate revenue recognition guidance applicable to the respective elements.

If the multiple element arrangements criteria are not met, the arrangement is accounted for as one unit of accounting which would result in revenue being recognized on a straight-line basis over the period of delivery or being deferred until the earlier of when such criteria are met or when the last element is delivered.

### **Research and Development**

Research and development costs are expensed as incurred. Research and development costs expensed for the years ended December 31, 2016, 2015 and 2014 were \$2.3 million, \$1.7 million and \$0.3 million, respectively.

### **Advertising**

Advertising costs are expensed as incurred. Advertising expense for the years ended December 31, 2016, 2015 and 2014, were \$1.1 million, \$0.8 million and \$0.7 million, respectively.

### **Income Taxes**

The Company accounts for income taxes by using the asset and liability method. The Company files US consolidated income tax returns which will include the post-acquisition taxable income of Pangea’s and TransCentra’s US legal entities. The Company accounts for income taxes regarding uncertain tax positions and recognized interest and penalties related to uncertain tax positions in income tax benefit/ (expense) in the consolidated statements of operations.

## 2. Basis of Presentation and Summary of Significant Accounting Policies

Deferred income taxes are recognized on the tax consequences of temporary differences by applying enacted statutory tax rates applicable in future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities, as determined under tax laws and rates. A valuation allowance is provided when it is more likely than not that all or some portion of the deferred tax assets will not be realized. Due to numerous ownership changes, the Company is subject to limitations on existing net operating losses under Section 382 of the Internal Revenue Code (the Code). Accordingly, valuation allowances have been established against a portion of the net operating losses to reflect estimated Section 382 limitations. The Company also considered net operating losses not limited by Section 382. The Company did not consider future book income as a source of taxable income when assessing if a portion of the deferred tax assets are more likely than not to be realized. However, scheduling the reversal of existing deferred tax liabilities indicated that a portion of the deferred tax assets are likely to be realized. Therefore, valuation allowances were established against some, but not all, of the Company's deferred tax assets. In the event the Company determines that it would be able to realize deferred tax assets that have valuation allowances established, an adjustment to the deferred tax assets would be recognized as component of income tax expense through continuing operations.

The Company engages in transactions (i.e. acquisitions) in which the tax consequences may be subject to uncertainty and examination by the varying taxing authorities. Significant judgment is required by the Company in assessing and estimating the tax consequences of these transactions. While the Company's tax returns are prepared and based on the Company's interpretation of tax laws and regulations, in the normal course of business the tax returns are subject to examination by the various taxing authorities. Such examinations may result in future assessments of additional tax, interest and penalties. For purposes of the Company's income tax provision, a tax benefit is not recognized if the tax position is not more likely than not to be sustained based solely on its technical merits. Considerable judgment is involved in determining which tax positions are more likely than not to be sustained. Refer to *Note 9—Income Taxes* for further information.

### Loss Contingencies

The Company reviews the status of each significant matter, if any, and assess its potential financial exposure considering all available information including, but not limited to, the impact of negotiations, settlements, rulings, advice of legal counsel and other updated information and events pertaining to a particular matter. If the potential loss from any claim or legal proceeding is considered probable and the amount can be reasonably estimated, the Company accrues a liability for the estimated loss. Significant judgment is required in both the determination of probability and the determination as to whether an exposure is reasonably estimable. Because of uncertainties related to loss contingencies, accruals are based only on the best information available at the time. As additional information becomes available, the Company reassesses the potential liability related to its pending claims and litigation, and may revise its estimates. These revisions in the estimates of the potential liabilities could have a material impact on the results of operations and financial position.

### Foreign Currency Translation

The functional currency for the Company's production operations located in India, Philippines, China, and Mexico is the United States dollar. Included in other expense as "Sundry expense (income), net" in the consolidated statements of operations are net exchange losses of \$0.7 million, net exchange losses of \$3.2 million and net exchange gains of \$2.2 million for the years ended December 31, 2016, December 31, 2015 and December 31, 2014, respectively.

The Company has determined all other international subsidiaries' functional currency is the local currency. These assets and liabilities are translated at exchange rates in effect at the balance sheet date while income and expense amounts are translated at average exchange rates during the period. The resulting foreign currency translation adjustments are disclosed as a separate component of other comprehensive income (loss).

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### Business Combinations

The Company includes the results of operations of the businesses acquired as of the respective dates of acquisition. The Company allocates the fair value of the purchase price of acquisitions to the assets acquired and liabilities assumed based on their estimated fair values. The excess of the fair value of the purchase price over the fair values of these identifiable assets and liabilities is recorded as goodwill.

### Fair Value Measurements

The Company records the fair value of assets and liabilities in accordance with ASC 820, *Fair Value Measurement* ("ASC 820"). ASC 820 defines fair value as the price received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date and in the principal or most advantageous market for that asset or liability. The fair value should be calculated based on assumptions that market participants would use in pricing the asset or liability, not on assumptions specific to the entity.

In addition to defining fair value, ASC 820 expands the disclosure requirements around fair value and establishes a fair value hierarchy for valuation inputs. The hierarchy prioritizes the inputs into three levels based on the extent to which inputs used in measuring fair value are observable in the market. Each fair value measurement is reported in one of the three levels, which is determined by the lowest level input that is significant to the fair value measurement in its entirety. These levels are:

- |          |   |
|----------|---|
| Level 1— | quoted prices (unadjusted) in active markets for identical assets or liabilities.   |
| Level 2— | quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument. |
| Level 3— | unobservable inputs reflecting Management's own assumptions about the inputs used in pricing the asset or liability at fair value.  |

Refer to *Note 12—Fair Value Measurement* for further discussion.

### Recently Adopted Accounting Pronouncements

In September 2015, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (“ASU”) No. 2015-16, *Business Combinations (ASC 740): Simplifying the Accounting for Measurement-Period Adjustments*. The amendments in this ASU eliminate the requirement to retrospectively account for provisional amounts recognized in a business combination. The ASU is effective for fiscal years beginning after December 15, 2015, including interim periods within those fiscal years. The adoption did not have any impact on the Company’s disclosure for business combinations nor financial position.

In November 2015, the FASB issued ASU No. 2015-17, *Income Taxes (Topic 740): Balance Sheet Classification of Deferred Taxes (“ASU 2015-17”)*. The standard requires that deferred tax assets and liabilities be classified as noncurrent on the balance sheet rather than being separated into current and noncurrent. ASU 2015-17 is effective for fiscal years, and interim periods within those years, beginning after December 15, 2016. The new guidance does not change the existing requirement that prohibits offsetting deferred tax liabilities from one jurisdiction against deferred tax assets of another jurisdiction. Early adoption is permitted and the standard may be applied either retrospectively or on a prospective basis to all deferred tax assets and liabilities. The Company early adopted ASU 2015-17 during the fourth quarter of fiscal year 2016 on a retrospective basis. Upon adoption of ASU No. 2015-17, current deferred tax assets of approximately \$9.8 million in the Company’s December 31, 2015 consolidated balance sheet were reclassified as non-current.

### Recently Issued Accounting Pronouncements

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers (ASC 606)*. Under the update, revenue will be recognized based on a five-step model. The core principle of the model is that revenue will be recognized when the transfer of promised goods or services to customers is made in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In July 2015, the FASB deferred the effective date by one year (ASU No. 2015-14). This ASU will now be effective for annual periods, and interim periods within those annual periods, beginning on or after December 15, 2017. Early adoption is permitted, but not before the original effective date of December 15, 2016. Since the issuance of the original standard, the FASB has issued several other subsequent updates including the following: 1) clarification of the implementation guidance on principal versus agent considerations (ASU 2016-08); 2) further guidance on identifying performance obligations in a contract as well as clarifications on the licensing

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implementation guidance (ASU 2016-10); 3) rescission of several SEC Staff Announcements that are codified in ASC 605 (ASU 2016-11); 4) additional guidance and practical expedients in response to identified implementation issues (ASU 2016-12); and 5) technical corrections and improvements (ASU 2016-20). The new standard will be effective for us beginning January 1, 2018. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (842)*. This ASU increases transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. The amendments in this ASU are effective for fiscal years beginning after December 31, 2018 and interim periods within those fiscal years and early application is permitted. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-09, *Compensation—Stock Compensation (ASC 718): Improvements to Employee Share-Based Payment Accounting (ASU 2016-09)*. The ASU changes how companies account for certain aspects of equity-based payment awards to employees, including the accounting for income taxes, forfeitures, and statutory tax withholding requirements, as well as classification in the statement of cash flows. The amendments in this ASU are effective for reporting periods beginning after December 15, 2016. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, *Classification of Certain Cash Receipts and Cash Payments (ASC 230)*. The ASU clarifies the classification of certain cash receipts and cash payments in the statement of cash flows, including debt prepayment or extinguishment costs, settlement of contingent consideration arising from a business combination, insurance settlement proceeds, and distributions from certain equity method investees. The ASU is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. Early adoption is permitted. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows: Restricted Cash (ASC 230)*. The ASU addresses diversity in practice that exists in the classification and presentation of changes in restricted cash and requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. The ASU is effective retrospectively for fiscal years and interim periods within those years beginning after December 15, 2017. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations: Clarifying the Definition of a Business (ASC 805)*. The ASU clarifies the definition of a business and provides guidance on evaluating as to whether transactions should be accounted for as acquisitions (or disposals) of assets or business combinations. The definition clarification as outlined in this ASU affects many areas of accounting including acquisitions, disposals, goodwill, and consolidation. The amendments of the ASU are effective for annual periods beginning after December 15, 2017, including interim periods within those annual periods. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In January 2017, the FASB issued ASU 2017-04, *Intangibles—Goodwill and Other (ASC 350)*. The ASU simplifies the measurement of goodwill impairment by removing step 2 of the goodwill impairment test, which requires the determination of the fair value of individual assets and liabilities of a reporting unit. The ASU requires goodwill impairment to be measured as the amount by which a reporting unit’s carrying value exceeds its fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. The amendments should be applied on a prospective basis. The ASU is effective for fiscal years beginning after December 15, 2019 with early adoption permitted for interim or annual goodwill impairment tests performed after January 1, 2017. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

### Concentration of Credit Risk

#### Credit Risk

Financial instruments that potentially subject the Company to concentration of credit risk consist primarily of cash and cash equivalents and trade receivables. The Company maintains its cash and cash equivalents and certain other financial instruments with highly rated financial institutions and limits

the amount of credit exposure with any one financial institution. From time to time, the Company assesses the credit worthiness of its customers. Credit risk on trade receivables is minimized because of the large number of entities comprising the Company's client base and their dispersion across many industries and

geographic areas. The Company generally has not experienced any material losses related to receivables from any individual customer or groups of customers. The Company does not require collateral. Due to these factors, no additional credit risk beyond amounts provided for collection losses is believed by management to be probable in the Company's accounts receivable, net. The Company does not have any significant customers that account for 10% or more of the total consolidated revenues.

## Operations

A portion of the Company's labor and operations is situated outside of the United States in India and other locations. The carrying value of long-lived assets that are situated outside of the United States is approximately \$26.3 million and \$21.8 million as of December 31, 2016 and 2015, respectively.

## 3. Business Combinations

### *TransCentra Acquisition*

On July 27, 2015, the Company made a strategic payment of \$12.8 million that provided it with the option to acquire TransCentra, a US-based provider of billing, remittance processing and processing software and consulting solutions primarily in the financial services, insurance, utilities, healthcare and telecom industries. On September 28, 2016, the Company exercised this option and acquired all of the outstanding shares of privately held FTS, which owns 100% of TransCentra. The acquisition extends the Company's reach in the billing, payment and software services market primarily in the financial services, insurance, utilities, healthcare and telecom industries. The acquisition was accounted for as a business combination. The acquired assets and assumed liabilities were recorded at their estimated fair values. The Company expects to realize revenue synergies, leverage and expand the existing TransCentra sales channels, and utilize the existing workforce. The Company also anticipates opportunities for growth through the ability to leverage additional future services and capabilities. These factors, among others, contributed to a purchase price in excess of the estimated fair value of TransCentra's identifiable net liabilities assumed, and as a result, the Company has recorded goodwill in connection with this acquisition. The Company engaged a third-party valuation firm to aid management in its analyses of the fair value of the acquired business. All estimates, key assumptions, and forecasts were either provided by or reviewed by the Company. While the Company chooses to utilize a third-party valuation firm, the fair value analyses and related valuations represent the conclusions of management and not the conclusions or statements of any third party.

The purchase price allocation for the TransCentra business combination is preliminary and subject to change within the respective measurement period which will not extend beyond one year from the acquisition date. Measurement period adjustments will be recognized in the reporting period in which the adjustment amounts are determined.

The following table summarizes the consideration paid for TransCentra and the preliminary fair value of the assets acquired and liabilities assumed at the acquisition date on September 28, 2016:

Cash and equivalents	\$	3,351
Restricted cash		175
Accounts receivable		16,790
Inventories		387
Prepaid expenses		3,215
Other current assets		2,306
Property, plant and equipment, net		4,412
Goodwill		13,558
Intangible assets		37,590
Other noncurrent assets		567
<b>Total identifiable assets acquired</b>	<b>\$</b>	<b>82,351</b>
Accounts payable		10,214
Affiliate payable		275
Income tax payable		11
Accrued liabilities		5,415
Accrued compensation and benefits		1,420
Customer deposits		3,446
Deferred revenue		3,369
Current portion of capital lease obligations		236
Current portion of long-term debt		11,000
Deferred tax liability		3,527
Other non-current liabilities		500
Capital lease obligations, net of current maturities		217
Long-term debt		29,911
<b>Total liabilities assumed</b>		<b>69,541</b>
Cash consideration		12,810
	<b>\$</b>	<b>82,351</b>

The identifiable intangible assets include customer relationships, developed software, and trademarks. Customer relationships were valued using the Income Approach, specifically the Multi-Period Excess Earnings method. Developed software and trademarks were valued using the Income Approach, specifically the Relief-from-Royalty method.



