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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549  
**FORM 10-Q**

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

For the quarterly period ended June 30, 2023

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission File Number 0-18592



**MERIT MEDICAL SYSTEMS, INC.**  
(Exact name of registrant as specified in its charter)

**Utah** (State or other jurisdiction of incorporation or organization) **87-0447695** (IRS Employer Identification No.)

**1600 West Merit Parkway, South Jordan, Utah 84095**  
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(801) 253-1600**

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

Title of each class	Trading Symbol	Name of exchange on which registered
Common Stock, no par value	MMSI	NASDAQ Global Select Market

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

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

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

Large Accelerated Filer  Accelerated Filer  Non-Accelerated Filer  Smaller Reporting Company  Emerging Growth Company

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

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

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

Title or class	Shares outstanding as of July 26, 2023
Common Stock, no par value	57,635,381

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**PART I - FINANCIAL INFORMATION****ITEM 1. FINANCIAL STATEMENTS**

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(In thousands)

<b>ASSETS</b>	<b>June 30,</b> <b>2023</b>	<b>December 31,</b> <b>2022</b>
	(unaudited)	
Current assets:		
Cash and cash equivalents	\$ 72,084	\$ 58,408
Trade receivables — net of allowance for credit losses — 2023 — \$8,652 and 2022 — \$8,423	170,990	164,677
Other receivables	12,634	12,992
Inventories	305,943	265,991
Prepaid expenses and other current assets	24,971	22,324
Prepaid income taxes	3,920	3,913
Income tax refund receivables	4,365	779
Total current assets	<u>594,907</u>	<u>529,084</u>
Property and equipment:		
Land and land improvements	26,017	25,940
Buildings	189,900	189,148
Manufacturing equipment	306,925	299,089
Furniture and fixtures	66,046	61,128
Leasehold improvements	52,604	49,673
Construction-in-progress	62,374	61,269
Total property and equipment	<u>703,866</u>	<u>686,247</u>
Less accumulated depreciation	<u>(319,504)</u>	<u>(303,271)</u>
Property and equipment — net	384,362	382,976
Other assets:		
Intangible assets:		
Developed technology — net of accumulated amortization — 2023 — \$296,131 and 2022 — \$274,570	309,228	237,522
Other — net of accumulated amortization — 2023 — \$74,418 and 2022 — \$69,780	45,884	38,350
Goodwill	381,767	359,821
Deferred income tax assets	6,492	6,599
Right-of-use operating lease assets	62,436	65,262
Other assets	52,492	44,352
Total other assets	<u>858,299</u>	<u>751,906</u>
Total assets	<u>\$ 1,837,568</u>	<u>\$ 1,663,966</u>

See condensed notes to consolidated financial statements.

(continued)

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
**(In thousands)**

<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>June 30,</b>	<b>December 31,</b>
	<b>2023</b>	<b>2022</b>
	(unaudited)	
Current liabilities:		
Trade payables	\$ 61,761	\$ 68,504
Accrued expenses	110,662	123,189
Current portion of long-term debt	3,750	11,250
Short-term operating lease liabilities	11,531	11,005
Income taxes payable	2,299	6,697
Total current liabilities	<u>190,003</u>	<u>220,645</u>
Long-term debt	335,232	186,759
Deferred income tax liabilities	18,477	18,462
Long-term income taxes payable	347	347
Liabilities related to unrecognized tax benefits	1,912	1,912
Deferred compensation payable	16,418	15,264
Deferred credits	1,657	1,708
Long-term operating lease liabilities	56,599	59,736
Other long-term obligations	13,223	14,736
Total liabilities	<u>633,868</u>	<u>519,569</u>
Commitments and contingencies		
Stockholders' equity:		
Preferred stock — 5,000 shares authorized as of June 30, 2023 and December 31, 2022; no shares issued	—	—
Common stock, no par value; 100,000 shares authorized; issued and outstanding as of June 30, 2023 - 57,634 and December 31, 2022 - 57,306	691,523	675,174
Retained earnings	521,721	480,773
Accumulated other comprehensive loss	(9,544)	(11,550)
Total stockholders' equity	<u>1,203,700</u>	<u>1,144,397</u>
Total liabilities and stockholders' equity	<u>\$ 1,837,568</u>	<u>\$ 1,663,966</u>

See condensed notes to consolidated financial statements.

(concluded)

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF INCOME**  
(In thousands, except per share amounts - unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net sales	\$ 320,056	\$ 294,976	\$ 617,621	\$ 570,391
Cost of sales	167,274	159,909	326,477	314,417
Gross profit	<u>152,782</u>	<u>135,067</u>	<u>291,144</u>	<u>255,974</u>
Operating expenses:				
Selling, general and administrative	100,927	85,487	191,071	169,502
Research and development	20,129	18,466	41,443	35,853
Impairment charges	270	—	270	1,672
Contingent consideration expense	1,094	1,187	1,615	3,787
Acquired in-process research and development	1,550	6,671	1,550	6,671
Total operating expenses	<u>123,970</u>	<u>111,811</u>	<u>235,949</u>	<u>217,485</u>
Income from operations	<u>28,812</u>	<u>23,256</u>	<u>55,195</u>	<u>38,489</u>
Other income (expense):				
Interest income	221	96	352	201
Interest expense	(3,682)	(1,348)	(5,693)	(2,350)
Other income (expense) — net	(451)	(1,303)	546	(1,468)
Total other expense — net	<u>(3,912)</u>	<u>(2,555)</u>	<u>(4,795)</u>	<u>(3,617)</u>
Income before income taxes	24,900	20,701	50,400	34,872
Income tax expense	<u>4,655</u>	<u>5,403</u>	<u>9,452</u>	<u>9,029</u>
Net income	<u>\$ 20,245</u>	<u>\$ 15,298</u>	<u>\$ 40,948</u>	<u>\$ 25,843</u>
Earnings per common share				
Basic	\$ 0.35	\$ 0.27	\$ 0.71	\$ 0.46
Diluted	\$ 0.35	\$ 0.27	\$ 0.70	\$ 0.45
Weighted average shares outstanding				
Basic	57,537	56,691	57,445	56,642
Diluted	58,473	57,600	58,329	57,565

See condensed notes to consolidated financial statements.

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
**(In thousands - unaudited)**

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2023	2022	2023	2022
Net income	\$ 20,245	\$ 15,298	\$ 40,948	\$ 25,843
Other comprehensive income (loss):				
Cash flow hedges	3,422	6,425	1,731	9,332
Income tax benefit (expense)	(821)	(1,572)	(415)	(2,284)
Foreign currency translation adjustment	(1,201)	(8,979)	724	(9,772)
Income tax benefit (expense)	(15)	60	(34)	(4)
Total other comprehensive income (loss)	1,385	(4,066)	2,006	(2,728)
Total comprehensive income	<u>\$ 21,630</u>	<u>\$ 11,232</u>	<u>\$ 42,954</u>	<u>\$ 23,115</u>

See condensed notes to consolidated financial statements.

**MERIT MEDICAL SYSTEMS, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
**(In thousands - unaudited)**

	<u>Common Stock</u>		<u>Retained</u>	<u>Accumulated Other</u>	<u>Total</u>
	<u>Shares</u>	<u>Amount</u>	<u>Earnings</u>	<u>Comprehensive Loss</u>	
Balance — January 1, 2023	57,306	\$ 675,174	\$ 480,773	\$ (11,550)	\$ 1,144,397
Net income			20,703		20,703
Other comprehensive income				621	621
Stock-based compensation expense		3,498			3,498
Options exercised	123	3,726			3,726
Issuance of common stock under Employee Stock Purchase Plan	4	302			302
Shares issued from time-vested restricted stock units	61	—			—
Shares surrendered in exchange for payment of payroll tax liabilities	(22)	(1,592)			(1,592)
Balance — March 31, 2023	57,472	681,108	501,476	(10,929)	1,171,655
Net income			20,245		20,245
Other comprehensive income				1,385	1,385
Stock-based compensation expense		4,980			4,980
Options exercised	128	5,154			5,154
Issuance of common stock under Employee Stock Purchase Plan	4	281			281
Shares issued from time-vested restricted stock units	30	—			—
Balance — June 30, 2023	57,634	\$ 691,523	\$ 521,721	\$ (9,544)	\$ 1,203,700

See condensed notes to consolidated financial statements.

(continued)

**MERIT MEDICAL SYSTEMS, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(In thousands - unaudited)

	Common Stock		Retained Earnings	Accumulated Other Comprehensive Loss	Total
	Shares	Amount			
Balance — January 1, 2022	56,570	\$ 641,533	\$ 406,257	\$ (7,991)	\$ 1,039,799
Net income			10,545		10,545
Other comprehensive income				1,338	1,338
Stock-based compensation expense		4,212			4,212
Options exercised	52	1,320			1,320
Issuance of common stock under Employee Stock Purchase Plan	5	320			320
Shares issued from time-vested restricted stock units	44	—			—
Shares surrendered in exchange for payment of payroll tax liabilities	(16)	(1,015)			(1,015)
Balance — March 31, 2022	56,655	646,370	416,802	(6,653)	1,056,519
Net income			15,298		15,298
Other comprehensive loss				(4,066)	(4,066)
Stock-based compensation expense		3,952			3,952
Options exercised	58	1,303			1,303
Issuance of common stock under Employee Stock Purchase Plan	6	301			301
Shares issued from time-vested restricted stock units	26	—			—
Balance — June 30, 2022	<u>56,745</u>	<u>\$ 651,926</u>	<u>\$ 432,100</u>	<u>\$ (10,719)</u>	<u>\$ 1,073,307</u>

See condensed notes to consolidated financial statements.

(concluded)



**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(In thousands - unaudited)**

	Six Months Ended June 30,	
	2023	2022
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net income	\$ 40,948	\$ 25,843
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	42,316	40,902
Loss on disposition of business	—	1,254
Loss on sale or abandonment of property and equipment	4,677	112
Write-off of certain intangible assets and other long-term assets	328	1,733
Acquired in-process research and development	1,550	6,671
Amortization of right-of-use operating lease assets	5,935	5,121
Adjustments related to contingent consideration liabilities	1,615	1,999
Amortization of deferred credits	(52)	(54)
Amortization of long-term debt issuance costs	462	302
Stock-based compensation expense	9,549	9,093
Changes in operating assets and liabilities, net of acquisitions and divestitures:		
Trade receivables	(5,980)	(9,472)
Other receivables	287	6,457
Inventories	(35,502)	(14,766)
Prepaid expenses and other current assets	78	(2,155)
Income tax refund receivables	(3,577)	(4)
Other assets	(1,558)	1,768
Trade payables	(7,253)	3,713
Accrued expenses	(10,295)	(20,966)
Income taxes payable	(4,896)	1,114
Deferred compensation payable	1,154	(2,549)
Operating lease liabilities	(5,711)	(5,609)
Other long-term obligations	(2,244)	287
Total adjustments	(9,117)	24,951
Net cash, cash equivalents, and restricted cash provided by operating activities	31,831	50,794
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Capital expenditures for:		
Property and equipment	(18,556)	(16,763)
Intangible assets	(1,047)	(912)
Proceeds from the sale of property and equipment	201	59
Payments from disposition of business	—	(971)
Cash paid in acquisitions, net of cash acquired	(138,349)	(4,712)
Net cash, cash equivalents, and restricted cash used in investing activities	\$ (157,751)	\$ (23,299)

See condensed notes to consolidated financial statements.

(continued)

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(In thousands - unaudited)**

	Six Months Ended June 30,	
	2023	2022
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Proceeds from issuance of common stock	\$ 9,463	\$ 3,244
Proceeds from issuance of long-term debt	460,283	127,688
Payments on long-term debt	(318,471)	(124,563)
Long-term debt issuance costs	(5,240)	—
Contingent payments related to acquisitions	(3,434)	(32,798)
Payment of taxes related to an exchange of common stock	(1,592)	(1,015)
Net cash, cash equivalents, and restricted cash provided by (used in) financing activities	<u>141,009</u>	<u>(27,444)</u>
Effect of exchange rates on cash, cash equivalents, and restricted cash	(1,497)	(2,564)
Net increase (decrease) in cash, cash equivalents and restricted cash	13,592	(2,513)
<b>CASH, CASH EQUIVALENTS AND RESTRICTED CASH:</b>		
Beginning of period	60,558	67,750
End of period	<u>\$ 74,150</u>	<u>\$ 65,237</u>
<b>RECONCILIATION OF CASH, CASH EQUIVALENTS AND RESTRICTED CASH TO THE CONSOLIDATED BALANCE SHEETS:</b>		
Cash and cash equivalents	72,084	63,003
Restricted cash reported in prepaid expenses and other current assets	2,066	2,234
Total cash, cash equivalents and restricted cash	<u>\$ 74,150</u>	<u>\$ 65,237</u>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION</b>		
Cash paid during the period for:		
Interest (net of capitalized interest of \$597 and \$302, respectively)	\$ 3,681	\$ 2,317
Income taxes	17,787	7,863
<b>SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING ACTIVITIES</b>		
Property and equipment purchases in accounts payable	\$ 4,291	\$ 3,555
Acquisition purchases in accrued expenses and other long-term obligations	3,635	3,526
Right-of-use operating lease assets obtained in exchange for operating lease liabilities	3,399	4,746

See condensed notes to consolidated financial statements.

(concluded)

**MERIT MEDICAL SYSTEMS, INC. AND SUBSIDIARIES**  
**CONDENSED NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**1. Basis of Presentation and Other Items.** The interim consolidated financial statements of Merit Medical Systems, Inc. ("Merit," "we" or "us") for the three and six-month periods ended June 30, 2023 and 2022 are not audited. Our consolidated financial statements are prepared in accordance with the requirements for unaudited interim periods and, consequently, do not include all disclosures required to be made in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP"). In the opinion of our management, the accompanying consolidated financial statements contain all adjustments, consisting of normal recurring accruals, necessary for a fair presentation of our financial position as of June 30, 2023 and December 31, 2022, and our results of operations and cash flows for the three and six-month periods ended June 30, 2023 and 2022. The results of operations for the three and six-month periods ended June 30, 2023 and 2022 are not necessarily indicative of the results for a full-year period. Amounts presented in this report are rounded, while percentages and earnings per share amounts presented are calculated from the underlying amounts. These interim consolidated financial statements should be read in conjunction with the financial statements and risk factors included in our Annual Report on Form 10-K for the year ended December 31, 2022 (the "2022 Annual Report on Form 10-K").

**2. Recently Adopted Financial Accounting Standards.** In March 2020, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides temporary optional expedients and exceptions in accounting for modifications of contracts that reference the London interbank offered rate ("LIBOR") or another reference rate expected to be discontinued as a result of reference rate reform. Entities can elect not to apply certain modification accounting requirements to contracts affected by what the guidance calls "reference rate reform" if certain criteria are met. An entity that makes this election would not have to remeasure the contracts at the modification date or reassess a previous accounting determination. Also, entities can elect various optional expedients that would allow them to continue applying hedge accounting for hedging relationships affected by reference rate reform if certain criteria are met. In December 2022, the FASB issued ASU 2022-06, *Deferral of the Sunset Date of Topic 848*, which defers the sunset date of the guidance in ASC 848 to December 31, 2024. During the quarter ended June 30, 2023, the Company transitioned our interest rate swap agreement to reference the Secured Overnight Financing Rate ("SOFR") in connection with reference rate reform and adopted certain optional expedients provided in ASU 2020-04 in relation to contract modifications and hedge accounting that allowed us to continue hedge accounting for our interest rate swap cash flow hedges (see Note 9). The adoption of this guidance did not have a material impact on our consolidated financial statements.

**Recently Issued Accounting Standards.** We currently believe there are no other issued and not yet effective accounting standards that are materially relevant to our financial statements.

**3. Revenue from Contracts with Customers.** We recognize revenue when a customer obtains control of promised goods. The amount of revenue recognized reflects the consideration we expect to receive in exchange for these goods. Our revenue recognition policies have not changed from those disclosed in Note 1 to our consolidated financial statements in Item 8 of the 2022 Annual Report on Form 10-K.

*Disaggregation of Revenue*

Our revenue is disaggregated based on reporting segment, product category and geographical region. We design, develop, manufacture and market medical products for interventional and diagnostic procedures. For financial reporting purposes, we report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of four product categories: peripheral intervention, cardiac intervention, custom procedural solutions, and original equipment manufacturer ("OEM"). Within these product categories, we sell a variety of products, including cardiology and radiology devices (which assist in diagnosing and treating coronary arterial disease, peripheral vascular disease and other non-vascular diseases), as well as embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, breast cancer localization and guidance, biopsy, and interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors.

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The following tables present revenue from contracts with customers by reporting segment, product category and geographical region for the three and six-month periods ended June 30, 2023 and 2022 (in thousands):

	Three Months Ended June 30, 2023			Three Months Ended June 30, 2022		
	United States	International	Total	United States	International	Total
<b>Cardiovascular</b>						
Peripheral Intervention	\$ 71,973	\$ 53,936	\$ 125,909	\$ 65,795	45,160	\$ 110,955
Cardiac Intervention	35,690	58,085	93,775	33,909	55,665	89,574
Custom Procedural Solutions	29,155	20,229	49,384	27,318	21,775	49,093
OEM	34,570	7,637	42,207	30,048	7,000	37,048
Total	171,388	139,887	311,275	157,070	129,600	286,670
<b>Endoscopy</b>						
Endoscopy Devices	8,194	587	8,781	7,604	702	8,306
Total	<u>\$ 179,582</u>	<u>\$ 140,474</u>	<u>\$ 320,056</u>	<u>\$ 164,674</u>	<u>\$ 130,302</u>	<u>\$ 294,976</u>

	Six Months Ended June 30, 2023			Six Months Ended June 30, 2022		
	United States	International	Total	United States	International	Total
<b>Cardiovascular</b>						
Peripheral Intervention	\$ 140,640	\$ 99,052	\$ 239,692	\$ 127,895	\$ 88,833	\$ 216,728
Cardiac Intervention	69,995	109,108	179,103	62,458	108,603	171,061
Custom Procedural Solutions	55,954	41,131	97,085	53,873	41,482	95,355
OEM	67,134	16,237	83,371	57,844	12,618	70,462
Total	333,723	265,528	599,251	302,070	251,536	553,606
<b>Endoscopy</b>						
Endoscopy Devices	17,219	1,151	18,370	15,596	1,189	16,785
Total	<u>\$ 350,942</u>	<u>\$ 266,679</u>	<u>\$ 617,621</u>	<u>\$ 317,666</u>	<u>\$ 252,725</u>	<u>\$ 570,391</u>

**4. Acquisitions.** On June 8, 2023, we entered into an asset purchase agreement with AngioDynamics, Inc. (“AngioDynamics”) to acquire the assets associated with a portfolio of dialysis catheter products and the BioSentry® Biopsy Tract Sealant System for a purchase price of \$100 million. We accounted for this acquisition as a business combination. The sales related to the acquisition have been included in our cardiovascular segment since the acquisition date and were approximately \$0.9 million for each of the three and six-month periods ended June 30, 2023. It is not practical to separately report earnings related to the acquisition, as we cannot split out sales costs related solely to the products acquired, principally because our sales representatives sell multiple products within our cardiovascular business segment. Acquisition-related costs associated with the AngioDynamics acquisition, which are included in selling, general and administrative expenses in the accompanying consolidated statements of income, were approximately \$4.8 million for each of the three and six-month periods ended June 30, 2023. The purchase price was preliminarily allocated as follows (in thousands):

<b>Assets Acquired</b>	
Prepaid expenses	\$ 2,000
Inventories	5,254
Property and equipment	108
<b>Intangible assets</b>	
Developed technology	65,200
Trademarks	4,000
Customer list	5,800
Goodwill	17,638
<b>Total net assets acquired</b>	<b>\$ 100,000</b>

We are amortizing the AngioDynamics developed technology intangible assets over nine years, the trademark intangible assets over 11 years, and the customer list intangible asset on an accelerated basis over 10 years. We have estimated the weighted average life of the intangible assets acquired from AngioDynamics to be 10.5 years. The goodwill consists largely of the synergies expected from combining operations and is expected to be deductible for income tax purposes. The pro forma effects to our consolidated results of operations of the AngioDynamics acquisition are not material.

On May 4, 2023, we entered into an asset purchase agreement to acquire the assets associated with the Surfacor® Inside-Out® Access Catheter System from Bluegrass Vascular Technologies, Inc. (“Bluegrass”), for a purchase price of \$32.7 million. Prior to the acquisition, Merit held an equity investment of 1,251,878 Bluegrass common shares representing approximately 19.5% ownership in Bluegrass. The fair value of this previously-held equity investment of approximately \$245,000 is included in the purchase price allocation. We accounted for this acquisition as a business combination. The sales and results of operations related to the acquisition have been included in our cardiovascular segment since the acquisition date and were not material. Acquisition-related costs associated with the Bluegrass acquisition, which were included in selling, general and administrative expenses in the accompanying consolidated statements of income, were not material. The purchase price was preliminarily allocated as follows (in thousands):

<b>Assets Acquired</b>	
Inventories	\$ 175
<b>Intangible assets</b>	
Developed technology	28,000
Trademarks	900
Goodwill	3,898
<b>Total net assets acquired</b>	<b>\$ 32,973</b>

We are amortizing the Bluegrass developed technology intangible asset over 15 years and the related trademarks over 13 years. We have estimated the weighted average life of the intangible assets acquired from Bluegrass to be 14.9 years. The goodwill consists largely of the synergies expected from combining operations and is expected to be deductible for income tax purposes. The pro forma effects to our consolidated results of operations of the Bluegrass acquisition are not material.

On May 1, 2023, we entered into an asset purchase agreement to acquire certain assets from Advanced Radiation Therapy, LLC (“ART”), related to intellectual property rights for soft tissue markers. The total purchase price of the ART assets included an up-front payment of \$750,000, a deferred payment of \$750,000 payable upon the first to occur of (1) shipment and installation of two commercial production winders used in the manufacture of the product or (2) 30 days after delivery of the winders to Merit, and, a deferred payment of \$500,000 payable upon regulatory approval from the U.S. Food and Drug Administration for Merit to commence commercialization, marketing and sale of the product in the United States. We have accounted for this transaction as an asset purchase and recorded \$1.5 million of acquired in-process research and development expense associated with the upfront payment and completion of the milestone related to the installation of the commercial production winders. The payments are reported within operating expenses because the technological feasibility of the underlying research and development project has not yet been reached and such technology has no identified future alternative use as of the date of acquisition.

We entered into a stock purchase agreement on January 11, 2023, and an exclusive distribution agreement on April 5, 2023, with Solo Pace Inc. (“Solo Pace”), owner and developer of a temporary external pulse generator and grounding pad with associated remote control module. Pursuant to these agreements, we paid \$4.0 million to acquire (a) shares of Series Seed-1 Preferred Stock of Solo Pace, (b) an option to purchase the outstanding equity of Solo Pace within the earlier of five years after product commercialization or within 120 days after the twelve-month period wherein sales exceed \$6.0 million, and (c) exclusive rights to distribute the Solo Pace product upon commercialization. The shares of Solo Pace stock have been reflected within other assets in the accompanying consolidated balance sheets. Our investment in Solo Pace represents an ownership of approximately 19% of its outstanding capital stock and has been recorded as an equity investment accounted for at cost because the equity interest does not have a readily determinable fair value and because we are not able to exercise significant influence over the operations of Solo Pace.