	Weighted Average Useful Life (in Years)	Fair value
Customer relationships	8.2	\$ 28,640
Developed technology	7.4	3,580
Trademark	10.0	5,370
		<u>\$ 37,590</u>

The tax deductible goodwill from the acquisition was \$32.4 million, which was carried over from the tax basis of the seller. Since the acquisition date of September 28, 2016, \$33.3 million of revenue and \$1.5 million of net income are included in consolidated revenues and net loss, respectively, for TransCentra. These results are included in the ITPS segment.

Following are the supplemental consolidated results of the Company on an unaudited pro forma basis, as if the acquisition had been consummated on January 1, 2015:

	December 31,	
	2016	2015
Pro forma revenues	\$ 891,596	\$ 957,098
Pro forma net loss	(48,470)	(55,578)
Pro forma basic loss per share	\$ (335.67)	\$ (384.89)

These pro forma results were based on estimates and assumptions, which the Company believe are reasonable. They are not the results that would have been realized had the Company been a combined company during the periods presented and are not necessarily indicative of our consolidated results of operations in future periods. The pro forma results include adjustments primarily related to purchase accounting adjustments. Acquisition costs and other non-recurring charges incurred are included in the earliest period presented.

#### 4. Accounts Receivable

Accounts receivable, net consist of the following:

	December 31,	
	2016	2015
Billed receivables	\$ 116,148	\$ 120,768
Unbilled receivables	20,982	22,306
Other	4,510	5,252
Less: Allowance for doubtful accounts	(3,219)	(3,164)
	<u>\$ 138,421</u>	<u>\$ 145,162</u>

Unbilled receivables represent balances recognized as revenue that have not been billed to the customer. The Company's allowance for doubtful accounts is based on a policy developed by historical experience and management judgment. Adjustments to the allowance for doubtful accounts may occur based on market conditions or specific client circumstances.

#### 5. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following:

	December 31,	
	2016	2015
Prepays	\$ 10,906	\$ 10,013
Deposits	1,296	1,501
	<u>\$ 12,202</u>	<u>\$ 11,514</u>

#### 6. Property, Plant and Equipment, Net

Property, plant, and equipment, which include assets recorded under capital leases, are stated at cost less accumulated depreciation and amortization, and consist of the following:

	Estimated Useful Lives (in Years)	December 31,	
		2016	2015
Land	N/A	\$ 7,637	\$ 7,904
Buildings and improvements	7 - 40	16,989	12,893
Leasehold improvements	Lesser of the useful life or lease term	31,342	25,381
Vehicles	5 - 7	784	812
Machinery and equipment	5 - 15	23,297	21,093
Computer equipment and software	3 - 8	98,544	88,977
Furniture and fixtures	5 - 15	5,007	4,935
		183,600	161,995
Less: Accumulated depreciation and amortization		(102,000)	(83,692)
Property, plant and equipment, net		<u>\$ 81,600</u>	<u>\$ 78,303</u>

Depreciation expense related to property, plant and equipment was \$22.8 million, \$27.4 million and \$24.0 million for the years ended December 31, 2016, 2015 and 2014, respectively.

As of December 31, 2016 and 2015, equipment held under capital leases had a gross cost of \$29.8 million and \$27.5 million, respectively. Accumulated amortization of equipment held under capital leases as of December 31, 2016 and 2015 was \$13.2 million and \$14.7 million, respectively. Amortization of assets held under capital leases is included within depreciation expense.

SourceHOV Holdings, Inc. and Subsidiaries

Notes to the Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

7. Intangibles Assets and Goodwill

Intangibles

Intangible assets are stated at cost or acquisition-date fair value less accumulated amortization and consists of the following:

	December 31, 2016		
	Gross Carrying Amount(a)	Accumulated Amortization	Intangible Asset, net
Customer relationships	\$ 274,643	\$ (100,172)	\$ 174,471
Outsource contract costs	27,619	(7,378)	20,241
Developed technology	89,076	(59,539)	29,537
Internally developed software	16,742	(858)	15,884
Trademarks	5,370	(134)	5,236
Trade names(b)	53,370	—	53,370
	<u>\$ 466,820</u>	<u>\$ (168,081)</u>	<u>\$ 298,739</u>

  

	December 31, 2015		
	Gross Carrying Amount	Accumulated Amortization	Intangible Asset, net
Customer relationships	\$ 246,003	\$ (70,110)	\$ 175,893
Outsource contract costs	12,984	(3,690)	9,294
Developed technology	85,497	(42,160)	43,337
Internally developed software	3,678	(343)	3,335
Trade names(b)	53,370	—	53,370
	<u>\$ 401,532</u>	<u>\$ (116,303)</u>	<u>\$ 285,229</u>

(a) Amounts include intangibles acquired in the TransCentra acquisition. See Note 3—Business Combinations.

(b) Trade names are indefinite-lived assets and therefore are not amortizable.

Aggregate amortization expense related to intangibles was \$56.8 million, \$48.0 million and \$41.3 million for the years ended December 31, 2016, 2015 and 2014, respectively.

Estimated intangibles amortization expense for the next five years and thereafter consists of the following as follows:

	Estimated Amortization Expense
2017	\$ 61,902
2018	50,361
2019	31,861
2020	23,824
2021	22,229
Thereafter	55,192
	<u>\$ 245,369</u>

Goodwill

Goodwill by reporting segment consists of the following:

	Goodwill	Additions	Currency translation adjustments	Impairment	Goodwill
ITPS	\$ 85,022	\$ 61,131(a)	\$ —	\$ —	\$ 146,153
HS	86,786	—	—	—	86,786
LLPS	264,950	—	15	(137,854)(c)	127,111
<b>Balance as of January 1, 2015</b>	<b>\$ 436,758</b>	<b>\$ 61,131</b>	<b>\$ 15</b>	<b>\$ (137,854)</b>	<b>\$ 360,050</b>
ITPS	146,153	—	(591)	—	145,562
HS	86,786	—	—	—	86,786

LLPS	127,111	—	—	—	127,111
<b>Balance as of December 31, 2015</b>	<b>\$ 360,050</b>	<b>\$ —</b>	<b>\$ (591)</b>	<b>\$ —</b>	<b>\$ 359,459</b>
ITPS	145,562	13,558(b)	274	—	159,394
HS	86,786	—	—	—	86,786
LLPS	127,111	—	—	—	127,111
<b>Balance as of December 31, 2016</b>	<b>\$ 359,459</b>	<b>\$ 13,558</b>	<b>\$ 274</b>	<b>\$ —</b>	<b>\$ 373,291</b>

- (a) Refer to *Note 1—Description of Business* for details of the reorganization with Pangea.
- (b) Refer to *Note 3—Business Combinations* for details of the acquisition of TransCentra.
- (c) The carrying amount of goodwill for all periods presented was net of accumulated impairment of \$137.9 million recorded during the year ended December 31, 2014. Refer to *Note 2—Basis of Presentation and Summary of Significant Accounting Policies* for details of the impairment of goodwill.

## 8. Long-Term Debt and Credit Facilities

Long-term obligations, net of original issue discounts and debt issuance costs, consist of the following:

	December 31,	
	2016	2015
First lien revolving credit facility(a)	\$ 63,337	\$ 62,039
First lien secured term loan(b)	687,884	717,233
Second lien secured term loan(c)	236,344	233,309
TransCentra revolving credit facility	5,000	—
TransCentra term loan	19,250	—
FTS unsecured term loan	15,911	—
Other(d)	11,609	7,814
Total debt	1,039,335	1,020,395
Less: Current portion of long-term debt	(55,833)	(45,253)
Long-term debt, net of current maturities	\$ 983,502	\$ 975,142

- (a) Net of unamortized debt issuance costs of \$2.3 million and \$3.1 million as of December 31, 2016 and 2015, respectively.
- (b) Net of unamortized original issue discount and debt issuance costs of \$14.6 million and \$14.2 million and \$19.4 million and \$19.0 million as of December 31, 2016 and 2015, respectively.
- (c) Net of unamortized original issue discount and debt issuance costs of \$7.3 million and \$6.3 million and \$9.0 million and \$7.7 million as of December 31, 2016 and 2015, respectively.
- (d) Other debt represents the Company's outstanding loan balances associated with various hardware and software purchases along with loans entered into by subsidiaries of the Company.

### Credit Facilities

In connection with the Reorganization on October 31, 2014, the Company obtained new credit facilities aggregating to \$1,105.0 million and used the proceeds to extinguish its previous credit facilities, pay related acquisition costs, pay former majority shareholders and retire Pangea credit facilities. The Company incurred an \$18.6 million loss on the extinguishment of debt.

#### First and Second Lien Secured Term Loans

The financing obtained as part of the Reorganization included a first lien secured term loan of \$780.0 million due October 2019 and a second lien secured term loan of \$250.0 million due April 2020. The Company has the option to choose interest rates based on the 1) base rate (as defined), subject to a floor of 2.0% per annum, or 2) the Eurocurrency rate, subject to a floor of 1.0% per annum, plus an applicable margin for each rate, respectively. The Company's interest rates were 7.75% and 11.50% for the first and second lien secured term loans, respectively, as of December 31, 2016.

#### Revolving Credit Facility and Swing Line Loans

A first lien revolving credit facility of \$75.0 million due October 2019 was also obtained as part of the Reorganization. The Company borrowed \$9.5 million from the revolver on October 31, 2014 as part of effecting the Reorganization. As of December 31, 2016, the first lien revolving credit facility was fully drawn based on the outstanding balance under the credit facility and outstanding letters of credit of \$9.3 million. The Company's interest rate on the first lien revolving credit facility was 7.75% as of December 31, 2016.

The Company's interest rate on the swing-line loans was 9.5% as of December 31, 2016. The swing-line loans are part of, and not in addition to, the revolving credit facility of \$75.0 million. The assets of the Company secure the liens. The swing-line loans outstanding balance of \$0.5 million and \$4.1 million at December 31, 2016 and 2015, respectively, is included in the outstanding balance of \$63.3 million and \$62.0 million of the first lien revolving credit facility at December 31, 2016 and 2015, respectively.

As of December 31, 2016 and 2015, the Company had outstanding irrevocable letters of credit totaling approximately \$9.3 million and \$9.8 million, respectively, under the revolving credit facility. As December 31, 2016, these letters of credit consisted of approximately \$7.1 million related to security for the Company's self-insured workers' compensation program and approximately \$2.2 million for the landlord in Irving, a reduction of \$0.6 million and

increase of \$0.1 million, respectively, compared to the prior year as of December 31, 2015. Letter of credit commitment fees on commitments outstanding of 6.75% per annum are payable quarterly.

*TransCentra Term Loan, TransCentra Revolving Credit Facility and FTS Term Loan*

On September 28, 2016, the Company assumed \$25.0 million and \$15.9 million in debt in connection with the acquisition of TransCentra and FTS, respectively (*Note 3—Business Combinations*). The TransCentra debt consists of a \$20.0 million term loan due June 2021 and a \$5.0 million revolving credit facility due June 2018. The term loan and revolving credit facility bear interest at LIBOR plus 5.56%, subject to a LIBOR floor of 6.00%, and LIBOR plus 4.31%, subject to a LIBOR floor of 4.75%, respectively, per annum where LIBOR is currently 0.77%. All the assets of TransCentra secure the term loan. As of December 31, 2016, the TransCentra revolving credit facility was fully drawn. The FTS debt consists of a \$15.9 million unsecured term loan due June 2018. The FTS debt bears interest at Base Rate plus 1.00% per annum where Base Rate is presently 3.75%. The FTS debt is guaranteed by the Company.

*Debt Issuance Costs*

The October 31, 2014 credit facilities were issued at a discount of \$35.4 million and the Company incurred debt issuance costs of \$37.4 million. Both the original issue discount and debt issuance costs are amortized to interest expense over the remaining periods to maturity using the effective interest rate. The credit facilities and TransCentra term loan contain a number of covenants that, among other things, restrict, subject to certain exceptions, the Company's ability to incur additional indebtedness, create liens on assets, pay dividends or other distributions, engage in certain transactions with affiliates, make investments, sell assets, engage in mergers or consolidations, and precludes the Company from exceeding leverage and fixed charge coverage ratios, as individual defined. Additionally, the covenants of the credit facilities require a percentage of annual excess cash flow, as defined in the agreement, to be used to pay down the term loans beginning with the period ending December 31, 2015.

As of December 31, 2016, maturities of long-term debt are as follows:

	<b>Maturity</b>
2017	\$ 55,833
2018	60,565
2019	708,785
2020	254,865
2021	3,947
Total long-term debt	1,083,995
Less: Unamortized discount and debt issuance costs	(44,660)
	<u>\$ 1,039,335</u>

**SourceHOV Holdings, Inc. and Subsidiaries**

**Notes to the Consolidated Financial Statements**

**(in thousands of United States dollars unless otherwise stated)**

**9. Income Taxes**

The Company provides for income taxes using an asset and liability approach, under which deferred income taxes are provided based upon enacted tax laws and rates applicable to periods in which the taxes become payable.