**5. Inventories.** Inventories at June 30, 2023 and December 31, 2022 consisted of the following (in thousands):

	<u>June 30, 2023</u>	<u>December 31, 2022</u>
Finished goods	\$ 155,934	\$ 147,051
Work-in-process	33,780	29,534
Raw materials	116,229	89,406
Total inventories	<u>\$ 305,943</u>	<u>\$ 265,991</u>

**6. Goodwill and Intangible Assets.** The change in the carrying amount of goodwill for the six-month period ended June 30, 2023 is detailed as follows (in thousands):

	<u>2023</u>
Goodwill balance at January 1	\$ 359,821
Effect of foreign exchange	410
Additions and adjustments as the result of acquisitions	21,536
Goodwill balance at June 30	<u>\$ 381,767</u>

Total accumulated goodwill impairment losses aggregated \$8.3 million as of June 30, 2023 and December 31, 2022. We did not have any goodwill impairments for the six-month periods ended June 30, 2023 and 2022. The total goodwill balances as of June 30, 2023 and December 31, 2022 were related to our cardiovascular segment.

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Other intangible assets at June 30, 2023 and December 31, 2022 consisted of the following (in thousands):

	June 30, 2023		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Patents	\$ 30,451	\$ (11,732)	\$ 18,719
Distribution agreements	3,250	(2,817)	433
License agreements	11,139	(7,832)	3,307
Trademarks	35,129	(19,215)	15,914
Customer lists	40,333	(32,822)	7,511
Total	<u>\$ 120,302</u>	<u>\$ (74,418)</u>	<u>\$ 45,884</u>

  

	December 31, 2022		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Patents	\$ 29,445	\$ (10,203)	\$ 19,242
Distribution agreements	3,250	(2,715)	535
License agreements	11,109	(7,250)	3,859
Trademarks	30,221	(17,863)	12,358
Customer lists	34,105	(31,749)	2,356
Total	<u>\$ 108,130</u>	<u>\$ (69,780)</u>	<u>\$ 38,350</u>

Aggregate amortization expense for the three and six-month periods ended June 30, 2023 was \$13.4 million and \$25.7 million, respectively. Aggregate amortization expense for the three and six-month periods ended June 30, 2022 was \$12.1 million and \$24.2 million, respectively.

We evaluate long-lived assets, including amortizing intangible assets, for impairment whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable. We perform the impairment analysis at the asset group for which the lowest level of identifiable cash flows is largely independent of the cash flows of other assets and liabilities. We determine the fair value of our amortizing assets based on estimated future cash flows discounted back to their present value using a discount rate that reflects the risk profiles of the underlying activities. During the three and six-month periods ended June 30, 2023, we did not identify indicators of impairment in any intangible assets based on our qualitative assessment.

During the six-month period ended June 30, 2022, we identified indicators of impairment associated with certain acquired intangible assets based on our qualitative assessment, which led us to complete an interim quantitative impairment assessment. The primary indicator of impairment was our planned divestiture of the STD Pharmaceutical Products Limited (“STD Pharmaceutical”) business acquired in our August 2019 acquisition of Fibro vein Holdings Limited. On April 30, 2022, we completed the divestiture of Fibro vein Holdings Limited, in exchange for the termination of our obligations arising from the acquisition transaction in August 2019 and the purchaser’s agreement to make potential future payments upon a qualifying disposition of the STD Pharmaceutical business. We recorded an impairment charge for the carrying value of \$1.7 million of intangible assets during the six months ended June 30, 2022, all of which pertained to our cardiovascular segment.

Estimated amortization expense for developed technology and other intangible assets for the next five years consisted of the following as of June 30, 2023 (in thousands):

	Estimated Amortization Expense
Remaining 2023	\$ 32,085
2024	59,732
2025	57,701
2026	46,963
2027	43,768

**7. Income Taxes.** Our provision for income taxes for the three-month periods ended June 30, 2023 and 2022 was a tax expense of \$4.7 million and \$5.4 million, respectively, which resulted in an effective tax rate of 18.7% and 26.1%, respectively. Our provision for income taxes for the six-month periods ended June 30, 2023 and 2022 was a tax expense of \$9.5 million and \$9.0 million, respectively, which resulted in an effective tax rate of 18.8% and 25.9%, respectively. The decrease in the effective income tax rate for the three and six-month period ended June 30, 2023, when compared to the prior-year period, was primarily due to increased benefit from discrete items such as share-based compensation and deferred compensation, as well as foreign tax credit utilization. The increase in the income tax expense for the six-month period ended June 30, 2023, when compared to the prior-year period, was primarily due to increased pre-tax book income. Our effective tax rate differs from the U.S. statutory rate primarily due to the impact of global intangible low-taxed income (“GILTI”) inclusions, state income taxes, foreign taxes, other non-deductible permanent items and discrete items (such as share-based compensation).

The Organization for Economic Cooperation and Development (“OECD”) Pillar 2 global minimum tax rules, which generally provide for a minimum effective tax rate of 15%, are intended to apply for tax years beginning in 2024. On February 2, 2023, the OECD issued administrative guidance providing transition and safe harbor rules around the implementation of the Pillar 2 global minimum tax. Under a transitional safe harbor released July 17, 2023, the undertaxed profits rule top-up tax in the jurisdiction of a company's ultimate parent entity will be zero for each fiscal year of the transition period, if that jurisdiction has a corporate tax rate of at least 20%. The safe harbor transition period will apply to fiscal years beginning on or before December 31, 2025 and ending before December 31, 2026. The Company is closely monitoring developments and evaluating the impact these new rules will have on our tax rate, including eligibility to qualify for these safe harbor rules.

**8. Revolving Credit Facility and Long-Term Debt.** Principal balances outstanding under our long-term debt obligations as of June 30, 2023 and December 31, 2022 consisted of the following (in thousands):

	<u>June 30, 2023</u>	<u>December 31, 2022</u>
Term loans	\$ 150,000	\$ 124,688
Revolving credit loans	190,000	73,500
Less unamortized debt issuance costs	<u>(1,018)</u>	<u>(179)</u>
Total long-term debt	338,982	198,009
Less current portion	<u>3,750</u>	<u>11,250</u>
Long-term portion	<u>\$ 335,232</u>	<u>\$ 186,759</u>

On June 6, 2023, we entered into a Fourth Amended and Restated Credit Agreement (the "Fourth Amended Credit Agreement"). The Fourth Amended Credit Agreement is a syndicated loan agreement with Wells Fargo Bank, National Association and other parties. The Fourth Amended Credit Agreement amended and restated in its entirety our previously outstanding Third Amended and Restated Credit Agreement and all amendments thereto. The Fourth Amended Credit Agreement provides for a term loan of \$150 million and a revolving credit commitment of up to an aggregate amount of \$700 million, inclusive of sub-facilities for multicurrency borrowings, standby letters of credit and swingline loans. On June 6, 2028, all principal, interest and other amounts outstanding under the Fourth Amended Credit Agreement are payable in full. At any time prior to the maturity date, we may repay any amounts owing under all term loans and revolving credit loans in whole or in part, without premium or penalty.



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Term loans made under the Fourth Amended Credit Agreement bear interest, at our election, at either (i) the Base Rate (as defined in the Fourth Amended Credit Agreement) plus the Applicable Margin (as defined in the Fourth Amended Credit Agreement) or, (ii) Adjusted Term SOFR (as defined in the Fourth Amended Credit Agreement) plus the Applicable Margin (as defined in the Fourth Amended Credit Agreement). Revolving credit loans bear interest, at our election, at either (a) the Base Rate plus the Applicable Margin, (b) Adjusted Term SOFR plus the Applicable Margin, (c) Adjusted Eurocurrency Rate plus the Applicable Margin and (d) Adjusted Daily Simple SONIA (as defined in the Fourth Amended Credit Agreement) plus the Applicable Margin. Swingline loans bear interest at the Base Rate plus the Applicable Margin. Interest on each loan featuring the Base Rate and each Daily Simple SONIA Loan is due and payable on the last business day of each calendar month; interest on each loan featuring the Eurocurrency Rate and each Term SOFR Loan is due and payable on the last day of each interest period applicable thereto, and if such interest period extends over three months, at the end of each three-month interval during such interest period.

The Fourth Amended Credit Agreement is collateralized by substantially all our assets. The Fourth Amended Credit Agreement contains affirmative and negative covenants, representations and warranties, events of default and other terms customary for loans of this nature. In particular, the Fourth Amended Credit Agreement requires that we maintain certain financial covenants, as follows:

	<u>Covenant Requirement</u>
Consolidated Total Leverage Ratio <sup>(1)</sup>	4.0 to 1.0
Consolidated Interest Coverage Ratio <sup>(2)</sup>	3.0 to 1.0

- (1) Maximum Consolidated Total Net Leverage Ratio (as defined in the Fourth Amended Credit Agreement) as of any fiscal quarter end.
- (2) Minimum ratio of Consolidated EBITDA (as defined in the Fourth Amended Credit Agreement and adjusted for certain expenditures) to Consolidated Interest Expense (as defined in the Fourth Amended Credit Agreement) for any period of four consecutive fiscal quarters.

We believe we were in compliance with all covenants set forth in the Fourth Amended Credit Agreement as of June 30, 2023.

As of June 30, 2023, we had outstanding borrowings of \$340.0 million and issued letter of credit guarantees of \$3.2 million under the Fourth Amended Credit Agreement, with additional available borrowings of approximately \$507 million, based on the maximum net leverage ratio and the aggregate revolving credit commitment pursuant to the Fourth Amended Credit Agreement. Our interest rate as of June 30, 2023 was a fixed rate of 2.64% with respect to \$75 million of the principal amount, as a result of an interest rate swap (see Note 9), and a variable floating rate of 6.15% with respect to \$265.0 million of the principal amount. Our interest rate as of December 31, 2022 was a fixed rate of 2.71% on \$75 million as a result of an interest rate swap and a variable floating rate of 5.38% on \$123.2 million. The foregoing fixed rates do not reflect potential future changes in the applicable margin.

Future minimum principal payments on our long-term debt, as of June 30, 2023, were as follows (in thousands):

<u>Years Ending December 31,</u>	<u>Future Minimum Principal Payments</u>
Remaining 2023	\$ 1,875
2024	3,750
2025	5,625
2026	7,500
2027	9,375
2028	311,875
Total future minimum principal payments	<u>\$ 340,000</u>

## 9. Derivatives.

**General.** Our earnings and cash flows are subject to fluctuations due to changes in interest rates and foreign currency exchange rates, and we seek to mitigate a portion of the risks attributable to those fluctuations by entering into derivative contracts. The derivative instruments we use are interest rate swaps and foreign currency forward contracts. We recognize derivative instruments as either assets or liabilities at fair value in the accompanying consolidated balance sheets, regardless of whether or not hedge accounting is applied. We report cash flows arising from our hedging instruments consistent with the classification of cash flows from the underlying hedged items. Accordingly, cash flows associated with our derivative contracts are classified as operating activities in the accompanying consolidated statements of cash flows.

We formally document, designate and assess the effectiveness of transactions that receive hedge accounting treatment initially and on an ongoing basis. For qualifying hedges, the change in fair value is deferred in accumulated other comprehensive income, a component of stockholders' equity in the accompanying consolidated balance sheets, and recognized in earnings at the same time the hedged item affects earnings. Changes in the fair value of derivative instruments not designated as hedging instruments are recorded in earnings throughout the term of the derivative.

**Interest Rate Risk.** Our debt bears interest at variable interest rates. Therefore, we are subject to variability in the cash payable for interest expense. In order to mitigate a portion of the risk attributable to such variability, we use a hedging strategy to reduce the variability of cash flows in the interest payments associated with a portion of the variable-rate debt outstanding under our Fourth Amended Credit Agreement that varies in accordance with changes in the benchmark interest rate.

### *Derivative Instruments Designated as Cash Flow Hedges*

On December 23, 2019, we entered into a pay-fixed, receive-variable interest rate swap with a notional amount of \$75 million with Wells Fargo. In June 2023, certain terms under the agreement were amended to reflect the transition from LIBOR to SOFR, an alternative reference rate. Under the interest rate swap agreement we fix the one-month SOFR rate on that portion of our borrowings under the Fourth Amended Credit Agreement at 1.64% for the period from June 1, 2023 to July 31, 2024. The variable portion of the interest rate swap is tied to the one-month SOFR rate (the benchmark interest rate). On a monthly basis, the interest rates under both the interest rate swap and the underlying debt reset, the swap is settled with the counterparty, and interest is paid.

On June 30, 2023 and December 31, 2022, our interest rate swap qualified as a cash flow hedge. The fair value of our interest rate swap on June 30, 2023 was an asset of \$2.9 million, which was partially offset by \$0.7 million in deferred taxes. The fair value of our interest rate swap on December 31, 2022 was an asset of \$3.4 million, partially offset by \$0.8 million in deferred taxes.

**Foreign Currency Risk.** We operate on a global basis and are exposed to the risk that our financial condition, results of operations, and cash flows could be adversely affected by changes in foreign currency exchange rates. To reduce the potential effects of foreign currency exchange rate movements on net earnings, we enter into derivative financial instruments in the form of foreign currency exchange forward contracts with major financial institutions. Our policy is to enter into foreign currency derivative contracts with maturities of up to two years. We are exposed to foreign currency exchange rate risk with respect to transactions and balances denominated in various currencies, with our most significant exposure related to transactions and balances denominated in Chinese Renminbi and Euros, among others. We do not use derivative financial instruments for trading or speculative purposes. We do not believe we are subject to any credit risk contingent features related to our derivative contracts, and we seek to manage counterparty risk by allocating derivative contracts among several major financial institutions.

*Derivative Instruments Designated as Cash Flow Hedges*

For derivative instruments that are designated and qualify as cash flow hedges, the gain or loss on the derivative instrument is temporarily reported as a component of other comprehensive income and then reclassified into earnings in the same line item associated with the forecasted transaction and in the same period or periods during which the hedged transaction affects earnings. We entered into forward contracts on various foreign currencies to manage the risk associated with forecasted exchange rates which impact revenues, cost of sales, and operating expenses in various international markets. The objective of the hedges is to reduce the variability of cash flows associated with the forecasted purchase or sale of the foreign currencies.

We enter into approximately 100 cash flow foreign currency hedges every month. As of June 30, 2023 and December 31, 2022, we had entered into foreign currency forward contracts, which qualified as cash flow hedges, with aggregate notional amounts of \$122.5 million and \$87.8 million, respectively.

*Derivative Instruments Not Designated as Cash Flow Hedges*

We forecast our net exposure in various receivables and payables to fluctuations in the value of various currencies, and we enter into foreign currency forward contracts to mitigate that exposure. We enter into approximately 50 foreign currency fair value hedges every month. As of June 30, 2023 and December 31, 2022, we had entered into foreign currency forward contracts related to those balance sheet accounts with aggregate notional amounts of \$116.9 million and \$92.4 million, respectively.

**Balance Sheet Presentation of Derivative Instruments.** As of June 30, 2023 and December 31, 2022, all derivative instruments, both those designated as hedging instruments and those that were not designated as hedging instruments, were recorded at fair value on a gross basis on our consolidated balance sheets. We are not subject to any master netting agreements.

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The fair value of derivative instruments on a gross basis was as follows on the dates indicated (in thousands):

**Fair Value of Derivative Instruments Designated as Hedging Instruments**

	<u>Balance Sheet Location</u>	<u>June 30, 2023</u>	<u>December 31, 2022</u>
<b>Assets</b>			
Interest rate swaps	Other assets (long-term)	\$ 2,879	\$ 3,444
Foreign currency forward contracts	Prepaid expenses and other assets	3,888	3,215
Foreign currency forward contracts	Other assets (long-term)	729	56
<b>(Liabilities)</b>			
Foreign currency forward contracts	Accrued expenses	(994)	(1,509)
Foreign currency forward contracts	Other long-term obligations	(289)	(531)

**Fair Value of Derivative Instruments Not Designated as Hedging Instruments**

	<u>Balance Sheet Location</u>	<u>June 30, 2023</u>	<u>December 31, 2022</u>
<b>Assets</b>			
Foreign currency forward contracts	Prepaid expenses and other assets	\$ 2,736	\$ 1,512
<b>(Liabilities)</b>			
Foreign currency forward contracts	Accrued expenses	(1,434)	(1,946)

**Income Statement Presentation of Derivative Instruments.**

*Derivative Instruments Designated as Cash Flow Hedges*

Derivative instruments designated as cash flow hedges had the following effects, before income taxes, on other comprehensive income (“OCI”), accumulated other comprehensive income (“AOCI”), and net earnings in our consolidated statements of income, consolidated statements of comprehensive income and consolidated balance sheets (in thousands):

<b>Derivative instrument</b>	<b>Amount of Gain/(Loss) Recognized in OCI</b>		<b>Location in statements of income</b>	<b>Consolidated Statements of Income</b>		<b>Amount of Gain/(Loss) Reclassified from AOCI</b>	
	<b>Three Months Ended June 30,</b>			<b>Three Months Ended June 30,</b>		<b>Three Months Ended June 30,</b>	
	<b>2023</b>	<b>2022</b>		<b>2023</b>	<b>2022</b>	<b>2023</b>	<b>2022</b>
<i>Interest rate swaps</i>	\$ 719	\$ 689	<i>Interest expense</i>	\$ (3,682)	\$ (1,348)	\$ 631	\$ (179)
<i>Foreign currency forward contracts</i>	4,325	5,492	<i>Revenue</i>	320,056	294,976	658	198
			<i>Cost of sales</i>	(167,274)	(159,909)	333	(263)

<b>Derivative instrument</b>	<b>Amount of Gain/(Loss) Recognized in OCI</b>		<b>Location in statements of income</b>	<b>Consolidated Statements of Income</b>		<b>Amount of Gain/(Loss) Reclassified from AOCI</b>	
	<b>Six Months Ended June 30,</b>			<b>Six Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2023</b>	<b>2022</b>		<b>2023</b>	<b>2022</b>	<b>2023</b>	<b>2022</b>
<i>Interest rate swaps</i>	\$ 600	\$ 3,003	<i>Interest expense</i>	\$ (5,693)	\$ (2,350)	\$ 1,165	\$ (473)
<i>Foreign currency forward contracts</i>	4,564	5,222	<i>Revenue</i>	617,621	570,391	1,985	(188)
			<i>Cost of sales</i>	(326,477)	(314,417)	283	(446)

As of June 30, 2023, \$4.0 million, or \$3.0 million after taxes, was expected to be reclassified from AOCI to earnings in revenue and cost of sales over the succeeding twelve months. As of June 30, 2022, \$2.7 million, or \$2.0 million after taxes, was expected to be reclassified from AOCI to earnings in interest expense over the succeeding twelve months.

*Derivative Instruments Not Designated as Hedging Instruments*

The following gains/(losses) from these derivative instruments were recognized in our consolidated statements of income for the periods presented (in thousands):

Derivative Instrument	Location in statements of income	Three Months Ended June 30,		Six Months Ended June 30,	
		2023	2022	2023	2022
<i>Foreign currency forward contracts</i>	Other income (expense) — net	\$ 2,141	\$ 1,290	\$ 3,200	\$ 178

**10. Commitments and Contingencies.**

**Litigation.** In the ordinary course of business, we are involved in various proceedings, legal actions and claims. These proceedings, actions and claims may involve product liability, intellectual property, contract disputes, employment, governmental inquiries, audits or proceedings, or other matters, including those more fully described below. The outcomes of these matters will generally not be known for prolonged periods of time. In certain proceedings, actions and claims, the claimants may seek damages as well as other compensatory and equitable relief that could result in the payment of significant amounts and settlements and/or the imposition of injunctions or other equitable relief. For legal matters for which our management had sufficient information to reasonably estimate our future obligations, a liability representing management's best estimate of the probable loss, or the minimum of the range of probable losses when a best estimate within the range is not known, is recorded. The estimates are based on consultation with legal counsel, previous settlement experience, settlement strategies and the potential availability of insurance coverage. If actual outcomes are less favorable than those estimated by management, additional expense may be incurred, which could unfavorably affect our financial position, results of operations and cash flows. The ultimate cost to us with respect to such proceedings, actions and claims could be materially different than the amount of the current estimates and accruals and could have a material adverse effect on our financial position, results of operations and cash flows.

*SEC Inquiry*

We have received requests from the Division of Enforcement of the U.S. Securities and Exchange Commission ("SEC") seeking the voluntary production of information relating to the business activities of Merit's subsidiary in China, including interactions with hospitals and health care officials in China. We are cooperating with the requests and investigating the matter and, at this time, are unable to predict the scope, timing, significance or outcome of this matter.

It is possible that the ultimate resolution of the foregoing matter, or similar matters, if resolved in a manner unfavorable to us, may be materially adverse to our business, financial condition, results of operations or liquidity. Legal costs for these matters, such as outside counsel fees and expenses, are charged to expense in the period incurred.

**11. Earnings Per Common Share (EPS).** The computation of weighted average shares outstanding and the basic and diluted earnings per common share for the three and six-month periods ended June 30, 2023 and 2022 consisted of the following (in thousands, except per share amounts):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net income	\$ 20,245	\$ 15,298	\$ 40,948	\$ 25,843
Average common shares outstanding	57,537	56,691	57,445	56,642
Basic EPS	\$ 0.35	\$ 0.27	\$ 0.71	\$ 0.46
Average common shares outstanding	57,537	56,691	57,445	56,642
Effect of dilutive stock awards	936	909	884	923
Total potential shares outstanding	58,473	57,600	58,329	57,565
Diluted EPS	\$ 0.35	\$ 0.27	\$ 0.70	\$ 0.45
Equity awards excluded as the impact was anti-dilutive (1)	1,114	1,641	1,014	1,597

(1) Does not reflect the impact of incremental repurchases under the treasury stock method.

**12. Stock-Based Compensation Expense.** Stock-based compensation expense before income tax expense for the three and six-month periods ended June 30, 2023 and 2022 consisted of the following (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Cost of sales				
Nonqualified stock options	\$ 432	\$ 509	\$ 873	\$ 1,097
Research and development				
Nonqualified stock options	413	450	841	936
Selling, general and administrative				
Nonqualified stock options	1,851	1,207	3,221	3,131
Performance-based restricted stock units	1,817	1,257	2,632	2,072
Restricted stock units	467	529	911	928
Cash-settled performance-based share-based awards ("Liability Awards")	600	499	1,071	929
Total selling, general and administrative	4,735	3,492	7,835	7,060
Stock-based compensation expense before taxes	\$ 5,580	\$ 4,451	\$ 9,549	\$ 9,093

We recognize stock-based compensation expense (net of a forfeiture rate), for those awards which are expected to vest, on a straight-line basis over the requisite service period. We estimate the forfeiture rate based on our historical experience and expectations about future forfeitures.