For financial reporting purposes, income/ (loss) before income taxes includes the following components:

	<b>Year ended December 31,</b>		
	<b>2016</b>	<b>2015</b>	<b>2014</b>
United States	\$ (71,171)	\$ (79,054)	\$ (241,701)
Foreign	11,281	7,338	6,063
	<u>\$ (59,890)</u>	<u>\$ (71,716)</u>	<u>\$ (235,638)</u>

The provision for federal, state, and foreign income taxes consists of the following:

	<b>Year ended December 31,</b>		
	<b>2016</b>	<b>2015</b>	<b>2014</b>
<b>Federal</b>			
Current	\$ —	\$ (63)	\$ (396)
Deferred	(8,961)	(27,931)	(36,311)
<b>State</b>			
Current	830	1,203	919
Deferred	(2,740)	(2,696)	(1,765)
<b>Foreign</b>			
Current	3,112	(774)	(608)
Deferred	(4,028)	3,449	158
Income tax benefit	<u>\$ (11,787)</u>	<u>\$ (26,812)</u>	<u>\$ (38,003)</u>

The differences between income taxes expected by applying the U.S. federal statutory tax rate of 35% and the amount of income taxes provided are as follows:

	Year ended December 31,		
	2016	2015	2014
Tax at statutory rate	\$ (20,962)	\$ (25,101)	\$ (82,473)
<b>Add (deduct)</b>			
State income taxes	1,483	905	(3,611)
Foreign income taxes	(1,356)	2,654	(3,635)
Tax credits	(505)	(550)	(695)
Return to provision	(2,613)	2,395	2,106
Permanent book to tax expenses	4,405	(172)	408
Goodwill impairment	—		49,977
Unremitted earnings	1,686		
Unrecognized tax benefits	—	(63)	(396)
State valuation allowance	(3,665)	(846)	(12)
Federal valuation allowance	14,070	(3,486)	589
International valuation allowance	(4,330)	(2,548)	(261)
Benefits from income taxes	<u>\$ (11,787)</u>	<u>\$ (26,812)</u>	<u>\$ (38,003)</u>

Included in the 2014 pretax loss was \$138 million of impairment related to goodwill. With the exception of an insignificant amount, the Company has no tax basis in the goodwill and accordingly is not recognizing a tax benefit on the nondeductible portion.

The components of deferred income tax liabilities and assets are as follows:

	Year ended December 31,	
	2016	2015
<b>Deferred income tax liabilities:</b>		
Book over tax basis of intangible assets	\$ (112,024)	\$ (108,404)
Book over tax basis of fixed assets		(3,263)
Deferred income		(1,089)
Unremitted foreign earnings	(1,686)	—
Other, net	(7,781)	(6,071)
Total deferred income tax liabilities	<u>\$ (121,491)</u>	<u>\$ (118,827)</u>
<b>Deferred income tax assets:</b>		
Allowance for doubtful accounts and receivable adjustments	\$ 2,112	\$ 1,889
Tax over book basis of intangible assets	3,010	3,116
Tax over book basis of fixed assets	595	—
Inventory	3,076	3,572
Accrued liabilities	9,554	9,294
Tax credit carryforwards	4,469	4,542
Net operating loss carryforwards	227,757	198,829
Tax deductible goodwill	6,806	—
Other, net	18,364	15,181
Total deferred income tax assets	<u>\$ 275,743</u>	<u>\$ 236,423</u>
Valuation allowance	(170,821)	(147,758)
Total net deferred income tax liabilities	<u>\$ (16,569)</u>	<u>\$ (30,162)</u>

Gross deferred tax assets were reduced by valuation allowances. Approximately \$141 million and \$6 million of the valuation allowance relates to federal and state limitations on the utilization of net operating losses due to numerous changes in ownership. The remaining \$23 million of the valuation allowance relates to net operating losses that are not realizable. As a result of the Company's cumulative history of losses in the US and certain other foreign jurisdictions, the Company is unable to use forecasted income to support the realizability of net operating loss assets. Consequently, the Company is only able to net operating loss assets to the extent that net deferred tax liabilities reverse prior to the expiration of the net operating losses. The net change during the year in the total valuation allowance balance was an increase of \$23 million related to the increase in net operating loss assets during the year and the change in net deferred tax liabilities available to support the realizability of such assets. Of this amount, \$6.2 million, net, was recognized to Continuing Operations and \$16.9 million was recorded to goodwill in connection with the TransCentra acquisition. The current year increase was partially offset by a reversal of valuation allowance of net operating loss carryforwards in a German subsidiary.

Section 382 of the Internal Revenue Code of 1986, as amended (the Code), limits the amount of U.S. tax attributes (net operating loss and tax credit carryforwards) following a change in ownership. The Company has determined that an ownership change occurred under Section 382 on April 3, 2014 and October 31, 2014 for the Pangea group and on October 31, 2014 for the SourceHOV Holdings group. The Section 382 limit that applied to the historic SourceHOV LLC group is greater than the net operating losses and tax credits generated in the predecessor periods. Therefore, no additional valuation allowances were established relating to Section 382 limitations other than the pre-2011 Section 382 limitations that applied. The Section 382 limitations significantly limit the pre-acquisition Pangea net operating losses. Accordingly, upon the October 31, 2014 change in control, most of the historic Pangea federal net operating losses were limited and a valuation allowance has been established against the related deferred tax asset. Following the filing of the October 31, 2014, Pangea federal tax returns and further Section 382 analysis, management finalized the amount of the limitation and as a result, approximately \$3.5 million of the valuation allowance was released. Management has concluded that the U.S. tax attributes after Section 382 limitations were applied are more likely than not to be realized. With regard to Pangea's foreign subsidiaries, it was determined that most deferred tax assets are not likely to be realized and valuation allowances have been established.

Included in deferred tax assets are federal, foreign and state net operating loss carryforwards, federal general business credit carryforwards and state tax credit carryforwards due to expire beginning in 2017 through 2036. As of December 31, 2016, the Company has federal and state income tax net operating loss (NOL) carryforwards of \$587 million and \$290 million, which will expire at various dates from 2017 through 2036. Such NOL carryforwards expire as follows:

	Federal NOL	State and Local NOL
2017 - 2020	\$ 114,969	\$ 31,485
2021 - 2025	80,880	79,355
2026 - 2036	390,747	179,186
	<u>\$ 586,596</u>	<u>\$ 290,026</u>

As of December 31, 2016, the Company has foreign net operating loss carryforwards of \$31 million, \$7 million of which were generated by BancTec Holding N.V. and BancTec B.V., and will expire at various dates from 2017 through 2025, and the rest of which can be carried forward indefinitely.

Since the 2014 Reorganization did not result in a new tax basis of assets and liabilities for the Company, some of the goodwill continues to be deductible over the remaining amortization period for tax purposes. At December 31, 2016, approximately \$43.8 million of the Company goodwill is tax deductible, \$11.4 million of which is carried over from the 2014 Reorganization. Additionally, the Company has tax deductible goodwill of \$32.4 million in connection with the TransCentra acquisition. This amount was related to the tax basis carried over from the seller.

The Company adopted the provision of accounting for uncertainty in income taxes in the Topic of the ASC 740. ASC 740 clarifies the accounting for uncertain tax positions in the Company's financial statements and prescribes a recognition threshold and measurement attribute for financial statement disclosure of tax positions taken or expected to be taken on tax returns. The total amount of unrecognized tax benefits, including interest and penalties, at December 31, 2016 is \$1.0 million, and if recognized \$0.5 million would benefit the effective tax rate. Total accrued interest and penalties recorded on the Consolidated Balance Sheet were \$2.6 million and \$2.6 million at December 31, 2016 and 2015, respectively. The total amount of interest and penalties recognized in the Consolidated Statement of Operations at December 31, 2016 was \$0 million. The Company does not anticipate a significant change in the amount of unrecognized tax benefits during 2017.

The following is a tabular reconciliation of the total amounts of unrecognized tax benefits:

	Year ended December 31,		
	2016	2015	2014
<b>Unrecognized Tax Benefits—January 1</b>	\$ 1,287	\$ 2,760	\$ 4,834
Gross increases—tax positions in prior period			
Gross decreases—tax positions in prior period	(31)	(916)	(1,529)
Gross increases—tax positions in current period	45	70	387
Settlement	(103)	(110)	(726)
Lapse of statute of limitations	(199)	(517)	(206)
<b>Unrecognized Tax Benefits—December 31</b>	<u>\$ 999</u>	<u>\$ 1,287</u>	<u>\$ 2,760</u>

The Company files income tax returns in the U.S. and various state and foreign jurisdictions. The statute of limitations for U.S. purposes is open for tax years ending on or after December 31, 2012. However, NOLs generated in years prior to 2012 and utilized in future periods may be subject to examination by U.S. tax authorities. State jurisdictions that remain subject to examination are not considered significant. The Company has significant foreign operations in India and Europe. The Company may be subject to examination by the India tax authorities for tax periods ending on or after March 31, 2010.

The Company currently does not repatriate earnings from its European foreign subsidiaries. U.S. income and foreign withholding taxes have not been recorded on the European foreign subsidiaries aggregating approximately \$44.6 million at December 31, 2016. The Company believes the determination of the amount of the unrecognized deferred U.S. income tax liability with respect to such earnings is not practicable. Historically, the Company did not indefinitely reinvest earnings in China. Additionally, as of December 31, 2016, the Company determined that approximately \$4.8 million of undistributed net earnings related to certain foreign subsidiaries in India, Mexico, Canada and Philippines will no longer be indefinitely reinvested. Accordingly, the Company recognized a \$1.68 million deferred tax liability related to the incremental U.S. tax that would be realized on such income.

## 10. Employee Benefit Plans

### German Pension Plan

The Company's subsidiary in Germany provides pension benefits to retirees. Employees eligible for participation includes all employees who started working for the Company prior to September 30, 1987 and have finished a qualifying period of at least 10 years. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan.

### U.K. Pension Plan

The Company's subsidiary in the United Kingdom provides pension benefits to retirees and eligible dependents. Employees eligible for participation included all full-time regular employees who were more than three years from retirement prior to October 2001. A retirement pension or a lump-sum payment may be paid dependent upon length of service at the mandatory retirement age. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan.

### Funded Status

The change in benefit obligations, the change in the fair value of the plan assets and the funded status of the Company's pension plans (except for the German pension plan which is unfunded) and the amounts recognized in the Company's consolidated financial statements are as follows:

	Year ended December 31,	
	2016	2015
<b>Change in Benefit Obligation:</b>		
Benefit obligation at beginning of period	\$ 76,569	\$ 83,444
Service cost	11	736

Interest cost	2,667	2,926
Plan participants' contributions	—	310
Actuarial loss	19,330	(5,527)
Plan curtailment	—	(258)
Benefits paid	(2,042)	(1,182)
Foreign-exchange rate changes	(14,215)	(3,880)
Benefit obligation at end of year	<u>\$ 82,320</u>	<u>\$ 76,569</u>
Change in Plan Assets:		
Fair value of plan assets at beginning of period	\$ 55,909	\$ 55,133
Actual return on plan assets	6,790	2,157
Employer contributions	1,770	2,184
Plan participants' contributions	—	310
Benefits paid	(2,031)	(1,175)
Foreign-exchange rate changes	(9,900)	(2,700)
Fair value of plan assets at end of year	<u>52,538</u>	<u>55,909</u>
Funded status at end of year	<u>\$ (29,782)</u>	<u>\$ (20,660)</u>
Net amount recognized in the Consolidated Balance Sheets:		
Accrued compensation and benefits(a)	\$ (1,479)	(1,467)
Pension liability(b)	\$ (28,303)	\$ (19,193)
Amounts recognized in accumulated other comprehensive loss consist of:		
Net actuarial loss	(12,339)	(5,076)
Net plan amendment gain		
Prior service cost		
Net amount recognized in accumulated other comprehensive loss	<u>\$ (12,339)</u>	<u>\$ (5,076)</u>
Plans with underfunded or non-funded accumulated benefit obligation:		
Aggregate projected benefit obligation	\$ 82,320	\$ 76,569
Aggregate accumulated benefit obligation	\$ 82,320	\$ 76,569
Aggregate fair value of plan assets	\$ 52,538	\$ 55,909

- (a) Germany pension represents only a portion of the accrued compensation and benefits balance in the face of the consolidated balance sheet.
- (b) Consolidated balance of \$28,712 and \$19,415 includes UK pension of \$28,303 and \$19,193, respectively, and minimum regulatory benefit for a Philippines legal entity.

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#### 10. Employee Benefit Plans

For the years ended December 31, 2016 and 2015, the Company recorded actuarial losses of \$12.34 million and \$5.08 million, respectively, which is net of a deferred tax benefit of \$2.5 million and \$1.5 million, respectively.

#### Amounts in Accumulated Other Comprehensive Loss Expected to be Recognized in Net Periodic Benefit Costs in 2017

The liability recorded on the Company's consolidated balance sheets representing the net unfunded status of this plan is different than the cumulative expense recognized for this plan. The difference relates to losses that are deferred and that will be amortized into periodic benefit costs in future periods. These unamortized amounts are recorded in Accumulated Other Comprehensive Loss in the consolidated balance sheets.

As of December 31, 2016, the estimated pre-tax amount that will be amortized from accumulated other comprehensive loss into net periodic benefit cost over the next year will be net actuarial loss of \$2.0 million and prior service cost of (\$0.1) million.

#### Pension and Postretirement Expense

The components of the net periodic benefit cost are as follows:

	Year ended December 31,		
	2016	2015	2014
Service cost	\$ 11	\$ 735	\$ 124
Interest cost	2,667	2,926	592
Expected return on plan assets	(2,623)	(2,696)	(542)
Curtailment recognized	—	(258)	—
Amortization:	—	—	—
Amortization of prior service cost	(141)	(159)	(29)
Amortization of net (gain) loss	891	1,426	104
Net periodic benefit cost	<u>\$ 805</u>	<u>\$ 1,974</u>	<u>\$ 249</u>

#### Valuation

The Company uses the corridor approach and projected unit credit method in the valuation of its defined benefit plans for the UK and Germany, respectively. The corridor approach defers all actuarial gains and losses resulting from variances between actual results and economic estimates or actuarial assumptions. For defined benefit pension plan, these unrecognized gains and losses are amortized when the net gains and losses exceed 10% of the greater of the market-related value of plan assets or the projected benefit obligation at the beginning of the year. The amount in excess of the corridor is amortized over 15 years. Similarly, the Company used the Projected Unit Credit Method for the German Plan, and evaluated the assumptions used to derive the related benefit obligations consisting primarily of financial and demographic assumptions including commencement of employment, biometric decrement tables, retirement age, staff turnover. The projected unit credit method determines the present value of the Company's defined benefit obligations and related service costs by taking into account each period of service as giving rise to an additional unit of benefit entitlement and measures each unit separately in building up the final obligation. Benefit is attributed to periods of service using the plan's benefit formula, unless an employee's service in later years will lead to a materially higher of benefit than in earlier years, in which case a straight-line basis is used.