### Nonqualified Stock Options

During the six-month periods ended June 30, 2023 and 2022, we granted stock options representing 327,294 and 168,606 shares of our common stock, respectively. We use the Black-Scholes methodology to value the stock-based compensation expense for options. In applying the Black-Scholes methodology to the option grants, the fair value of our stock-based awards granted was estimated using the following assumptions for the periods indicated below:

	Six Months Ended June 30,	
	2023	2022
Risk-free interest rate	3.6% - 4.5%	1.4% - 3.0%
Expected option term	4.0 years	4.0 years
Expected dividend yield	—	—
Expected price volatility	46.7% - 47.1%	46.2% - 47.0%

The average risk-free interest rate is determined using the U.S. Treasury rate in effect as of the date of grant, based on the expected term of the stock award. We determine the expected term of stock options using the historical exercise behavior of employees. The expected price volatility was determined using a weighted average of daily historical volatility of our stock price over the corresponding expected option term and implied volatility based on recent trends of the daily historical volatility. For awards with a vesting period, compensation expense is recognized on a straight-line basis over the service period, which corresponds to the vesting period.

As of June 30, 2023, the total remaining unrecognized compensation cost related to non-vested stock options was \$23.6 million, which was expected to be recognized over a weighted average period of 2.4 years.

### Stock-Settled Performance-Based Restricted Stock Units (“Performance Stock Units”)

During the six-month periods ended June 30, 2023 and 2022, we granted performance stock units which represent up to 286,863 and 120,710 shares of our common stock, respectively. Conversion of the performance stock units occurs at the end of the relevant performance periods, or one year after the agreement date, whichever is later. The number of shares delivered upon vesting at the end of the performance periods are based upon performance against specified financial performance metrics and relative total shareholder return as compared to the Russell 2000 Index (“rTSR”), as defined in the award agreements.

We use Monte-Carlo simulations to estimate the grant-date fair value of the performance stock units linked to total shareholder return. The fair value of each performance stock unit was estimated as of the grant date using the following assumptions for awards granted in the periods indicated below:

	Six Months Ended June 30,	
	2023	2022
Risk-free interest rate	3.9% - 4.6%	1.6%
Performance period	2.8 years	2.8 years
Expected dividend yield	—	—
Expected price volatility	31.4% - 32.6%	42.6%

The risk-free interest rate of return was determined using the U.S. Treasury rate at the time of grant with a term equal to the expected term of the award. The expected volatility was based on the weighted average volatility of our stock price and the average volatility of our compensation peer group's stock price. The expected dividend yield was assumed to be zero because, at the time of the grant, we had no plans to declare a dividend.

Compensation expense is recognized using the grant-date fair value for the number of shares that are probable of being awarded based on the performance metrics. Each reporting period, this probability assessment is updated, and cumulative adjustments are recorded based on the financial performance metrics expected to be achieved. At the end of the performance period, cumulative expense is calculated based on the actual performance metrics achieved. As of June 30, 2023, the total remaining unrecognized compensation cost related to stock-settled performance stock units was \$14.1 million, which is expected to be recognized over a weighted average period of 2.2 years.

#### *Liability Awards*

During the six-month periods ended June 30, 2023 and 2022, we granted liability awards to our Chief Executive Officer with total target cash incentives in the amount of \$1.3 million and \$1.0 million, respectively. These awards entitle him to a target cash payment based upon the Company's relative shareholder return as compared to the rTSR and achievement of specified performance metrics, as defined in the award agreements.

During the six-month period ended June 30, 2023, we granted additional performance stock units to certain employees that will be settled in cash. The cash paid upon vesting at the end of the service period is based upon performance against specified financial performance metrics and relative total shareholder return as compared to the rTSR, as defined in the award agreements. Compensation expense is recognized for the cash payment probable of being awarded based on the performance metrics.

The fair value of these liability awards is measured at each reporting period until the awards are settled. These awards are classified as liabilities and reported in accrued expenses and other long-term obligations within our consolidated balance sheet. As of June 30, 2023, the total remaining unrecognized compensation cost related to cash-settled performance-based share-based awards was \$4.3 million, which is expected to be recognized over a weighted average period of 2.1 years.

#### *Restricted Stock Units*

During the three-month periods ended June 30, 2023 and 2022, we granted restricted stock units to our non-employee directors representing 20,358 and 30,500 shares of our common stock, respectively. The expense recognized for restricted stock units is equal to the closing stock price on the date of grant, which is recognized over the vesting period. Restricted stock units granted to each director are subject to such director's continued service through the vesting date, which is one year from the date of grant. As of June 30, 2023, the total remaining unrecognized compensation cost related to restricted stock units was \$1.5 million, which will be recognized over the remaining vesting period.

**13. Segment Reporting.** We report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of four product categories: peripheral intervention, cardiac intervention, custom procedural solutions, and OEM. Within these product categories, we sell a variety of products, including cardiology and radiology devices (which assist in diagnosing and treating coronary arterial disease, peripheral vascular disease and other non-vascular diseases), as well as embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, breast cancer localization and guidance, biopsy, and interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors. We evaluate the performance of our operating segments based on net sales and income from operations.



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Financial information relating to our reportable operating segments and reconciliations to the consolidated totals for the three and six-month periods ended June 30, 2023 and 2022, were as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
<b>Net sales</b>				
Cardiovascular	\$ 311,275	\$ 286,670	\$ 599,251	\$ 553,606
Endoscopy	8,781	8,306	18,370	16,785
Total net sales	<u>320,056</u>	<u>294,976</u>	<u>617,621</u>	<u>570,391</u>
<b>Income from operations</b>				
Cardiovascular	26,464	21,275	50,398	34,401
Endoscopy	2,348	1,981	4,797	4,088
Total income from operations	<u>28,812</u>	<u>23,256</u>	<u>55,195</u>	<u>38,489</u>
Total other expense — net	<u>(3,912)</u>	<u>(2,555)</u>	<u>(4,795)</u>	<u>(3,617)</u>
Income tax expense	<u>4,655</u>	<u>5,403</u>	<u>9,452</u>	<u>9,029</u>
Net income	<u>\$ 20,245</u>	<u>\$ 15,298</u>	<u>\$ 40,948</u>	<u>\$ 25,843</u>

**14. Fair Value Measurements.**

**Assets (Liabilities) Measured at Fair Value on a Recurring Basis**

Our financial assets and (liabilities) carried at fair value and measured on a recurring basis as of June 30, 2023 and December 31, 2022 consisted of the following (in thousands):

	Total Fair Value at June 30, 2023	Fair Value Measurements Using		
		Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Marketable securities <sup>(1)</sup>	\$ 104	\$ 104	\$ —	\$ —
Interest rate contract asset, long-term <sup>(2)</sup>	\$ 2,879	\$ —	\$ 2,879	\$ —
Foreign currency contract assets, current and long-term <sup>(3)</sup>	\$ 7,353	\$ —	\$ 7,353	\$ —
Foreign currency contract liabilities, current and long-term <sup>(4)</sup>	\$ (2,717)	\$ —	\$ (2,717)	\$ —
Contingent consideration liabilities	\$ (3,581)	\$ —	\$ —	\$ (3,581)

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	Total Fair Value at December 31, 2022	Fair Value Measurements Using		
		Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Marketable securities <sup>(1)</sup>	\$ 138	\$ 138	\$ —	\$ —
Interest rate contract asset, long-term <sup>(2)</sup>	\$ 3,444	\$ —	\$ 3,444	\$ —
Foreign currency contract assets, current and long-term <sup>(3)</sup>	\$ 4,783	\$ —	\$ 4,783	\$ —
Foreign currency contract liabilities, current and long-term <sup>(4)</sup>	\$ (3,986)	\$ —	\$ (3,986)	\$ —
Contingent consideration liabilities	\$ (18,073)	\$ —	\$ —	\$ (18,073)

- (1) Our marketable securities, which consist entirely of available-for-sale equity securities, are valued using market prices in active markets. Level 1 instrument valuations are obtained from real-time quotes for transactions in active exchange markets involving identical assets.
- (2) The fair value of the interest rate contract is determined using Level 2 fair value inputs and is reported with other long-term assets in the consolidated balance sheets.
- (3) The fair value of the foreign currency contract assets (including those designated as hedging instruments and those not designated as hedging instruments) is determined using Level 2 fair value inputs and is recorded as prepaid expenses and other current assets or other long-term assets in the consolidated balance sheets.
- (4) The fair value of the foreign currency contract liabilities (including those designated as hedging instruments and those not designated as hedging instruments) is determined using Level 2 fair value inputs and is recorded as accrued expenses or other long-term obligations in the consolidated balance sheets.

Certain of our past business combinations involve the potential for the payment of future contingent consideration, generally based on a percentage of future product sales or upon attaining specified future revenue or other milestones. The contingent consideration liability is re-measured at the estimated fair value at the end of each reporting period with the change in fair value recognized within operating expenses in the accompanying consolidated statements of income for such period. We measure the initial liability and re-measure the liability on a recurring basis using Level 3 inputs as defined under authoritative guidance for fair value measurements. Changes in the fair value of our contingent consideration liabilities during the three and six-month periods ended June 30, 2023 and 2022 consisted of the following (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Beginning balance	\$ 16,000	\$ 26,333	\$ 18,073	\$ 48,234
Contingent consideration expense	1,094	1,187	1,615	3,787
Contingent payments made	(13,513)	(10,094)	(16,107)	(34,585)
Effect of foreign exchange	—	—	—	(10)
Ending balance	\$ 3,581	\$ 17,426	\$ 3,581	\$ 17,426

As of June 30, 2023, \$3.2 million in contingent consideration liability was included in other long-term obligations and \$0.4 million in contingent consideration liability was included in accrued expenses in our consolidated balance sheet. As of December 31, 2022, \$2.3 million in contingent consideration liability was included in other long-term obligations and \$15.8 million in contingent consideration liability was included in accrued expenses in our consolidated balance sheet.

Payments related to the settlement of the contingent consideration liability recognized at fair value as of the applicable acquisition date of \$3.4 million and \$32.8 million for the six-month periods ended June 30, 2023 and 2022, respectively, have been reflected as a cash outflow from financing activities in the accompanying consolidated statements of cash flows. Payments related to increases in the contingent consideration liability subsequent to the date of acquisition of \$12.7 million and \$1.8 million for the six-month periods ended June 30, 2023 and 2022, respectively, are reflected as operating cash flows.

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The recurring Level 3 measurement of our contingent consideration liabilities included the following significant unobservable inputs at June 30, 2023 and December 31, 2022 (amounts in thousands):

Contingent consideration liability	Fair value at June 30, 2023	Valuation technique	Unobservable inputs	Range	Weighted Average <sup>(1)</sup>
Revenue-based royalty payments contingent liability	\$ 3,085	Discounted cash flow	Discount rate	12% - 16%	14.8%
			Projected year of payments	2023-2034	2028
Revenue milestones contingent liability	\$ 95	Monte Carlo simulation	Discount rate	14.0%	
			Projected year of payments	2023-2039	2039
Regulatory approval contingent liability	\$ 401	Scenario-based method	Discount rate	5.5%	
			Probability of milestone payment	50.0%	
			Projected year of payment	2023-2030	2030
Contingent consideration liability	Fair value at December 31, 2022	Valuation technique	Unobservable inputs	Range	Weighted Average <sup>(1)</sup>
Revenue-based royalty payments contingent liability	\$ 2,097	Discounted cash flow	Discount rate	14% - 17%	15.7%
			Projected year of payments	2023-2034	2026
Revenue milestones contingent liability	\$ 13,064	Monte Carlo simulation	Discount rate	5.1% - 14.0%	5.2%
			Projected year of payments	2023-2033	2023
Regulatory approval contingent liability	\$ 2,912	Scenario-based method	Discount rate	5.7%	
			Probability of milestone payment	90%	
			Projected year of payment	2023-2030	2024

<sup>(1)</sup> Unobservable inputs were weighted by the relative fair value of the instruments. No weighted average is reported for contingent consideration liabilities without a range of unobservable inputs.

The contingent consideration liability is re-measured to fair value each reporting period. Significant increases or decreases in projected revenues, based on our most recent internal operational budgets and long-range strategic plans, discount rates or the time until payment is made would have resulted in a significantly lower or higher fair value measurement. Our determination of the fair value of the contingent consideration liability could change in future periods based upon our ongoing evaluation of these significant unobservable inputs. We intend to record any such change in fair value to operating expenses in our consolidated statements of income.