The following tables set forth the principal weighted-average assumptions used to determine benefit obligation and net periodic benefit costs:

	December 31,			
	2016	2015	2016	2015
	UK		Germany	
Weighted-average assumptions used to determine benefit obligations:				
Discount rate	2.70%	3.90%	2.45%	2.00%
Rate of compensation increase	N/A	N/A	1.00%	1.00%
Weighted-average assumptions used to determine net periodic benefit cost:				
Discount rate	3.90%	3.60%	N/A	N/A
Expected asset return	5.15%	4.91%	N/A	N/A
Rate of compensation increase	N/A	2.00%	N/A	N/A

The Germany plan is an unfunded plan and therefore has no plan assets. The expected rate of return assumptions for plan assets relates solely to the UK plan and are based mainly on historical performance achieved over a long period of time (15 to 20 years) encompassing many business and economic cycles. Adjustments, upward and downward, may be made to those historical returns to reflect future capital market expectations; these expectations are typically derived from expert advice from the investment community and surveys of peer company assumptions.

The Company assumed a weighted average expected long-term rate of return on plan assets for the overall scheme of 5.15%. The Company's expected rate of return for equities is derived by applying an equity risk premium to the expected yield on the fixed-interest 15-year U.K. government gilts. The Company evaluated a number of indicators including prevailing market valuations and conditions, corporate earnings expectations, and the estimates of long-term economic growth and inflations to derive the equity risk premium. The expected return on the gilts and corporate bonds typically reflect market conditions at the balance sheet date, and the nature of the bond holdings.

The discount rate assumption was developed considering the current yield on an investment grade non-gilt index with an adjustment to the yield to match the average duration of the index with the average duration of the plan's liabilities. The index utilized reflected the market's yield requirements for these types of investments.

The inflation rate assumption was developed considering the difference in yields between a long-term government stocks index and a long-term index-linked stocks index. This difference was modified to consider the depression of the yield on index-linked stocks due to the shortage of supply and high demand, the premium for inflation above the expectation built into the yield on fixed-interest stocks and the UK government's target rate for inflation (CPI) at 2.2%. The assumptions used are the best estimates chosen from a range of possible actuarial assumptions which, due to the time scale covered, may not necessarily be borne out in practice.

## Plan Assets

The investment objective for the plan is to earn, over moving fifteen to twenty year periods, the long-term expected rate of return, net of investment fees and transaction costs, to satisfy the benefit obligations of the plan, while at the same time maintaining sufficient liquidity to pay benefit obligations and proper expenses, and meet any other cash needs, in the short-to medium-term.

The Company's investment policy related to the defined benefit plan is to continue to maintain investments in government gilts and highly rated bonds as a means to reduce the overall risk of assets held in the fund. No specific targeted allocation percentages have been set by category, but are at the direction and discretion of the plan trustees. During 2016 and 2015, all contributions made to the fund were in these categories.

The weighted average allocation of plan assets by asset category is as follows:

	December 31,		
	2016	2015	2014
Domestic and overseas equities	42.0%	41.0%	40.0%
UK government and corporate bonds	21.0%	20.0%	22.0%
Diversified growth fund	37.0%	39.0%	38.0%
Total	100.0%	100.0%	100.0%

The following tables set forth, by category and within the fair value hierarchy, the fair value of the Company's pension assets at December 31, 2016 and 2015:

	December 31, 2016			
	Total	Level 1	Level 2	Level 3



Asset Category:						
Cash	\$	315	\$	315	\$	—
Equities:						
Domestic		13,171		13,171		—
Overseas		8,781		8,781		—
Fixed Income Securities:						
UK Gilts		10,962		10,962		—
Other investments:						
Diversified growth fund		19,309		19,309		—
Total fair value	\$	<u>52,538</u>	\$	<u>52,538</u>	\$	<u>—</u>

		<b>December 31, 2015</b>				
		<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	
Asset Category:						
Cash	\$	129	\$	129	\$	—
Equities:						
Domestic		13,702		13,702		—
Overseas		9,134		9,134		—
Fixed Income Securities:						
UK government		11,248		11,248		—
Corporate bonds		—		—		—
Other investments:						
Diversified growth fund		21,696		21,696		—
Total fair value	\$	<u>55,909</u>	\$	<u>55,909</u>	\$	<u>—</u>

The plan assets for the UK are categorized as follows, as applicable:

Level 1: Any asset for which a unit price is available and used without adjustment, cash balances, etc.

Level 2: Any asset for which the amount disclosed is based on market data, for example a fair value measurement based on a present value technique (where all calculation inputs are based on data).

Level 3: Other assets. For example, any asset value with a fair value adjustment made not based on available indices or data.

## Employer Contributions

The Company's funding is based on governmental requirements and differs from those methods used to recognize pension expense. The Company expects to contribute \$1.7 million to the pension plans during 2017, based on current plan provisions.

## Estimated Future Benefit Payments

The estimated future pension benefit payments expected to be paid to plan participants are as follows:

<b>Year ended December 31,</b>	<b>Estimated Benefit Payments</b>
2017	\$ 914
2018	1,028
2019	1,245
2020	1,441
2021	1,588
2022 - 2026	10,987
Total	<u>\$ 17,203</u>

## Executive Deferred Compensation Plan

The Company has individual arrangements with seven former executives in the U.S. which provide for fixed payments to be made to each individual beginning at age 65 and continuing for 20 years. This is an unfunded plan with payments to be made from operating cash of the Company. The weighted average discount rate used as of December 31, 2016 was 4.25%. Benefit payments of \$0.3 million and \$0.3 million were made during the years ended December 31, 2016 and December 31, 2015, respectively. The expense for the years ended December 31, 2016, December 31, 2015 and the two months ended December 31, 2014 was \$0.7 million, \$0.3 million and \$0.1 million, respectively. The balance of this obligation is \$4 million and \$3.6 million as of December 31, 2016 and December 31, 2015, respectively and is classified in Other Liabilities in the accompanying consolidated balance sheets. Benefit payments expected to be paid to plan participants in 2017 are \$0.3 million.

## Defined Contribution Plans

The Company provides defined contribution plans for the benefit of eligible employees and their beneficiaries. The Company's defined contribution plans are limited and immaterial.

## 11. Commitments and Contingencies

### Lease Commitments

The Company leases various office buildings, machinery, equipment, and vehicles. Future minimum lease payments under capital leases, included in long-term obligations, and non-cancelable operating leases at December 31, 2016 are as follows:

	Capital Leases	Operating Lease	Total
2017	\$ 6,830	\$ 30,783	\$ 37,613
2018	5,486	23,615	29,101
2019	4,459	14,930	19,389
2020	3,460	10,604	14,064
2021	4,127	5,917	10,044
Thereafter	6,571	7,651	14,222
Total Minimum Lease Payments	<u>\$ 30,933</u>	<u>\$ 93,500</u>	<u>\$ 124,433</u>
Less: Amounts Representing Interest	(5,987)		
Total Net Minimum Lease Payments	<u>24,946</u>		
Less: Current portion of obligations under capital leases	(6,507)		
Long-term portion of obligations under capital leases	<u>\$ 18,439</u>		

Rent expense for all operating leases was \$36.7 million, \$30.7 million and \$26.1 million for the years ended December 31, 2016, 2015 and 2014, respectively.

## Litigation

The Company is, from time to time, involved in certain legal proceedings, inquiries, claims and disputes, which arise in the ordinary course of business. Although management cannot predict the outcomes of these matters, management does not believe these actions will have a material, adverse effect on the Company's consolidated balance sheets, consolidated statements of operations or consolidated statements of cash flows.

## Contract-Related Contingencies

The Company has certain contingent liabilities that arise in the ordinary course of providing services to its customers. These contingencies are generally the result of contracts that require the Company to comply with certain performance measurements or the delivery of certain services by a specified deadline. The Company believes the liability, if any, incurred under these contract provisions will not have a material adverse effect on the Company's consolidated balance sheets, consolidated statements of operations or consolidated statements of cash flows.

From time to time the Company's services agreements will include provisions whereby the Company will indemnify the customer for certain matters (by way of example, the Company might be subject to certain limitations and requirements

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provided that if the services sold infringe upon a third-party's intellectual property rights, the Company might indemnify the customer against such associated liability or provide alternative remedies). The scope of such indemnification provisions vary and the Company has not recorded any liability associated with such indemnification. The estimated fair value of these indemnification clauses is minimal.

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## SourceHOV Holdings, Inc. and Subsidiaries

### Notes to the Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

## 11. Commitments and Contingencies

The Company has certain contingent liabilities related to prior acquisitions. The Company adjusts these liabilities to fair value at each reporting period. As of December 31, 2015, the Company had a liability of \$0.8 million related to the 2012 acquisition of GTESS Corporation. There was no remaining liability related to this acquisition as of December 31, 2016. In addition, the Company had a \$0.7 million liability related to Handson Global Management's ("HGM") acquisition of Banctec, Inc. as of December 31, 2016 and 2015, respectively. The fair value is determined using an earn out method based on the agreement terms. This fair value measurement represents a Level 3 measurement as it is based on significant inputs not observable in the market. Significant judgment is employed in determining the appropriateness of these assumptions.

## 12. Fair Value Measurement

### Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

The carrying amount of assets and liabilities including cash and cash equivalents, accounts receivable and accounts payable approximated their fair value as of December 31, 2016 and 2015 due to the relative short maturity of these instruments. Management estimates the fair values of the first and second lien debt at approximately 98.5% and 97.0%, respectively, of the respective principal balance outstanding as of December 31, 2016. The carrying value approximates the fair value for the long-term debt related to TransCentra and the other debt. TransCentra's debt was recently issued in 2016 and represents the most updated rates that would be offered for similar debt maturities. Other debt represents the Company's outstanding loan balances associated with various hardware and software purchases along with loans entered into by subsidiaries of the Company and as such, the cost incurred would approximate fair value. Property and equipment, intangible assets, and goodwill, are not required to be re-measured to fair value on a recurring basis. These assets are evaluated for impairment if certain triggering events occur. If such evaluation indicates that impairment exists, the respective asset is written down to its fair value. Refer to Note 2—Basis of Presentation and Summary of Significant Accounting Policies.

The Company determined the fair value of its long-term debt using Level 2 inputs including the recent issue of the debt, December 2016 trades of the Company's debt on an inactive market, the Company's credit rating, and the current risk-free rate. The Company's contingent liabilities related to prior acquisitions are re-measured each period and represent a Level 2 measurement as it is based on using an earn out method based on the agreement terms.

The following table provides the carrying amounts and estimated fair values of the Company's financial instruments as of December 31, 2016 and 2015:

As of December 31, 2016	Carrying Amount	Fair Value	Fair Value Measurements		
			Level 1	Level 2	Level 3
Recurring and nonrecurring assets and liabilities:					
Acquisition contingent liability	\$ 721	\$ 721	\$ —	\$ —	\$ 721
Long-term debt	983,502	1,009,913	—	1,009,913	—
	<u>\$ 984,223</u>	<u>\$ 1,010,634</u>	<u>\$ —</u>	<u>\$ 1,009,913</u>	<u>\$ 721</u>

  

As of December 31, 2015	Carrying Amount	Fair Value	Fair Value Measurements		
			Level 1	Level 2	Level 3
Recurring and nonrecurring assets and liabilities:					
Acquisition contingent liability	\$ 1,513	\$ 1,513	\$ —	\$ —	\$ 1,513
Long-term debt	975,142	905,111	—	905,111	—
	<u>\$ 976,655</u>	<u>\$ 906,624</u>	<u>\$ —</u>	<u>\$ 905,111</u>	<u>\$ 1,513</u>

The significant unobservable inputs used in the fair value of the Company's acquisition contingent liabilities are the discount rate, growth assumptions, and revenue thresholds. Significant increases (decreases) in the discount rate would have

resulted in a lower (higher) fair value measurement. Significant increases (decreases) in the forecasted financial information would have resulted in a higher (lower) fair value measurement. For all significant unobservable inputs used in the fair value measurement of the Level 3 liabilities, a change in one of the inputs would not necessarily result in a directionally similar change in the other based on the current level of billings.

The following table reconciles the beginning and ending balances of net assets and liabilities classified as Level 3 for which a reconciliation is required:

	December 31,	
	2016	2015
Balance as of January 1,	\$ 1,513	\$ 1,712
Payments/Reductions	(792)	(199)
Balance as of December 31,	<u>\$ 721</u>	<u>\$ 1,513</u>

### 13. Equity-Based Compensation

Under the Company's 2013 Long Term Incentive Plan ("2013 Plan"), the Board of Directors may grant equity-based awards to certain employees, officers, directors, consultants and advisors of the Company. Compensation expense for equity-based awards is measured at the fair value on the grant date and recognized as compensation expense on a straight-line basis over the vesting period.

#### Stock Options

No stock options were granted under the 2013 Plan.

#### Restricted Stock Units

On March 5, 2014, the Company's Board of Directors approved the issuance of 16,204 restricted stock units to certain employees of the Company pursuant to the 2013 Long Term Incentive Plan. Subject to continuous employment with the Company, one-third of the restricted stock units vest on March 15, 2014, one-third of the units vest on March 15, 2015, and the remaining units vest on March 15, 2016. All unvested restricted stock units will vest upon the occurrence of a change in control as defined in the 2013 Plan. Upon vesting, the restricted stock units are settled with the issuance of one common share for each restricted stock unit. A portion of the restricted stock units settled and accrued bonus liability of \$6.0 million included in accrued compensation and benefits at December 31, 2013. During 2014, 8,253 restricted stock units were forfeited by four awardees. The Company recognized compensation expense of \$1.1 million, \$4.4 million and \$7.8 million for the years ended December 31, 2016, 2015 and 2014, respectively.