### ***Contingent Payments to Related Parties***

As a former shareholder of Cianna Medical Inc. (“Cianna Medical”), a former Merit director was eligible for payments for the achievement of sales milestones specified in our merger agreement with Cianna Medical completed in 2018. The terms of the acquisition, including contingent consideration payments, were determined prior to the appointment of the former Cianna Medical shareholder as a Merit director. During the six-month period ended June 30, 2023, we made the final contingent payment to Cianna Medical shareholders, including \$0.9 million paid to the former Merit director who is a former Cianna Medical shareholder. During the six-month period ended June 30, 2022, we made a contingent payment of \$1.6 million.

### ***Fair Value of Other Assets (Liabilities)***

The carrying amount of cash and cash equivalents, receivables, and trade payables approximate fair value because of the immediate, short-term maturity of these financial instruments. Our long-term debt re-prices frequently due to variable rates and entails no significant changes in credit risk and, as a result, we believe the fair value of long-term debt approximates carrying value. The fair value of assets and liabilities whose carrying value approximates fair value is determined using Level 2 inputs, with the exception of cash and cash equivalents, which use Level 1 inputs.

We analyze our investments in privately-held companies to determine if they should be accounted for using the equity method based on our ability to exercise significant influence over operating and financial policies of the company in which we have invested. Investments not accounted for under the equity method of accounting are accounted for at cost minus impairment, if applicable, plus or minus changes in valuation resulting from observable transactions for identical or similar investments.

### ***Impairment Charges***

We recognize or disclose the fair value of certain assets, such as non-financial assets, primarily property and equipment, right-of-use operating lease assets, equity investments, intangible assets and goodwill in connection with impairment evaluations. Such assets are reported at carrying value and are not subject to recurring fair value measurements. We review our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Fair value is generally determined based on discounted future cash flow. All our nonrecurring valuations use significant unobservable inputs and therefore fall under Level 3 of the fair value hierarchy.

*Equity Investments.* During the six-month period ended June 30, 2023, we recorded impairment charges of \$270,000 associated with our previously-held equity investment in Bluegrass in connection with the asset acquisition completed on May 4, 2023 (see Note 4).

*Intangible Assets.* During the six-month period ended June 30, 2023, we had no losses related to acquired intangible assets. During the six-month period ended June 30, 2022, we recorded an impairment charge of \$1.7 million related to the acquired intangible assets from our August 2019 acquisition of STD Pharmaceutical (see Note 6). In addition to the intangible asset impairment, during the three-month period ended June 30, 2022, we recorded a loss within other expense – net of \$1.3 million primarily associated with the transfer of net assets of the divested entity including approximately \$1.0 million of cash and \$1.2 million of inventory, partially offset by a gain of \$1.0 million from reclassification of foreign currency translation gains.

### ***Current Expected Credit Losses***

Our outstanding long-term notes receivable, including accrued interest and an allowance for current expected credit losses, were \$2.4 million and \$2.4 million as of June 30, 2023 and December 31, 2022, respectively. As of June 30, 2023 and December 31, 2022, we had an allowance for current expected credit losses of \$296,000 and \$281,000, respectively, associated with these notes receivable. We assess the allowance for current expected credit losses on an individual security basis, due to the limited number of securities, using a probability of default model, which is based on relevant information about past events, including historical experience, current conditions and reasonable and supportable forecasts that affect the expected collectability of securities, and other security specific factors.

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The table below presents a rollforward of the allowance for current expected credit losses on our notes receivable for the three and six-month periods ended June 30, 2023 and 2022 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Beginning balance	\$ 290	\$ 199	\$ 281	\$ 199
Provision for credit loss expense	6	(7)	15	(7)
Ending balance	<u>\$ 296</u>	<u>\$ 192</u>	<u>\$ 296</u>	<u>\$ 192</u>

**15. Accumulated Other Comprehensive Income (Loss).** The changes in each component of accumulated other comprehensive income (loss) for the three and six-month periods ended June 30, 2023 and 2022 were as follows:

	Cash Flow Hedges	Foreign Currency Translation	Total
Balance as of April 1, 2023	\$ 3,081	\$ (14,010)	\$ (10,929)
Other comprehensive income (loss)	5,044	(1,201)	3,843
Income taxes	(821)	(15)	(836)
Reclassifications to:			
Revenue	(658)		(658)
Cost of sales	(333)		(333)
Interest expense	(631)		(631)
Net other comprehensive income (loss)	<u>2,601</u>	<u>(1,216)</u>	<u>1,385</u>
Balance as of June 30, 2023	<u>\$ 5,682</u>	<u>\$ (15,226)</u>	<u>\$ (9,544)</u>
	Cash Flow Hedges	Foreign Currency Translation	Total
Balance as of April 1, 2022	\$ (269)	\$ (6,384)	\$ (6,653)
Other comprehensive income (loss)	6,181	(7,943)	(1,762)
Income taxes	(1,572)	60	(1,512)
Reclassifications to:			
Revenue	(198)		(198)
Cost of sales	263		263
Interest expense	179		179
Other expense - net		(1,036)	(1,036)
Net other comprehensive income (loss)	<u>4,853</u>	<u>(8,919)</u>	<u>(4,066)</u>
Balance as of June 30, 2022	<u>\$ 4,584</u>	<u>\$ (15,303)</u>	<u>\$ (10,719)</u>

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	<u>Cash Flow Hedges</u>	<u>Foreign Currency Translation</u>	<u>Total</u>
Balance as of January 1, 2023	\$ 4,366	\$ (15,916)	\$ (11,550)
Other comprehensive income (loss)	5,164	724	5,888
Income taxes	(415)	(34)	(449)
Reclassifications to:			
Revenue	(1,985)		(1,985)
Cost of sales	(283)		(283)
Interest expense	(1,165)		(1,165)
Other expense — net			—
Net other comprehensive income (loss)	1,316	690	2,006
Balance as of June 30, 2023	\$ 5,682	\$ (15,226)	\$ (9,544)
	<u>Cash Flow Hedges</u>	<u>Foreign Currency Translation</u>	<u>Total</u>
Balance as of January 1, 2022	\$ (2,464)	\$ (5,527)	\$ (7,991)
Other comprehensive income (loss)	8,225	(8,736)	(511)
Income taxes	(2,284)	(4)	(2,288)
Reclassifications to:			
Revenue	188		188
Cost of sales	446		446
Interest expense	473		473
Other expense - net		(1,036)	(1,036)
Net other comprehensive income (loss)	7,048	(9,776)	(2,728)
Balance as of June 30, 2022	\$ 4,584	\$ (15,303)	\$ (10,719)

## **ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and related condensed notes thereto, which are included in Part I of this report. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to inherent risks and uncertainties that may adversely impact our operations and financial results. These risks and uncertainties are discussed in Part I, Item 1A “Risk Factors” in the 2022 Annual Report on Form 10-K and in Part II, Item 1A “Risk Factors” in this report.

### **OVERVIEW**

We design, develop, manufacture, market and sell medical products for interventional and diagnostic procedures. For financial reporting purposes, we report our operations in two operating segments: cardiovascular and endoscopy. Our cardiovascular segment consists of four product categories: peripheral intervention, cardiac intervention, custom procedural solutions, and OEM. Within these product categories, we sell a variety of products, including cardiology and radiology devices (which assist in diagnosing and treating coronary arterial disease, peripheral vascular disease and other non-vascular diseases), as well as embolotherapeutic, cardiac rhythm management, electrophysiology, critical care, breast cancer localization and guidance, biopsy, and interventional oncology and spine devices. Our endoscopy segment consists of gastroenterology and pulmonology devices which assist in the palliative treatment of expanding esophageal, tracheobronchial and biliary strictures caused by malignant tumors.

For the three-month period ended June 30, 2023, we reported sales of \$320.1 million, up \$25.1 million or 8.5%, compared to sales for the three-month period ended June 30, 2022 of \$295.0 million. For the six-month period ended June 30, 2023, we reported sales of \$617.6 million, an increase of \$47.2 million or 8.3%, compared to sales for the six-month period ended June 30, 2022 of \$570.4 million. For the three and six-month periods ended June 30, 2023, foreign currency fluctuations (net of hedging) decreased our net sales by \$2.6 million and \$7.4 million, respectively, assuming applicable foreign exchange rates in effect during the comparable prior-year periods.

Gross profit as a percentage of sales increased to 47.7% for the three-month period ended June 30, 2023, compared to 45.8% for the three-month period ended June 30, 2022. Gross profit as a percentage of sales increased to 47.1% for the six-month period ended June 30, 2023, compared to 44.9% for the six-month period ended June 30, 2022.

Net income for the three-month period ended June 30, 2023 was \$20.2 million, or \$0.35 per share, compared to net income of \$15.3 million, or \$0.27 per share, for the three-month period ended June 30, 2022. Net income for the six-month period ended June 30, 2023 was \$40.9 million, or \$0.70 per share, compared to net income of \$25.8 million, or \$0.45 per share, for the six-month period ended June 30, 2022.

### **Recent Developments and Trends**

In addition to the trends identified in the 2022 Annual Report on Form 10-K under the heading “Management’s Discussion and Analysis of Financial Condition and Results of Operations - Overview,” our business in 2023 has been impacted, and we believe will continue to be impacted, by the following recent developments and trends:

- Our revenue results during the three-month period ended June 30, 2023 were driven primarily by stronger than anticipated demand in the U.S. and more favorable than anticipated international sales trends, particularly in the Asia Pacific (“APAC”) and Europe, Middle East and Africa (“EMEA”) regions.
- On November 10, 2020, we introduced a corporate transformation initiative known as “Foundations for Growth” with multi-year financial targets for growth and improved profitability. Our dedication to our Foundations for Growth program helped offset inflationary cost pressures in certain raw materials, shipping, and freight expenses.
- As of June 30, 2023, we had cash, cash equivalents, and restricted cash of \$74.2 million and net available borrowing capacity of approximately \$507 million.

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- During the three months ended June 30, 2023, we completed the acquisition of a portfolio of dialysis catheter products and the BioSentry Biopsy Tract Sealant System from AngioDynamics and acquisition of the Surfacer Inside-Out Access Catheter System from Bluegrass.

**RESULTS OF OPERATIONS**

The following table sets forth certain operational data as a percentage of sales for the periods indicated:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net sales	100 %	100 %	100 %	100 %
Gross profit	47.7	45.8	47.1	44.9
Selling, general and administrative expenses	31.5	29.0	30.9	29.7
Research and development expenses	6.3	6.3	6.7	6.3
Impairment charges	0.1	—	0.0	0.3
Contingent consideration expense	0.3	0.4	0.3	0.7
Acquired in-process research and development expense	0.5	2.3	0.3	1.2
Income from operations	9.0	7.9	8.9	6.7
Other expense — net	(1.2)	(0.9)	(0.8)	(0.6)
Income before income taxes	7.8	7.0	8.2	6.1
Net income	6.3	5.2	6.6	4.5

**Sales**

Sales for the three-month period ended June 30, 2023 increased by 8.5%, or \$25.1 million, compared to the corresponding period in 2022. Sales for the six-month period ended June 30, 2023 increased by 8.3%, or \$47.2 million, compared to the corresponding period in 2022. Listed below are the sales by product category within each of our financial reporting segments for the three and six-month periods ended June 30, 2023 and 2022 (in thousands, other than percentage changes):

	% Change	Three Months Ended June 30,		% Change	Six Months Ended June 30,	
		2023	2022		2023	2022
<b>Cardiovascular</b>						
Peripheral Intervention	13.5 %	\$ 125,909	\$ 110,955	10.6 %	\$ 239,692	\$ 216,728
Cardiac Intervention	4.7 %	93,775	89,574	4.7 %	179,103	171,061
Custom Procedural Solutions	0.6 %	49,384	49,093	1.8 %	97,085	95,355
OEM	13.9 %	42,207	37,048	18.3 %	83,371	70,462
Total	8.6 %	311,275	286,670	8.2 %	599,251	553,606
<b>Endoscopy</b>						
Endoscopy Devices	5.7 %	8,781	8,306	9.4 %	18,370	16,785
Total	8.5 %	\$ 320,056	\$ 294,976	8.3 %	\$ 617,621	\$ 570,391

**Cardiovascular Sales.** Our cardiovascular sales for the three-month period ended June 30, 2023 were \$311.3 million, up 8.6% when compared to the corresponding period of 2022 of \$286.7 million. Sales for the three-month period ended June 30, 2023 were favorably affected by increased sales of:

- Peripheral intervention products, which increased by \$15.0 million, or 13.5%, from the corresponding period of 2022. This increase was driven primarily by sales of our access, radar localization, embolotherapy, drainage, biopsy, and angiography products.