On March 5, 2014, the Company's Board of Directors approved the issuance of 6,260 restricted stock units to certain employees of the Company pursuant to the 2013 Plan. Subject to continuous employment with the Company, the restricted stock units will vest on December 31, 2017. The Company shall settle each vested restricted stock unit with the issuance of one common share for each restricted stock unit. During 2014, 700 restricted stock units were forfeited by an awardee. The Company recognized compensation expense of \$2.1 million, \$2.1 million and \$1.8 million for the years ended December 31, 2016, 2015 and 2014, respectively.

On March 5, 2014, the Company's Board of Directors approved the issuance of 3,876 restricted stock units to certain employees of the Company pursuant to the 2013 Plan. Subject to continuous employment with the Company, one-quarter of the restricted stock units vest on April 30, 2014, one-quarter of the units vest on April 30, 2015, one-quarter of the units vest on April 30, 2016 and the remaining units vest on April 30, 2017. Upon a change of control as defined in the 2013 Plan, all unvested RSUs will vest. The Company shall settle each vested restricted stock unit with the issuance of one common share for each restricted stock unit on the earlier of the occurrence of a change of control as defined in the 2013 Plan and the fifth anniversary of the date of grant. During 2015, 485 restricted stock units were forfeited by two awardees, respectively. The Company recognized compensation expense of \$1.3 million, \$1.3 million and \$2.6 million for the years ended December 31, 2016, 2015 and 2014, respectively.

On March 5, 2014, the Company's Board of Directors approved the issuance of 650 restricted stock units to certain employees of the Company pursuant to the 2013 Plan. Subject to continuous employment with the Company, one-quarter of the restricted stock units vest on March 1, 2015, one-quarter of the units vest on March 1, 2016, one-quarter of the units will vest on March 1, 2017 and the remaining units vest on March 1, 2018. Upon a change of control as defined in the 2013 Plan, all

unvested RSUs will vest. The Company shall settle each vested restricted stock unit with the issuance of one common share for each restricted stock unit on the earlier of the occurrence of a change in control as defined in the 2013 Plan and the fifth anniversary of the date of grant. In 2014, all 650 restricted stock units were forfeited by the awardees resulting in no stock expense being recognized.

On April 30, 2015, the Company's Board of Directors approved the issuance of 2,700 restricted stock units to certain employees of the Company pursuant to the 2013 Plan. Subject to continuous employment with the Company, one-quarter of the restricted stock units vest on April 30, 2016, one-quarter of the units vest on April 30, 2017, one-quarter of the units will vest on April 30, 2018 and the remaining units vest on April 30, 2019. Upon a change of control as defined in the 2013 Plan, all unvested RSUs will vest. The Company shall settle each vested restricted stock unit with the issuance of one common share for each restricted stock unit on the earlier of the occurrence of a change in control as defined in the 2013 Plan and the fifth anniversary of the date of grant. During 2016, 250 restricted stock units were forfeited by one awardee. The Company recognized compensation expense of \$0.5 million and \$0.3 million for the years ended December 31, 2016 and 2015, respectively.

On April 29, 2016, the Company's Board of Directors approved the issuance of 6,375 restricted stock units to certain employees of the Company pursuant to the 2013 Plan. Subject to continuous employment with the Company, one-third of the restricted stock units vest on April 29, 2017, one-third of the units vest on April 29, 2018, and the remaining units vest on April 29, 2019. Upon a change of control as defined in the 2013 Plan, all unvested RSUs will vest. The Company shall settle each vested restricted stock unit with the issuance of one common share for each restricted stock unit on the earlier of the occurrence of a change in control as defined in the 2013 Plan and the fourth anniversary of the date of grant. The fair value of the awards on the grant date was estimated based on the estimated enterprise value of the Company, determined under a market approach. The Company determined the enterprise value by performing a guideline public company analysis, and determining multiples to apply based on guideline public companies' enterprise value ratios, in accordance with the Guideline Public Company Method. The enterprise value was reduced by outstanding debt to determine the fair value of the Company's equity, which was adjusted for discounts attributable to lack of control and marketability. The Company determined that the grant date fair value per unit was \$1,600 for grants in fiscal 2016. The Company recognized compensation expense of \$2.1 million for the year ended December 31, 2016.

The Company recognized total stock compensation expense of \$7.1 million for the year ended December 31, 2016.

A summary of the status of restricted stock units as of December 31, 2016 and 2015, and the changes during the years then ended is presented as follows:

	Number of Shares	Weighted Remaining Contractual Life (Years)	Aggregate Intrinsic Value (\$)
Nonvested as of January 1, 2015	10,122	2.07	\$ 1,666
Shares granted	2,700	—	—
Shares forfeited	(485)	—	—
Shares vested	(5,036)	—	—
Nonvested as of December 31, 2015	7,301	2.13	1,587
Shares granted	6,375	—	—
Shares forfeited	(250)	—	—
Shares vested	(4,539)	—	—
Nonvested as of December 31, 2016	8,887	2.01	\$ 1,567

As of December 31, 2016, there was approximately \$13.1 million of total unrecognized compensation expense related to restricted stock of which will be recognized over the respective service period, approximately 2.01 years. As of December 31, 2016, there were 25,727 restricted stock units outstanding, of which 8,887 was unvested. As of December 31, 2015, there were 19,602 restricted stock units outstanding, of which 7,301 was unvested.

## 14. Related-Party Transactions

### *Leasing Transactions*

Certain operating companies lease their operating facilities from previous owners of the businesses who remained as employees. These leases are for various lengths and annual amounts. No rental expense was incurred for the year ended

December 31, 2016 for these operating leases. For the years ended December 31, 2015 and 2014, the Company incurred \$0.1 million and \$0.1 million in rental expenses for these operating leases respectively.

In addition, certain operating companies lease their operating facilities from HOV RE, LLC an affiliate through common interest held by certain shareholders. The rental expense for these operating leases was \$0.6 million, \$0.2 million and \$0.2 million for the years ended December 31, 2016, 2015 and 2014.

### *Relationship with HandsOn Global Management*

The Company incurred an annual management fee to HGM of \$6.0 million, \$6.0 million and \$4.9 million for the years ended December 31, 2016, 2015 and 2014, respectively. The Company incurred an annual management fee to TRG of \$1.9 million for the year ended December 31, 2014.

The Company incurred travel expenses to HGM of \$1.7 million, \$0.8 million, and \$0.7 million for the years ended December 31, 2016, 2015 and 2014, respectively. In addition, the Company incurred travel expenses to TRG of \$0.05 million for the year ended December 31, 2014.

The Company incurred a transaction fee to HGM of \$10.4 million for the year ended December 31, 2014. The \$10.4 million transaction fee to HGM is payable over four years in annual installments. In addition, the Company incurred a transaction fee to TRG of \$1.3 million and incurred \$4.5 million in deferred redemption to TRG payable over two years for the year ended December 31, 2014.

The Company incurred marketing fees to Rule 14 of \$0.5 million for the year ended December 31, 2016.

#### *Relationship with Dataforce Group, LLC*

The Company provides collection letter and insurance billing services to subsidiaries of Dataforce Group, LLC (formerly HOV Global LLC), which was an affiliate through common interest held by certain shareholders prior to the Reorganization. As of October 31, 2014, Dataforce Group, LLC is a subsidiary of the Company. The revenue recognized for these services was approximately \$2.2 million for the year ended December 31, 2014 and is included in revenue in the consolidated statements of operations. All intercompany revenues and expenses after October 31, 2014 have been eliminated in the consolidated statements of operations.

Prior to the Reorganization, subsidiaries of Dataforce Group, LLC (formerly HOV Global LLC), an affiliate through common interest held by certain shareholders, provided the Company voice and support services, helpdesk and data conversion services. As of October 31, 2014 subsidiaries of Dataforce Group, LLC are now subsidiaries of the Company and expenses are eliminated in the consolidated statement of operations. The expense recognized for these services prior to the Reorganization was approximately \$0.1 million for the year ended December 31, 2014 and is included in cost of revenue in the consolidated statements of operations.

#### *Relationship with HOV Services, Ltd.*

HOV Services, Ltd. provides the Company data capture and technology services. HOV Services, Ltd owns shareholding interests in HOV Services, LLC. The expense recognized for these services was approximately \$1.7 million, \$1.4 million and \$1.3 million for the years ended December 31, 2016, December 31, 2015, and December 31, 2014 and is included in cost of revenue in the consolidated statements of operations.

The Company licenses the use of the trademark "HOV" on a nonexclusive basis from an affiliate through common interest held by certain shareholders.

#### *Payable Balances with Affiliates*

Payable balances with affiliates as of December 31, 2016 and 2015 are as follows:

	<u>December 31,</u>	
	<u>2016</u>	<u>2015</u>
HOV Services, Ltd	\$ (352)	\$ (378)
Rule 14	(134)	—
HGM	(8,858)	(11,118)
	<u>\$ (9,344)</u>	<u>\$ (11,496)</u>

## 15. Segment and Geographic Area Information

The Company's operating segments are significant strategic business units that align its products and services with how it manages its business, approach the markets and interacts with its clients.

The Company is organized into three segments: ITPS, HS, and LLPS.

**ITPS:** Our ITPS segment provides a wide range of solutions and services designed to aid businesses in information capture, processing, decisioning and distribution to customers primarily in the financial services, commercial, public sector and legal industries.

**HS:** Our HS segment operates and maintains a consulting and outsourcing business specializing in both the healthcare provider and payer markets.

**LLPS:** Our LLPS segment provides a broad and active array of legal services in connection with class action, bankruptcy labor, claims adjudication and employment and other legal matters.

The chief operating decision maker reviews operating segment revenue and gross profit. The Company does not allocate SG&A, depreciation and amortization, interest expense and sundry, net. The Company manages assets on a total company basis, not by operating segment, and therefore asset information and capital expenditures by operating segments are not presented. The Company does not have any significant customers that account for 10% or more of total consolidated revenues.

	<u>Year ended December 31, 2016</u>			
	<u>ITPS</u>	<u>HS</u>	<u>LLPS</u>	<u>Total</u>
Revenue	439,924	247,796	102,206	789,926
Cost of revenue	296,848	158,800	63,473	519,121
<b>Gross profit</b>	<b>143,076</b>	<b>88,996</b>	<b>38,733</b>	<b>270,805</b>
Selling, general and administrative expenses				130,437
Depreciation and amortization				79,639
Related party expense				10,493
Interest expense, net				109,414
Sundry expense, net				712
<b>Net loss before income taxes</b>				<b>( )</b>

\$ (59,890)

	Year December 31, 2015			Total
	ITPS	HS	LLPS	
Revenue	421,409	251,685	132,138	805,232
Cost of revenue	303,067	174,380	82,399	559,846
<b>Gross profit</b>	<b>118,342</b>	<b>77,305</b>	<b>49,739</b>	<b>245,386</b>
Selling, general and administrative expenses				120,691
Depreciation and amortization				75,408
Related party expense				8,977
Interest expense, net				108,779
Sundry expense, net				3,247
<b>Net loss before income taxes</b>				<b>\$ (71,716)</b>

	Year December 31, 2014			Total
	ITPS	HS	LLPS	
Revenue	292,185	218,485	140,248	650,918
Cost of revenue	210,216	157,547	83,776	451,539
<b>Gross profit</b>	<b>81,969</b>	<b>60,938</b>	<b>56,472</b>	<b>199,379</b>
Selling, general and administrative expenses				131,864
Depreciation and amortization				65,227
Impairment of goodwill and other intangible assets				154,454
Related party expense				19,080
Interest expense, net				48,045
Loss on extinguishment of debt				18,548
Sundry income, net				(2,201)
<b>Net loss before income taxes</b>				<b>\$ (235,638)</b>

The following table presents revenues by principal geographic area where the Company's customers are located for the years ended December 31, 2016, 2015 and 2014:

	Years ended December 31,		
	2016	2015	2014
United States	\$ 654,565	\$ 664,795	\$ 619,446
Europe	131,303	136,711	27,879
Other	4,058	3,726	3,593
<b>Total Consolidated Revenue</b>	<b>\$ 789,926</b>	<b>\$ 805,232</b>	<b>\$ 650,918</b>

## 16. Subsequent Events

Through February 14, 2017, the Company received capital contributions of approximately \$20.5 million.

On February 22, 2017, Quinpario Acquisition Corp. (Nasdaq:QPAC), a publicly traded special purpose acquisition company, Novitex Holdings and SourceHOV, INC entered into a definitive business combination agreement whereby the three entities will combine to create a global solutions provider for financial technology and business services. The parties expect the proposed transaction to close during the second quarter of 2017. After the transaction is consummated, the Company would no longer incur an annual management fee to HGM.

The Company performed its subsequent event procedures through April 3, 2017, the date these consolidated financial statements were made available for issuance.