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- (b) Cardiac intervention products, which increased by \$4.2 million, or 4.7%, from the corresponding period of 2022. This increase was driven primarily by sales of our angiography, hemostasis, access and cardiac rhythm management/electrophysiology (“CRM/EP”) products, offset partially by decreased sales of our intervention products.
- (c) Custom procedural solutions products, which increased by \$0.3 million, or 0.6%, from the corresponding period of 2022. This increase was driven primarily by increased sales of our kits and critical care products, offset partially by decreased sales of our procedure trays.
- (d) OEM products, which increased by \$5.2 million, or 13.9%, from the corresponding period of 2022. This increase was driven primarily by sales of our CRM/EP, coatings, and kits, offset partially by intervention, angiography and access products.

Our cardiovascular sales for the six-month period ended June 30, 2023 were \$599.3 million, up 8.2% when compared to the corresponding period of 2022 of \$553.6 million. Sales for the six-month period ended June 30, 2023 were favorably affected by increased sales of:

- (a) Peripheral intervention products, which increased by \$23.0 million, or 10.6%, from the corresponding period of 2022. This increase was driven primarily by sales of our access, drainage, radar localization, biopsy, angiography and embolotherapy products, offset partially by decreased sales of our intervention products.
- (b) Cardiac intervention products, which increased by \$8.0 million, or 4.7%, from the corresponding period of 2022. This increase was driven primarily by sales of our angiography, access, hemostasis and CRM/EP products, offset partially by decreased sales of our intervention products.
- (c) Custom procedural solutions products, which increased by \$1.7 million, or 1.8%, from the corresponding period of 2022. This increase was driven primarily by increased sales of our kits, offset partially by decreased sales of our critical care products and procedure trays.
- (d) OEM products, which increased by \$12.9 million, or 18.3%, from the corresponding period of 2022. This increase was driven primarily by sales of our CRM/EP, kits, coatings and intervention products, offset partially by decreased sales of our angiography and access products.

Endoscopy Sales. Our endoscopy sales for the three-month period ended June 30, 2023 were \$8.8 million, up 5.7% when compared to sales in the corresponding period of 2022 of \$8.3 million. Sales for the three-month period ended June 30, 2023 compared to the corresponding period in 2022 were favorably affected by increased sales of our EndoMAXX® fully covered esophageal stent, Elation® Pulmonary Balloon Dilator, Big 60™ Alpha™ inflation device, and other stents, offset partially by decreased sales of our probes.

Our endoscopy sales for the six-month period ended June 30, 2023 were \$18.4 million, up 9.4%, when compared to sales in the corresponding period of 2022 of \$16.8 million. Sales for the six-month period ended June 30, 2023 were favorably affected by increased sales of our EndoMAXX fully covered esophageal stent, Elation Pulmonary Balloon Dilator, Aero Mini tracheobronchial stent and Big 60 Alpha inflation device, offset partially by decreased sales of our probes and other stents.

## Geographic Sales

Listed below are sales by geography for the three and six-month periods ended June 30, 2023 and 2022 (in thousands, other than percentage changes):

	% Change	Three Months Ended June 30,		% Change	Six Months Ended June 30,	
		2023	2022		2023	2022
United States	9.1 %	\$ 179,582	\$ 164,674	10.5 %	\$ 350,942	\$ 317,666
International	7.8 %	140,474	130,302	5.5 %	266,679	252,725
Total	8.5 %	\$ 320,056	\$ 294,976	8.3 %	\$ 617,621	\$ 570,391

**United States Sales.** U.S. sales for the three-month period ended June 30, 2023 were \$179.6 million, or 56.1% of net sales, up 9.1% when compared to the corresponding period of 2022. U.S. sales for the six-month period ended June 30, 2023 were \$350.9 million, or 56.8% of net sales, up 10.5% when compared to the corresponding period of 2022. The increase in our domestic sales was driven primarily by our U.S. Direct and OEM businesses.

**International Sales.** International sales for the three-month period ended June 30, 2023 were \$140.5 million, or 43.9% of net sales, up 7.8% when compared to the corresponding period of 2022 of \$130.3 million. The increase in our international sales for the three-month period ended June 30, 2023, compared to the corresponding period of June 30, 2022 included increased sales in our Asia Pacific operations of \$6.7 million or 10.8%, in our EMEA operations of \$2.9 million or 5.2%, and in our rest of world ("ROW") operations of \$0.5 million or 4.5%.

International sales for the six-month period ended June 30, 2023 were \$266.7 million, or 43.2% of net sales, up 5.5% when compared to the corresponding period of 2022 of \$252.7 million. The increase in our international sales for the six-month period ended June 30, 2023, compared to the six-month period ended June 30, 2022, included increased sales in our EMEA operations of \$9.0 million or 8.3%, in our APAC operations of \$3.8 million or 3.1%, and in our ROW operations of \$1.2 million or 5.5%.

## Gross Profit

Our gross profit as a percentage of sales increased to 47.7% for the three-month period ended June 30, 2023, compared to 45.8% for the three-month period ended June 30, 2022. The increase in gross profit percentage was primarily due to favorable changes in product mix, efficiencies gained in our Foundations for Growth program, and lower freight costs as a percentage of sales.

Our gross profit as a percentage of sales increased to 47.1% for the six-month period ended June 30, 2023, compared to 44.9% for the six-month period ended June 30, 2022. The increase in gross profit percentage was primarily due to favorable changes in product mix, favorable manufacturing variances from efficiencies gained in our Foundations for Growth program and lower freight costs as a percentage of sales.

## Operating Expenses

**Selling, General and Administrative Expense.** Selling, general and administrative ("SG&A") expenses increased \$15.4 million, or 18.1%, for the three-month period ended June 30, 2023 compared to the corresponding period of 2022. As a percentage of sales, SG&A expenses were 31.5% for the three-month period ended June 30, 2023, compared to 29.0% for the corresponding period of 2022. SG&A expenses increased \$21.6 million, or 12.7%, for the six-month period ended June 30, 2023 compared to the corresponding period of 2022. As a percentage of sales, SG&A expenses were 30.9% for the six-month period ended June 30, 2023, compared to 29.7% for the corresponding period of 2022. For the three and six-month periods ended June 30, 2023, SG&A expenses increased compared to the corresponding periods of 2022 primarily due to acquisition-related costs incurred in connection with the AngioDynamics and Bluegrass transactions, increased labor-related costs associated with headcount, increased loss for disposal of equipment, as well as increased travel and marketing costs to promote sales as restrictions continued to lift post-COVID 19 pandemic.

**Research and Development Expenses.** Research and development (“R&D”) expenses for the three-month period ended June 30, 2023 were \$20.1 million, up 9.0%, when compared to R&D expenses in the corresponding period of 2022 of \$18.5 million. R&D expenses for the six-month period ended June 30, 2023 were \$41.4 million, up 15.6%, when compared to R&D expenses in the corresponding period of 2022 of \$35.9 million. The increases in R&D expenses for the three and six-month periods ended June 30, 2023 compared to the corresponding periods in 2022 were largely due to increased labor-related costs and higher regulatory costs.

**Impairment Charges.** For the three and six-month periods ended June 30, 2023, we recorded impairment charges of \$270 thousand due to the acquisition and subsequent write-off of our equity investment in Bluegrass. For the six-month period ended June 30, 2022, we recorded impairment charges of \$1.7 million of intangible assets due to the divestiture of the STD Pharmaceutical business, which we completed on April 30, 2022.

**Contingent Consideration Expense.** For the three and six-month periods ended June 30, 2023, we recognized contingent consideration expense from changes in the estimated fair value of our contingent consideration obligations stemming from our previously disclosed business acquisitions of \$1.1 million and \$1.6 million, respectively, compared to contingent consideration expense of \$1.2 million and \$3.8 million for the three and six-month periods ended June 30, 2022, respectively. Expense in each period related to changes in the probability and timing of achieving certain revenue and operational milestones, as well as expense for the passage of time.

**Acquired In-process Research and Development.** For the three and six-month periods ended June 30, 2023, we recognized \$1.6 million in acquired in-process research and development costs primarily associated with the assets we acquired from ART on May 1, 2023. For the three and six-month periods ended June 30, 2022, we recognized \$6.7 million in acquired in-process research and development costs primarily associated with our acquisition of Restore Endosystems, LLC (“Restore Endosystems”).

## Operating Income

The following table sets forth our operating income by financial reporting segment for the three and six-month periods ended June 30, 2023 and 2022 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
<b>Operating Income</b>				
Cardiovascular	\$ 26,464	\$ 21,275	\$ 50,398	\$ 34,401
Endoscopy	2,348	1,981	4,797	4,088
Total operating income	\$ 28,812	\$ 23,256	\$ 55,195	\$ 38,489

**Cardiovascular Operating Income.** Our cardiovascular operating income for the three-month period ended June 30, 2023 was \$26.5 million, compared to cardiovascular operating income in the corresponding period of 2022 of \$21.3 million. The increase in cardiovascular operating income during the three-month period ended June 30, 2023 compared to the corresponding period of 2022 was primarily a result of higher sales (\$311.3 million compared to \$286.7 million) and higher gross margin, lower acquired in-process research and development charges, partially offset by higher SG&A and R&D expenses.

Our cardiovascular operating income for the six-month period ended June 30, 2023 was \$50.4 million, compared to cardiovascular operating income in the corresponding period of 2022 of \$34.4 million. The increase in cardiovascular operating income during the six-month period ended June 30, 2023 compared to the corresponding period of 2022 was primarily a result of higher sales (\$599.3 million compared to \$553.6 million) and higher gross margin, lower impairment charges, lower contingent consideration expense, and lower acquired in-process research and development charges, partially offset by higher SG&A and R&D expenses.

**Endoscopy Operating Income.** Our endoscopy operating income for the three-month period ended June 30, 2023 was \$2.3 million, compared to endoscopy operating income of \$2.0 million for the corresponding period of 2022. Our endoscopy operating income for the six-month period ended June 30, 2023 was \$4.8 million, compared to endoscopy operating income of \$4.1 million for the corresponding period of 2022. The increase in endoscopy operating income for the three and six-month periods ended June 30, 2023 compared to the corresponding periods of 2022 was primarily a result of increased sales and gross margin, offset partially by higher SG&A expenses.

#### **Other Expense – Net**

Our other expense for the three-month periods ended June 30, 2023 and 2022 was \$3.9 million and \$2.6 million, respectively. The change in other expense was primarily related to an increase in interest expense associated with increased borrowings and rising interest rates, increased expense associated with realized and unrealized foreign currency losses, partially offset by a \$1.3 million loss on the divestiture of the STD Pharmaceutical business in 2022.