## SourceHOV Holdings, Inc. and Subsidiaries

### Condensed Consolidated Balance Sheets

As of March 31, 2017 and December 31, 2016

(in thousands of United States dollars, except share and per share amounts)

	March 31, 2017 (Unaudited)	December 31, 2016
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 15,916	\$ 8,361
Restricted cash	25,931	25,892
Accounts receivable, net of allowance for doubtful accounts of \$3,271 and \$3,219, respectively	138,768	138,421
Inventories, net	11,818	11,195
Prepaid expenses and other current assets	15,094	12,202
<b>Total current assets</b>	<b>207,527</b>	<b>196,071</b>
Property, plant and equipment, net	77,397	81,600
Goodwill	370,869	373,291

Intangible assets, net	288,903	298,739
Deferred income tax assets	9,019	9,654
Other noncurrent assets	9,973	10,131
<b>Total assets</b>	<b>\$ 963,688</b>	<b>\$ 969,486</b>
<b>Liabilities and Stockholders' Deficit</b>		
<b>Liabilities</b>		
Current liabilities		
Accounts payable	\$ 40,406	\$ 42,212
Related party payables	5,654	9,344
Income tax payable	1,825	1,031
Accrued liabilities	27,152	29,492
Accrued compensation and benefits	30,561	31,200
Customer deposits	18,279	18,729
Deferred revenue	21,629	17,235
Obligation for claim payment	25,931	25,892
Current portion of capital lease obligations	5,899	6,507
Current portion of long-term debt	60,986	55,833
<b>Total current liabilities</b>	<b>238,322</b>	<b>237,475</b>
Long-term debt, net of current maturities	971,154	983,502
Capital lease obligations, net of current maturities	17,076	18,439
Pension liability	28,612	28,712
Deferred income tax liabilities	26,850	26,223
Long-term income tax liability	3,063	3,063
Other long-term liabilities	11,212	11,973
<b>Total liabilities</b>	<b>1,296,289</b>	<b>1,309,387</b>
Commitment and Contingencies (Note 10)		
<b>Stockholders' deficit</b>		
Common stock, par value of \$0.001 per share; 331,000 shares authorized; 144,399 and 157,243 shares issued and outstanding at December 31, 2016 and March 31, 2017, respectively; Preferred stock, par value of \$0.01 per shares; 400,000 shares authorized and no shares issued or outstanding at December 31, 2016 and March 31, 2017	—	—
Additional paid in capital	(36,851)	(57,389)
Equity-based compensation	27,652	27,342
Accumulated deficit	(309,649)	(293,968)
Accumulated other comprehensive loss:		
Foreign currency translation adjustment	(1,133)	(3,547)
Unrealized pension actuarial losses, net of tax	(12,620)	(12,339)
Total accumulated other comprehensive loss	(13,753)	(15,886)
<b>Total stockholders' deficit</b>	<b>(332,601)</b>	<b>(339,901)</b>
<b>Total liabilities and stockholders' deficit</b>	<b>\$ 963,688</b>	<b>\$ 969,486</b>

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

### SourceHOV Holdings, Inc. and Subsidiaries

#### Condensed Consolidated Statements of Operations

For the Three Months Ended March 31, 2017 and 2016

(in thousands of United States dollars, except share and per share amounts)

(Unaudited)

	Three Months Ended	
	2017	2016
Revenue	218,260	199,690
Cost of revenue (exclusive of depreciation and amortization)	143,708	133,343
<b>Gross profit</b>	<b>74,552</b>	<b>66,347</b>
Selling, general and administrative expenses	35,581	31,028
Depreciation and amortization	21,320	18,759
Related party expense	2,385	2,335
<b>Operating income</b>	<b>15,266</b>	<b>14,225</b>
Other expense (income), net:		
Interest expense, net	26,219	27,400
Sundry expense (income), net	2,724	(1,931)
<b>Net loss before income taxes</b>	<b>(13,677)</b>	<b>(11,244)</b>
Income tax (expense) benefit	(2,004)	3,082
<b>Net loss</b>	<b>\$ (15,681)</b>	<b>\$ (8,162)</b>
Net loss per share—basic and diluted	\$ (99.72)	\$ (56.52)
Shares used in computing basic and diluted net loss per share	157,243	144,399

SourceHOV Holdings, Inc. and Subsidiaries

Condensed Consolidated Statements of Comprehensive Loss

For the Three Months ended March 31, 2017 and 2016

(in thousands of United States dollars)

(Unaudited)

	Three months ended March 31,	
	2017	2016
<b>Net Loss</b>	<b>\$ (15,681)</b>	<b>\$ (8,162)</b>
<b>Other comprehensive income (loss), net of tax</b>		
Foreign currency translation adjustments	2,414	2,011
Unrealized pension actuarial (losses) gains, net of tax	(281)	109
<b>Comprehensive loss</b>	<b>\$ (13,548)</b>	<b>\$ (6,042)</b>

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

SourceHOV Holdings, Inc. and Subsidiaries

Condensed Consolidated Statements of Stockholders' Deficit

For the Three Months Ended March 31, 2017 and 2016

(in thousands of United States dollars, except per share data)

(Unaudited)

	Common Stock		Additional Paid- In Capital	Equity-Based Compensation	Accumulated Other Comprehensive Loss		Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount			Cumulative Translation Adjustments	Pension Benefits		
<b>Balances at December 31, 2015</b>	<b>144,399</b>	<b>\$ —</b>	<b>\$ (57,389)</b>	<b>\$ 20,256</b>	<b>\$ (3,415)</b>	<b>\$ (5,076)</b>	<b>\$ (245,865)</b>	<b>\$ (291,489)</b>
Net loss January 1 to March 31, 2016	—	—	—	—	—	—	(8,162)	(8,162)
Equity-based compensation	—	—	—	1,992	—	—	—	1,992
Foreign currency translation adjustment	—	—	—	—	2,011	—	—	2,011
Net realized pension actuarial gains, net of tax	—	—	—	—	—	109	—	109
<b>Balances at March 31, 2016</b>	<b>144,399</b>	<b>\$ —</b>	<b>\$ (57,389)</b>	<b>\$ 22,248</b>	<b>\$ (1,404)</b>	<b>\$ (4,967)</b>	<b>\$ (254,027)</b>	<b>\$ (295,539)</b>
	Common Stock		Additional Paid- In Capital	Equity-Based Compensation	Accumulated Other Comprehensive Loss		Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount			Cumulative Translation Adjustments	Pension Benefits		
<b>Balances at December 31, 2016</b>	<b>144,399</b>	<b>\$ —</b>	<b>\$ (57,389)</b>	<b>\$ 27,342</b>	<b>\$ (3,547)</b>	<b>\$ (12,339)</b>	<b>\$ (293,968)</b>	<b>\$ (339,901)</b>
Net loss January 1 to March 31, 2017	—	—	—	—	—	—	(15,681)	(15,681)
Equity-based compensation	—	—	—	310	—	—	—	310
Foreign currency translation adjustment	—	—	—	—	2,414	—	—	2,414
Contribution from Shareholders	12,844	—	20,538	—	—	—	—	20,538
Net realized pension actuarial gains, net of tax	—	—	—	—	—	(281)	—	(281)
<b>Balances at March 31, 2017</b>	<b>157,243</b>	<b>\$ —</b>	<b>\$ (36,851)</b>	<b>\$ 27,652</b>	<b>\$ (1,133)</b>	<b>\$ (12,620)</b>	<b>\$ (309,649)</b>	<b>\$ (332,601)</b>

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

SourceHOV Holdings, Inc. and Subsidiaries

Condensed Consolidated Statements of Cash Flows



For the Three Months ended March 31, 2017 and 2016

(in thousands of United States dollars)

(Unaudited)

	Three Months ended March 31,	
	2017	2016
<b>Cash flows from operating activities</b>		
Net loss	\$ (15,681)	\$ (8,162)
Adjustments to reconcile net loss		
Depreciation and amortization	21,320	18,759
Original issue discount and debt issuance cost amortization	3,474	3,343
Provision (recovery) for doubtful accounts	79	(706)
Deferred income tax benefit (expense)	627	(3,436)
Share-based compensation expense	310	1,992
Foreign currency remeasurement	687	193
Gain on sale of Meridian	(251)	—
Loss on sale of property, plant and equipment	272	16
Change in operating assets and liabilities, net of effect from acquisitions:		
Accounts receivable	(1,086)	(1,135)
Prepaid expenses and other assets	(3,720)	(3,617)
Accounts payable and accrued liabilities	1,889	10,069
Related party payables	(3,690)	(17)
<b>Net cash provided by operating activities</b>	<b>4,230</b>	<b>17,299</b>
<b>Cash flows from investing activities</b>		
Purchases of property, plant and equipment, net	(2,045)	(1,833)
Additions to internally developed software	(2,528)	(2,471)
Additions to outsourcing contract costs	(3,989)	(3,250)
Proceeds from sale of Meridian	4,381	—
<b>Net cash used in investing activities</b>	<b>(4,181)</b>	<b>(7,554)</b>
<b>Cash flows from financing activities</b>		
Change in bank overdraft	(210)	(1,541)
Proceeds from financing obligations	3,008	4,231
Contribution from Shareholders	20,538	—
Borrowings from revolver and swing-line loan	38,500	18,500
Repayments on revolver and swing line loan	(38,500)	(21,600)
Principal payments on long-term obligations	(15,786)	(11,571)
<b>Net cash provided (used in) by financing activities</b>	<b>7,550</b>	<b>(11,981)</b>
Effect of exchange rates on cash	(44)	321
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>7,555</b>	<b>(1,915)</b>
Cash and cash equivalents		
Beginning of period	8,361	16,619
End of period	<b>\$ 15,916</b>	<b>\$ 14,704</b>
<b>Supplemental cash flow data:</b>		
Income tax (refund) payments, net of refunds received	\$ (12)	\$ 579
Interest paid	30,844	32,536
<b>Noncash investing and financing activities:</b>		
Assets acquired through capital lease arrangements	68	1,360
Accrued capital expenditures	\$ 98	\$ 1,069

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

SourceHOV Holdings, Inc. and Subsidiaries

Notes to the Condensed Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

(Unaudited)

1. Description of the Business

Organization

SourceHOV Holdings, Inc. and subsidiaries (collectively “the Company”) is a holding company with no operations, which owns 100% of SourceHOV LLC and its wholly owned subsidiaries (“SourceHOV LLC”). The Company provides mission-critical information and transaction processing solutions services to clients across three major industry verticals. The Company manages information and document driven business processes and offers solutions and services to fulfill specialized knowledge-based processing and consulting requirements, enabling clients to concentrate on their core competencies.

The Company consists of the following segments:

- Information & Transaction Processing Solutions (“ITPS”). ITPS provides industry solutions for banking and financial services, including lending solutions for mortgages and auto loans, and banking solutions for clearing, anti-money laundering, sanctions, and interbankcross-border settlement; property and casualty insurance solutions for origination, enrollments, claims processing, and benefits administration communications; public sector solutions for income tax processing, benefits administration, and record management; multi-industry solutions for payment processing and reconciliation, integrated receivable and payables management, document logistics and location services, records management and electronic storage of data / documents; and software, hardware, professional services and maintenance related to information and transaction processing automation, among others.
- Healthcare Solutions (“HS”). HS offerings include revenue cycle solutions, integrated accounts payable and accounts receivable, and information management for both the healthcare payer and provider markets. Payer service offerings include claims processing, claims adjudication and auditing services, enrollment processing and policy management, and scheduling and prescription management. Provider service offerings include medical coding and insurance claim generation, underpayment audit and recovery, and medical records management.
- Legal and Loss Prevention Services (“LLPS”) Solutions. LLPS solutions include processing of legal claims for class action and mass action settlement administrations, involving project management support, notification and outreach to claimants, collection, analysis and distribution of settlement funds. Additionally, LLPS provides data and analytical services in the context of litigation consulting, economic and statistical analysis, expert witness services, and revenue recovery services for delinquent accounts receivable.

## The Reorganization

Prior to October 31, 2014, SourceHOV LLC was wholly owned by Solaris Holding Corporation (“Solaris”). On October 31, 2014, Solaris merged with SHC Merger Sub Inc. (“SHC”), a Delaware corporation (“First Merger”). Upon consummation of this First Merger, SHC ceased to exist and Solaris continued to be the sole surviving corporation of the First Merger. At this time, Solaris and SourceHOV Holdings, Inc. were merged, resulting in the common stock of Solaris becoming common stock of the Company. Immediately following the First Merger, the Company, BT Merger Sub Inc. (“BT”) and Pangea Acquisitions, Inc. (“Pangea”) merged (“Second Merger”). Upon consummation of the Second Merger, BT ceased to exist and Pangea became a wholly-owned subsidiary of the Company. As part of the transaction, the Company redeemed all preferred shares owned directly, or indirectly, by The Rohatyn Group (“TRG”) for \$357.5 million, of which \$353.0 million was paid on October 31, 2014 and the remaining \$4.5 million is payable over two years. All remaining preferred holders in the Company converted their preferred shares into common shares of the Company, resulting in a change of control from a collaborative group to one affiliated group of entities. Shareholders of Pangea received common shares of the Company in exchange for their Pangea shares. In addition, all existing debt facilities of Pangea and Solaris were refinanced as part of the reorganization (the “Reorganization”). Because Pangea was controlled by the same shareholders that now control the Company at the date of the Reorganization, the merger with Pangea was reflected at carrying value.

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## The TransCentra Acquisition

On September 28, 2016, SourceHOV LLC acquired TransCentra Inc. (“TransCentra”), a wholly-owned subsidiary of FTS Parent, Inc. (“FTS”), a Delaware corporation. TransCentra is an outsourced biller, outsourced payment processor, and a provider of insourced imaging and payment processing platforms and software. TransCentra’s outsourced business operated through wholly-owned subsidiary Regulus Holding Inc. provides printing and payment processing to its customers. The outsourced business utilizes internally developed software to provide printing and remittance services to customers and is the predominant revenue contributor for TransCentra. TransCentra’s insourced business operated through wholly-owned subsidiary J&B Software, Inc. provides imaging and payment processing software to customers who choose to process their own remittances. TransCentra was incorporated in the State of Delaware on May 12, 2011 as Columbus Acquisition Corporation, Inc. and changed its name to TransCentra, Inc. via an amended and restated certificate of incorporation in December 2011. The acquisition was accounted for as a business combination using the acquisition method of accounting.

## Disposal of Meridian Consulting Group, LLC

On March 17, 2017, the Company sold certain assets and liabilities of Meridian Consulting Group, LLC (Meridian) business, a legal entity included in the LLPS segment, for \$5.0 million to J.S. Held LLC, a Delaware limited liability company. Management concluded Meridian was providing no added benefit to the LLPS segment, resulting in a reorganization disposal of Meridian. The Company received net cash proceeds of \$4.4 million. The transaction was accounted for as a sale of a business for accounting purposes. The Company recognized a gain of \$0.3 million (net of a goodwill adjustment of \$2.7 million) reported as part of Selling, general and administrative expenses in the condensed consolidated statement of operations.

## 2. Basis of Presentation and Summary of Significant Accounting Policies

### Unaudited Interim Financial Statements

The accompanying unaudited condensed consolidated financial statements have been prepared on the same basis as the audited consolidated financial statements and reflect all adjustments that, in the opinion of the Company, are necessary for a fair presentation of the results for the periods presented in accordance with accounting principles generally accepted in the United States of America (US GAAP) for interim financial reporting. No material changes have been made to the Company’s accounting policies from those that were disclosed in the Company’s audited financial statements for the year ended December 31, 2016.

The condensed consolidated financial statements and accompanying notes do not contain certain information included in the annual consolidated financial statements and accompanying notes of the Company. These interim consolidated financial statements should read in conjunction with the December 31, 2016 audited financial statements and related notes.

### Principles of Consolidation

The accompanying consolidated financial statements and related notes to the consolidated financial statements include the accounts of the Company and subsidiaries. Newly acquired subsidiaries have been included in the consolidated financial statements from the date of acquisition. In addition, the Company evaluates its relationships with other entities to identify whether they are variable interest entities as defined by Financial Accounting Standards

Board (“FASB”) Accounting Standards Codification (“ASC”) 810-10, Consolidation and whether the Company is the primary beneficiary. Consolidation is required if both of these criteria are met. All intercompany accounts and transactions have been eliminated in consolidation.

## Use of Estimates

The preparation of consolidated financial statements in conformity with United States (“U.S.”) generally accepted accounting principles (“U.S. GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period.

Key estimates and judgments relied upon in preparing these consolidated financial statements include revenue recognition for multiple element arrangements, allowance for doubtful accounts, income taxes, depreciation, amortization, employee benefits, equity-based compensation, contingencies, goodwill, intangible assets, fair value of assets and liabilities acquired in acquisitions, and liability valuations. The Company regularly assesses these estimates and records changes in estimates in the period in which they become known. The Company bases its estimates on historical experience and various

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other assumptions that the Company believes to be reasonable under the circumstances. Actual results could differ from those estimates.

## Revenue Recognition

The majority of the Company’s revenues are comprised of: (1) ITPS, (2) HS offerings, (3) LLPS solutions, and (4) some combination thereof. Revenue is realized or realizable and earned when persuasive evidence of an arrangement exists, delivery has occurred, the sales price is fixed or determinable and collectability is probable. Delivery does not occur until services have been provided to the client, risk of loss has transferred to the client, and either client acceptance has been obtained, client acceptance provisions have lapsed, or the Company has objective evidence that the criteria specified in the client acceptance provisions have been satisfied. The sales price is not considered to be fixed or determinable until all contingencies related to the sale have been resolved.

ITPS revenues are primarily generated from a transaction-based pricing model for the various types of volumes processed, licensing and maintenance fees for technology sales, and a mix of fixed management fee and transactional revenue for document logistics and location services. HS revenues are primarily generated from a transaction-based pricing model for the various types of volumes processed for healthcare payers and providers. LLPS revenues are primarily based on a time and materials pricing as well as through transactional services priced on a per item basis.

If a contract involves the provision of a single element, revenue is generally recognized when the product or service is provided and the amount earned is not contingent upon any future event. Revenue from time and materials arrangements is recognized as the services are performed.

The Company records deferred revenue when it receives payments or invoices in advance of the delivery of products or the performance of services. The deferred revenue is recognized into earnings when underlying performance obligations are achieved.

The Company includes reimbursements from clients, such as postage costs, in revenue, while the related costs are included in cost of revenue in the consolidated statement of operations.

### Multiple Element Arrangements

Certain of the Company’s revenue is generated from multiple element arrangements involving various combinations. The deliverables within these arrangements are evaluated at contract inception to determine whether they represent separate units of accounting, and if so, contract consideration is allocated to each deliverable based on relative selling price. The relative selling price of each deliverable within these arrangements is determined using vendor specific objective evidence (“VSOE”) of fair value, third-party evidence or best estimate of selling price. Revenue is then recognized in accordance with the appropriate revenue recognition guidance applicable to the respective elements.

If the multiple element arrangements criteria are not met, the arrangement is accounted for as one unit of accounting which would result in revenue being recognized on a straight-line basis over the period of delivery or being deferred until the earlier of when such criteria are met or when the last element is delivered.

## Recently Adopted Accounting Pronouncements

Effective January 1, 2017, the Company adopted Accounting Standards Update (“ASU”) No. 2015-11, *Inventory (Topic 330): Simplifying the Measurement of Inventory*. This amendment replaced the method of measuring inventories at lower of cost or market with a lower of cost and net realizable value method. The adoption had no material impact on the Company’s financial position, results of operations and cash flows.

Effective January 1, 2017, the Company adopted ASU No. 2016-09, *Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting (ASU 2016-09)*. The ASU changes how companies account for certain aspects of equity-based payment awards to employees, including the accounting for income taxes, forfeitures, and statutory tax withholding requirements, as well as classification in the statement of cash flows. The standard requires that all tax effects related to share-based payments be recorded as income tax expense or benefit in the income statement at settlement or expiration and, accordingly, excess tax benefits and tax deficiencies be presented as operating activities in the statement of cash flows. Upon adoption of this standard, the Company elected to continue its current practice of

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estimating expected forfeitures. The adoption had no material impact on the Company’s financial position, results of operations and cash flows.

## Recently Issued Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (“FASB”) issued ASU No. 2014-09, *Revenue from Contracts with Customers (ASC 606)*. Under the update, revenue will be recognized based on a five-step model. The core principle of the model is that revenue will be recognized when the transfer

of promised goods or services to customers is made in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In July 2015, the FASB deferred the effective date by one year (ASU No. 2015-14). This ASU will now be effective for annual periods, and interim periods within those annual periods, beginning on or after December 15, 2017. Early adoption is permitted, but not before the original effective date of December 15, 2016. Since the issuance of the original standard, the FASB has issued several other subsequent updates including the following: 1) clarification of the implementation guidance on principal versus agent considerations (ASU 2016-08); 2) further guidance on identifying performance obligations in a contract as well as clarifications on the licensing implementation guidance (ASU 2016-10); 3) rescission of several SEC Staff Announcements that are codified in ASC 605 (ASU 2016-11); 4) additional guidance and practical expedients in response to identified implementation issues (ASU 2016-12); and 5) technical corrections and improvements (ASU 2016-20). The new standard will be effective for us beginning January 1, 2018. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (842)*. This ASU increases transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. The amendments in this ASU are effective for fiscal years beginning after December 31, 2018 and interim periods within those fiscal years and early application is permitted. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, *Statement of Cash Flows: Classification of Certain Cash Receipts and Cash Payments (Topic 230)*, which adds or clarifies guidance on the presentation and classification of eight specific types of cash receipts and cash payments in the statement of cash flows such as debt prepayment or extinguishment costs, settlement of contingent consideration arising from a business combination, insurance settlement proceeds, and distributions from certain equity method investees, with the intent of reducing diversity in practice. For public entities, ASU 2016-15 is effective for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2017, with early adoption permitted. Entities must apply the guidance retrospectively to all periods presented unless retrospective application is impracticable. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In October 2016, the FASB issued ASU No. 2016-16, *Income Taxes: Intra-Entity Transfers of Assets Other Than Inventory (Topic 740)*, which eliminates the current prohibition on immediate recognition of the current and deferred income tax effects of intra-entity transfers of assets other than inventory, with the intent of reducing complexity and diversity in practice. Under ASU 2016-16, entities must recognize the income tax consequences when the transfer occurs rather than deferring recognition. For public entities, ASU 2016-16 is effective for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2017, with early adoption permitted as of the beginning of a fiscal year (i.e., early adoption is permitted only in the first interim period). Entities must apply the guidance on a modified retrospective basis though a cumulative effect adjustment to retained earnings as of the beginning of the period of adoption. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows: Restricted Cash (Topic 230)*. The ASU addresses diversity in practice that exists in the classification and presentation of changes in restricted cash and requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. The ASU is effective retrospectively for fiscal years and interim periods within those years beginning after December 15, 2017. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations: Clarifying the Definition of a Business (Topic 805)*. The ASU clarifies the definition of a business and provides guidance on evaluating as to whether transactions should be accounted for as acquisitions (or disposals) of assets or business combinations. The definition clarification as outlined in this ASU affects many areas of accounting including acquisitions, disposals, goodwill, and consolidation. The amendments of the ASU are effective for annual periods beginning after December 15, 2017, including interim periods within

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those annual periods. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In January 2017, the FASB issued Accounting Standards Update (“ASU”) No. 2017-04, *Intangibles Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*, which eliminates Step 2 of the goodwill impairment test that had required a hypothetical purchase price allocation. Rather, entities should apply the same impairment assessment to all reporting units and recognize an impairment loss for the amount by which a reporting unit’s carrying amount exceeds its fair value, without exceeding the total amount of goodwill allocated to that reporting unit. Entities will continue to have the option to perform a qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary. ASU 2017-04 will be effective prospectively for annual or interim goodwill impairment tests in fiscal years beginning after December 15, 2019, or those beginning after January 1, 2017 if early adopted. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

In March 2017, the FASB issued ASU No. 2017-07, *Compensation Retirement Benefits (Topic 715); Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost*. The amendments to this ASU require the service cost component of net periodic benefit cost be reported in the same income statement line or lines as other compensation costs for employees. The other components of net periodic benefit cost are required to be reported separately from service costs and outside a subtotal of income from operations. Only the service cost component is eligible for capitalization. The guidance is effective for annual periods beginning after December 15, 2017. The amendments should be applied retrospectively for the income statement presentations and prospectively for the capitalization of service costs. The Company is currently evaluating the impact that adopting this standard will have on the consolidated financial statements.

### 3. Accounts Receivable

Accounts receivable, net consist of the following:

	March 31, 2017	December 31, 2016
Billed receivables	\$ 112,833	\$ 116,148
Unbilled receivables	25,059	20,982
Other	4,147	4,510
Less: Allowance for doubtful accounts	(3,271)	(3,219)
	<u>\$ 138,768</u>	<u>\$ 138,421</u>

Unbilled receivables represent balances recognized as revenue that have not been billed to the customer. The Company's allowance for doubtful accounts is based on a policy developed by historical experience and management judgment. Adjustments to the allowance for doubtful accounts may occur based on market conditions or specific client circumstances.

#### 4. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following:

	March 31, 2017	December 31, 2016
Prepays	\$ 13,832	\$ 10,906
Deposits	1,262	1,296
	<u>\$ 15,094</u>	<u>\$ 12,202</u>

### SourceHOV Holdings, Inc. and Subsidiaries

#### Notes to the Condensed Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

(Unaudited)

#### 5. Property, Plant and Equipment, Net

Property, plant, and equipment, which include assets recorded under capital leases, are stated at cost less accumulated depreciation and amortization, and consist of the following:

	Estimated Useful Lives (in Years)	March 31, 2017	December 31, 2016
Land	N/A	\$ 7,744	\$ 7,637
Buildings and improvements	7 - 40	17,070	16,989
Leasehold improvements	Lesser of the useful life or lease term	32,315	31,342
Vehicles	5 - 7	713	784
Machinery and equipment	5 - 15	23,834	23,297
Computer equipment and software	3 - 8	98,894	98,544
Furniture and fixtures	5 - 15	4,811	5,007
		<u>185,381</u>	<u>183,600</u>
Less: Accumulated depreciation and amortization		(107,984)	(102,000)
Property, plant and equipment, net		<u>\$ 77,397</u>	<u>\$ 81,600</u>

#### 6. Intangibles Assets and Goodwill

##### Intangibles

Intangible assets are stated at cost or acquisition-date fair value less accumulated amortization and consists of the following:

	March 31, 2017		
	Gross Carrying Amount(a)	Accumulated Amortization	Intangible Asset, net
Customer relationships	274,643	(108,080)	\$ 166,563
Outsource contract costs	31,855	(9,743)	22,112
Developed technology	89,076	(63,977)	25,099
Internally developed software	19,270	(1,712)	17,558
Trademarks	5,370	(269)	5,101
Trade names	52,470	—	52,470
	<u>\$ 472,684</u>	<u>\$ (183,781)</u>	<u>\$ 288,903</u>
	December 31, 2016		
	Gross Carrying Amount	Accumulated Amortization	Intangible Asset, net
Customer relationships	\$ 274,643	\$ (100,172)	\$ 174,471
Outsource contract costs	27,619	(7,378)	20,241
Developed technology	89,076	(59,539)	29,537
Internally developed software	16,742	(858)	15,884
Trademarks	5,370	(134)	5,236
Trade names	53,370	—	53,370
	<u>\$ 466,820</u>	<u>\$ (168,081)</u>	<u>\$ 298,739</u>

## Goodwill

Goodwill by reporting segment consists of the following:

	Goodwill	Additions	Reductions	Currency translation adjustments	Goodwill
ITPS	\$ 145,562	\$ 13,558	\$ —	\$ 274	\$ 159,394
HS	86,786	—	—	—	86,786
LLPS	127,111	—	—	—	127,111(a)
<b>Balance as of December 31, 2016</b>	<b>\$ 359,459</b>	<b>\$ 13,558</b>	<b>\$ —</b>	<b>\$ 274</b>	<b>\$ 373,291</b>
ITPS	159,394	—	—	299	159,693
HS	86,786	—	—	—	86,786
LLPS	127,111	—	(2,721)(b)	—	124,390(a)
<b>Balance as of March 31, 2017</b>	<b>\$ 373,291</b>	<b>\$ —</b>	<b>\$ (2,721)</b>	<b>\$ 299</b>	<b>\$ 370,869</b>

(a) The carrying amount of goodwill for all periods presented is net of accumulated impairment losses of \$137.9 million.

(b) The reduction in goodwill is due to the sale of Meridian. Refer to Note 1.

## SourceHOV Holdings, Inc. and Subsidiaries

### Notes to the Condensed Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

(Unaudited)

## 7. Long-Term Debt and Credit Facilities

	March 31, 2017	December 31, 2016
First lien revolving credit facility(a)	\$ 63,537	\$ 63,337
First lien secured term loan(b)	680,546	687,884
Second lien secured term loan(c)	237,156	236,344
Transcentra revolving credit facility	5,000	5,000
Transcentra term loan	18,500	19,250
FTS unsecured term loan	15,911	15,911
Other(d)	11,490	11,609
Total debt	1,032,140	1,039,335
Less: Current portion of long-term debt	(60,986)	(55,833)
Long-term debt, net of current maturities	\$ 971,154	\$ 983,502

(a) Net of unamortized debt issuance costs of \$2.1 million and \$2.3 million as of March 31, 2017 and December 31 2016, respectively.

(b) Net of unamortized original issue discount and debt issuance costs of \$13.3 million and \$13.0 million and \$14.6 million and \$14.2 million as of March 31, 2017 and December 31 2016, respectively.

(c) Net of unamortized original issue discount and debt issuance costs of \$6.9 million and \$6.0 million and \$7.3 million and \$6.3 million as of March 31, 2017 and December 31 2016, respectively.

(d) Other debt represents the Company's outstanding loan balances associated with various hardware and software purchases along with loans entered into by subsidiaries of the Company.

## Credit Facilities

As of both March 31, 2017 and December 31, 2016, the Company had outstanding irrevocable letters of credit totaling approximately \$9.3 million under the revolving credit facility. As of March 31, 2017, these letters of credit consisted of approximately \$7.1 million related to security for the Company's self-insured workers' compensation program and approximately \$2.2 million for the landlord in Irving.

## 8. Income Taxes

The Company applies an estimated annual effective tax rate ("ETR") approach for calculating a tax provision for interim periods, as required under GAAP. The Company recorded an income tax expense of \$2.0 million and an income tax benefit of \$3.1 million for the three months ended March 31, 2017 and 2016, respectively.

For the three months ended March 31, 2017, the Company's ETR of (14.65%) differed from the expected U.S. statutory tax rate of 35.0%, and was primarily impacted by permanent tax adjustments, Meridian goodwill impairment, foreign operations, and a valuation allowance against certain domestic deferred tax assets that are not more-likely-than-not to be realized.

For the three months ended March 31, 2016, the Company's ETR of 27.41% differed from the expected U.S. statutory tax rate of 35.0%, and was impacted by permanent tax adjustments, foreign operations, and a valuation allowance against certain domestic and foreign deferred tax assets that are not

more-likely-than-not to be realized.

As of March 31, 2017, there were no material changes to either the nature or the amounts of the uncertain tax positions previously determined for the year ended December 31, 2016.

## 9. Employee Benefit Plans

### German Pension Plan

The Company's subsidiary in Germany provides pension benefits to retirees. Employees eligible for participation includes all employees who started working for the Company prior to September 30, 1987 and have finished a qualifying period of at least 10 years. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan.

### U.K. Pension Plan

The Company's subsidiary in the United Kingdom provides pension benefits to retirees and eligible dependents. Employees eligible for participation included all full-time regular employees who were more than three years from retirement prior to October 2001. A retirement pension or a lump-sum payment may be paid dependent upon length of service at the mandatory retirement age. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan.

The Germany plan is an unfunded plan and therefore has no plan assets. The expected rate of return assumptions for plan assets relate solely to the UK plan and are based mainly on historical performance achieved over a long period of time (15 to 20 years) encompassing many business and economic cycles. The Company assumed a weighted average expected long-term rate on plan assets for the overall scheme of 5.15%.

### Tax Effect on Accumulated Other Comprehensive Loss

As of March 31, 2017 and December 31, 2016, the Company recorded actuarial losses of \$12.6 million and \$12.3 million in accumulated other comprehensive loss on the condensed consolidated balance sheets, respectively, which is net of a deferred tax benefit of \$2.9 million and \$2.5 million, respectively.

### Pension and Postretirement Expense

The components of the net periodic benefit cost are as follows:

	Three Months ended March 31,	
	2017	2016
Service cost	\$ 2	\$ 3
Interest cost	553	667
Expected return on plan assets	(577)	(656)
Amortization:		
Amortization of prior service cost	(32)	(35)
Amortization of net loss	500	223
Net periodic benefit cost	\$ 446	\$ 202

### Employer Contributions

The Company's funding is based on governmental requirements and differs from those methods used to recognize pension expense. The Company made contributions of \$0.6 million to its pension plans during both the first three months ended March 31, 2017 and 2016. The Company expects to contribute \$1.1 million to the pension plans during the remainder of 2017, based on current plan provisions.

### Executive Deferred Compensation Plan

The Company has individual arrangements with seven former executive in the U.S. which provide for fixed payments to be made to each individual beginning at age 65 and continuing for 20 years. This is an unfunded plan with payments to be from operating cash of the Company. Benefit payments of \$0.1 million were made during both the three months ended

March 31, 2017 and 2016. There was no expense for the three months ended March 31, 2017, and the expense for the three months ended March 31, 2016 was \$0.2 million. Benefit payments expected to be paid to plan participants during the remainder of 2017 are \$0.2 million.

## 10. Fair Value Measurement

### Assets and Liabilities Measured at Fair Value on a Non-Recurring Basis

The carrying amount of assets and liabilities including cash and cash equivalents, accounts receivable and accounts payable approximated their fair value as of March 31, 2017 and December 31, 2016 due to the relative short maturity of these instruments. Management estimates the fair values of the first and second lien debt at approximately 97% and 98% respectively, of the respective principal balance outstanding as of March 31, 2017. The carrying value approximates the fair value for the long-term debt related to TransCentra and the other debt. TransCentra's debt was recently issued in 2016 and represents the most updated rates that would be offered for similar debt maturities. Other debt represents the Company's outstanding loan balances associated with various hardware and software purchases along with loans entered into by subsidiaries of the Company and as such, the cost incurred would approximate fair value.

Property and equipment, intangible assets, and goodwill, are not required to be re-measured to fair value on a recurring basis. These assets are evaluated for impairment if certain triggering events occur. If such evaluation indicates that impairment exists, the respective asset is written down to its fair value.

The Company determined the fair value of its long-term debt using Level 2 inputs including the recent issue of the debt, March 2017 trades of the Company's debt on an inactive market, the Company's credit rating, and the current risk-free rate. The Company's contingent liabilities related to prior acquisitions are re-measured each period and represent a Level 2 measurement as it is based on using an earn out method based on the agreement terms.

The following table provides the carrying amounts and estimated fair values of the Company's financial instruments as of March 31, 2017 and December 31, 2016:

As of March 31, 2017	Carrying Amount	Fair Value	Fair Value Measurements		
			Level 1	Level 2	Level 3
Recurring and nonrecurring assets and liabilities:					
Acquisition contingent liability	\$ 721	\$ 721	\$ —	\$ —	\$ 721
Long-term debt	971,154	986,409	—	986,409	—
	<u>\$ 971,875</u>	<u>\$ 987,130</u>	<u>\$ —</u>	<u>\$ 986,409</u>	<u>\$ 721</u>
As of December 31, 2016	Carrying Amount	Fair Value	Fair Value Measurements		
			Level 1	Level 2	Level 3
Recurring and nonrecurring assets and liabilities:					
Acquisition contingent liability	\$ 721	\$ 721	\$ —	\$ —	\$ 721
Long-term debt	983,502	\$ 1,009,913	—	1,009,913	—
	<u>\$ 984,223</u>	<u>\$ 1,010,634</u>	<u>\$ —</u>	<u>\$ 1,009,913</u>	<u>\$ 721</u>

The significant unobservable inputs used in the fair value of the Company's acquisition contingent liabilities are the discount rate, growth assumptions, and revenue thresholds. Significant increases (decreases) in the discount rate would have resulted in a lower (higher) fair value measurement. Significant increases (decreases) in the forecasted financial information would have resulted in a higher (lower) fair value measurement. For all significant unobservable inputs used in the fair value measurement of the Level 3 liabilities, a change in one of the inputs would not necessarily result in a directionally similar change in the other based on the current level of billings.

## SourceHOV Holdings, Inc. and Subsidiaries

### Notes to the Condensed Consolidated Financial Statements

(in thousands of United States dollars unless otherwise stated)

(Unaudited)

#### 10. Fair Value Measurement

The following table reconciles the beginning and ending balances of net assets and liabilities classified as Level 3 for which a reconciliation is required:

	March 31, 2017	December 31, 2016
Balance as of January 1,	\$ 721	\$ 1,513
Payments/Reductions	—	(792)
Balance as of December 31,	<u>\$ 721</u>	<u>\$ 721</u>

#### 11. Equity-Based Compensation

Under the Company's 2013 Long Term Incentive Plan ("2013 Plan"), the Board of Directors may grant equity-based awards to certain employees, officers, directors, consultants and advisors of the Company. Compensation expense for equity-based awards is measured at the fair value on the grant date and recognized as compensation expense on a straight-line basis over the vesting period.

##### Stock Options

No stock options were granted under the 2013 Plan.

##### Restricted Stock Units

RSUs granted to employees contain service requirements that must be met for the shares to vest. Stock awards granted to non-employee directors as part of the compensation for service on the Board are unrestricted on the grant date. No RSUs were granted in the first three months of 2017.

During the three months ended March 31, 2017 and 2016, \$0.3 million and \$2.0 million, respectively, were charged to compensation expense for stock incentive plans.

During the three months ended March 31, 2017 and 2016, no shares were issued.

#### 12. Related-Party Transactions

##### Leasing Transactions



Certain operating companies lease their operating facilities from previous owners of the businesses who remained as employees. These leases are for various lengths and annual amounts. No rental expense was incurred for the three months ended March 31, 2017 and 2016 for these operating leases.

In addition, certain operating companies lease their operating facilities from HOV RE, LLC an affiliate through common interest held by certain shareholders. The rental expense for these operating leases was \$0.2 million for both the three months ended March 31, 2017 and 2016.

#### *Relationship with HandsOn Global Management*

The Company incurred management fees to HGM of \$1.5 million for both the three months ended March 31, 2017 and 2016.

The Company incurred travel expenses to HGM of \$0.2 million for both the three months ended March 31, 2017 and 2016.

The Company incurred marketing fees to Rule 14 of \$0.09 million and \$0.07 million for the three months ended March 31, 2017 and 2016, respectively.

#### *Relationship with HOV Services, Ltd.*

HOV Services, Ltd. provides the Company data capture and technology services. HOV Services, Ltd owns shareholding interests in HOV Services, LLC. The expense recognized for these services was approximately \$0.4 million and \$0.4 million for the three months ended March 31, 2017 and 2016 and is included in cost of revenue in the consolidated statements of operations.

The Company licenses the use of the trademark "HOV" on a nonexclusive basis from an affiliate through common interest held by certain shareholders.

#### *Payable Balances with Affiliates*

Payable balances with affiliates as of March 31, 2017 and December 31, 2016 are as follows:

	March 31, 2017	December 31, 2016
HOV Services, Ltd	\$ 457	\$ 352
Rule 14	219	134
HGM	4,978	8,858
	<u>\$ 5,654</u>	<u>\$ 9,344</u>

### 13. Segment and Geographic Area Information

The Company's operating segments are significant strategic business units that align its products and services with how it manages its business, approach the markets and interacts with its clients. The Company is organized into three segments: ITPS, HS, and LLPS.

**ITPS:** Our ITPS segment provides a wide range of solutions and services designed to aid businesses in information capture, processing, decisioning and distribution to customers primarily in the financial services, commercial, public sector and legal industries.

**HS:** Our HS segment operates and maintains a consulting and outsourcing business specializing in both the healthcare provider and payer markets.

**LLPS:** Our LLPS segment provides a broad and active array of legal services in connection with class action, bankruptcy labor, claims adjudication and employment and other legal matters.

The chief operating decision maker reviews operating segment revenue and gross profit. The Company does not allocate SG&A, depreciation and amortization, interest expense and sundry, net. The Company manages assets on a total company basis, not by operating segment, and therefore asset information and capital expenditures by operating segments are not presented.

	Three months ended March 31, 2017			Total
	ITPS	HS	LLPS	
Revenue	135,797	59,078	23,385	218,260
Cost of revenue	91,599	37,828	14,281	143,708
<b>Gross profit</b>	44,198	21,250	9,104	74,552
Selling, general and administrative expenses				35,581
Depreciation and amortization				21,320
Related party expense				2,385
Interest expense, net				26,219
Sundry expense, net				2,724
<b>Net loss before income taxes</b>				<u>\$ (13,677)</u>

	Three months ended March 31, 2016			Total
	ITPS	HS	LLPS	
Revenue	106,416	67,407	25,867	199,690
Cost of revenue	72,181	45,062	16,100	133,343
<b>Gross profit</b>	34,235	22,345	9,767	66,347
Selling, general and administrative expenses				31,028
Depreciation and amortization				18,759

Related party expense	2,335
Interest expense, net	27,400
Sundry expense, net	(1,931)
<b>Net loss before income taxes</b>	<b>\$ (11,244)</b>

The following table presents revenues by principal geographic area where the Company's customers are located for the three months ended March 31, 2017 and 2016:

	Three months ended March 31,	
	2017	2016
United States	\$ 188,810	\$ 167,560
Europe	28,300	31,270
Other	1,150	860
Total Consolidated Revenue	<u>\$ 218,260</u>	<u>\$ 199,690</u>

#### 14. Subsequent Events

The Company performed its subsequent event procedures through May 09, 2017, the date these consolidated financial statements were made available for issuance.