Our other expense for the six-month periods ended June 30, 2023 and 2022 was \$4.8 million and \$3.6 million, respectively. The change in other expense was primarily related to an increase in interest expense associated with increased borrowings and rising interest rates, partially offset by decreased expense associated with realized and unrealized foreign currency losses and a \$1.3 million loss on the divestiture of the STD Pharmaceutical business in 2022.

#### **Effective Tax Rate**

Our provision for income taxes for the three-month periods ended June 30, 2023 and 2022 was a tax expense of \$4.7 million and \$5.4 million, respectively, which resulted in an effective tax rate of 18.7% and 26.1%, respectively. Our provision for income taxes for the six-month periods ended June 30, 2023 and 2022 was a tax expense of \$9.5 million and \$9.0 million, respectively, which resulted in an effective tax rate of 18.8% and 25.9%, respectively. The decrease in the effective income tax rate for the three and six-month periods ended June 30, 2023, when compared to the prior-year periods, was primarily due to increased benefit from discrete items such as share-based compensation and deferred compensation, as well as foreign tax credit utilization. The change in income tax expense when compared to the prior-year periods was primarily due to differences in pre-tax book income.

#### **Net Income**

Our net income for the three-month periods ended June 30, 2023 and 2022 was \$20.2 million and \$15.3 million, respectively. The increase in our net income for the three-month period ended June 30, 2023 was primarily the result of higher sales, higher gross margins as a percentage of sales, and lower acquired in-process research and development charges, partially offset by higher SG&A and R&D expenses.

Our net income for the six-month periods ended June 30, 2023 and 2022 was \$40.9 million and \$25.8 million, respectively. The increase in our net income for the six-month period ended June 30, 2023 was the result of several principal factors, including higher sales, improved gross margins as a percentage of sales, lower impairment charges and lower acquired in-process research and development charges, partially offset by higher SG&A and R&D expenses and higher income tax expense.

## LIQUIDITY AND CAPITAL RESOURCES

### Capital Commitments, Contractual Obligations and Cash Flows

As of June 30, 2023 and December 31, 2022, our current assets exceeded current liabilities by \$404.9 million and \$308.4 million, respectively, and we had cash, cash equivalents and restricted cash of \$74.2 million and \$60.6 million, respectively, of which \$51.3 million and \$49.6 million, respectively, were held by foreign subsidiaries. We currently believe future repatriation of cash and other property held by our foreign subsidiaries will generally not be subject to U.S. federal income tax. As a result, we are not permanently reinvested with respect to our historic unremitted foreign earnings. In addition, cash held by our subsidiary in China is subject to local laws and regulations that require government approval for the transfer of such funds to entities located outside of China. As of June 30, 2023, and December 31, 2022, we had cash, cash equivalents and restricted cash of \$26.2 million and \$26.1 million, respectively, within our subsidiary in China.

Cash flows provided by operating activities. We generated cash from operating activities of \$31.8 million and \$50.8 million during the six-month periods ended June 30, 2023 and 2022, respectively. Significant factors affecting operating cash flows during these periods included:

- Net income was \$40.9 million and \$25.8 million for the six-month periods ended June 30, 2023 and 2022, respectively.
- Cash used for inventories was \$(35.5) million and \$(14.8) million for the six-month periods ended June 30, 2023 and 2022, respectively. The increase in inventory was associated with our strategy to proactively invest in our inventory balances to encourage high customer service levels, as well as to build bridge inventory for production line transfers and increases in safety stock due to vendor supply delays.
- Cash paid for income taxes was \$(17.8) million and \$(7.9) million for the six-month periods ended June 30, 2023 and 2022, respectively, due primarily due to increases in income before tax.

Cash flows used in investing activities. We used cash in investing activities of \$157.8 million and \$23.3 million for the six-month periods ended June 30, 2023 and 2022, respectively. We used cash for capital expenditures of property and equipment of \$18.6 million and \$16.8 million in the six-month periods ended June 30, 2023 and 2022, respectively. Capital expenditures in each period were primarily related to investment in property and equipment to support development and production of our products. Historically, we have incurred significant expenses in connection with facility construction, production automation, product development and the introduction of new products. We anticipate that we will spend approximately \$55 to \$60 million in 2023 for property and equipment.

Cash outflows invested in acquisitions for the six-month period ended June 30, 2023 were \$138.3 million and were primarily related to payments in our asset purchase agreements with AngioDynamics (\$100 million), Bluegrass (\$32.7 million) and ART (\$1.5 million), and our investment in Solo Pace (\$4.0 million). Cash outflows invested in acquisitions for the six-month period ended June 30, 2022 were approximately \$4.7 million and were primarily related to our \$3.0 million upfront payment in our purchase of Restore Endosystems and our additional equity investment in Fluidx Medical Technology, LLC of \$1.4 million.

Cash flows used in financing activities. Cash provided by (used in) financing activities for the six-month periods ended June 30, 2023 and 2022 was \$141.0 million and \$(27.4) million, respectively. During the six-month period ended June 30, 2023 we increased our net borrowings by approximately \$141.8 million to finance the acquisitions of AngioDynamics and Bluegrass. During the six-month period ended June 30, 2022 we increased our net borrowings by approximately \$3.1 million to partially finance the payment of contingent consideration of \$34.6 million, principally related to our acquisition of Cianna Medical and payment of the final sales milestone to Vascular Insights, LLC.

As of June 30, 2023, we had outstanding borrowings of \$340.0 million and issued letter of credit guarantees of \$3.2 million under the Fourth Amended Credit Agreement, with additional available borrowings of approximately \$507 million, based on the maximum net leverage ratio and the aggregate revolving credit commitment pursuant to the Fourth Amended Credit Agreement. Our interest rate as of June 30, 2023 was a fixed rate of 2.64% with respect to \$75 million of the principal amount as a result of an interest rate swap and a variable floating rate of 6.15% with respect to \$265.0 million of the principal amount. Our interest rate as of December 31, 2022 was a fixed rate of 2.71% on \$75 million as a result of an interest rate swap and a variable floating rate of 5.38% on \$123.2 million.

We currently believe that our existing cash balances, anticipated future cash flows from operations and borrowings under the Fourth Amended Credit Agreement will be adequate to fund our current and currently planned future operations for the next twelve months and the foreseeable future. In the event we pursue and complete significant transactions or acquisitions in the future, additional funds will likely be required to meet our strategic needs, which may require us to raise additional funds in the debt or equity markets.

#### **CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

Our financial results are affected by the selection and application of accounting policies and methods. In the six-month period ended June 30, 2023 there were no changes to the application of critical accounting policies previously disclosed in Part II, Item 7 of the 2022 Annual Report on Form 10-K.

#### **CAUTIONARY NOTICE REGARDING FORWARD-LOOKING STATEMENTS**

This report includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). All statements in this report, other than statements of historical fact, are “forward-looking statements” for purposes of these provisions, including any projections of earnings, revenues or other financial items, any statements of the plans and objectives of our management for future operations, any statements concerning proposed new products or services, any statements regarding the integration, development or commercialization of the business or any assets acquired from other parties, any statements regarding future economic conditions or performance, and any statements of assumptions underlying any of the foregoing. In some cases, forward-looking statements can be identified by the use of terminology such as “may,” “will,” “expects,” “plans,” “anticipates,” “intends,” “seeks,” “believes,” “estimates,” “potential,” “forecasts,” “continue,” or other forms of these words or similar words or expressions, or the negative thereof or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements contained herein are reasonable, there can be no assurance that such expectations or any of the forward-looking statements will prove to be correct, and actual results will likely differ, and could differ materially, from those projected or assumed in the forward-looking statements. Investors are cautioned not to unduly rely on any such forward-looking statements.

All subsequent forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by these cautionary statements. Our actual results will likely differ, and may differ materially, from anticipated results. Financial estimates are subject to change and are not intended to be relied upon as predictions of future operating results. All forward-looking statements included in this report are made as of the date hereof and are based on information available to us as of such date. We assume no obligation to update any forward-looking statement. If we do update or correct one or more forward-looking statements, investors and others should not conclude that we will make additional updates or corrections.

#### **NOTICE REGARDING TRADEMARKS**

This report includes trademarks, tradenames and service marks that are our property or the property of others. Solely for convenience, such trademarks and tradenames sometimes appear without any “™” or “®” symbol. However, failure to include such symbols is not intended to suggest, in any way, that we will not assert our rights or the rights of any applicable licensor, to these trademarks and tradenames.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Quantitative and qualitative disclosures about currency exchange rate risk and interest rate risk are included in Part II, Item 7A "Quantitative and Qualitative Disclosures About Market Risk" in the 2022 Annual Report on Form 10-K. In the six-month period ended June 30, 2023, there were no material changes from the information provided therein.

### **ITEM 4. CONTROLS AND PROCEDURES**

#### **Evaluation of Disclosure Controls and Procedures**

Our management is responsible for establishing and maintaining adequate disclosure controls and procedures for our company. Consequently, our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 under the Exchange Act as of June 30, 2023. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints, and that management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs. Based on that evaluation, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures are designed at a reasonable assurance level and are effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms, and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosure.

#### **Changes in Internal Control Over Financial Reporting**

During the six-month period ended June 30, 2023, there were no changes in our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934).

## **PART II - OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

See Note 10 "Commitments and Contingencies" set forth in the notes to our consolidated financial statements included in Part I, Item 1 of this report.

### **ITEM 1A. RISK FACTORS**

In addition to other information set forth in this report, readers should carefully consider the factors discussed in Part I, Item 1A. "Risk Factors" of the 2022 Annual Report on Form 10-K, as updated and supplemented below. Any of the risk factors disclosed in our reports could materially affect our business, financial condition or future results. The risks described here and in our 2022 Annual Report on Form 10-K are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially and adversely affect our business, financial condition and/or operating results. The discussion of the risk factors below updates the corresponding disclosure under the same headings in the 2022 Annual Report on Form 10-K and may contain material changes to the corresponding risk factor discussion in our 2022 Annual Report on Form 10-K.

*Our international operations make us subject to the U.S. Foreign Corrupt Practices Act and similar anti-bribery laws in non-U.S. jurisdictions, and our failure, or the failure of our distributors and agents, to comply with these laws could subject us to civil and criminal penalties and adversely affect our business.*

We currently conduct our business in various foreign countries, and we expect to continue to expand our foreign operations. As a result, we are subject to the U.S. Foreign Corrupt Practices Act (“FCPA”), the U.K. Bribery Act, and similar anti-corruption laws in non-U.S. jurisdictions. These laws generally prohibit companies and their intermediaries from illegally offering things of value to any individual for the purpose of obtaining or retaining business.

Compliance with the FCPA and other anti-bribery laws presents challenges to our operations. Our policies mandate compliance with the FCPA and all other applicable anti-bribery laws. Further, we expect our employees, distributors, agents and others who work for us or on our behalf to comply with these anti-bribery laws. Despite our training and compliance programs, our internal control policies and procedures may not always protect us from reckless or criminal acts committed by our employees, distributors or agents. If our employees, distributors or agents violate the provisions of the FCPA or other anti-bribery laws, or even if there are allegations of such violations, we could be subject to investigations or civil and criminal penalties or other sanctions, which could have a material adverse effect on our reputation, business, results of operations, financial condition or cash flows.

As disclosed in Note 10 “Commitments and Contingencies” to our consolidated financial statements, although we are unable to predict the scope, timing, significance or outcome of the SEC inquiry referenced in that note, the inquiry may cause a diversion of our management’s time and attention and could have a material adverse effect on our reputation, business, results of operations, financial condition or cash flows.

*Substantial costs are incurred when identifying, evaluating, negotiating and closing acquisitions, and failure to integrate acquired businesses may adversely impact our business and financial results.*

We have completed a series of significant acquisitions and, continue to evaluate other potential acquisitions and strategic transactions, certain of which may also be significant. We have incurred, and will likely continue to incur, significant expenses in connection with evaluating, negotiating and consummating various acquisition and other strategic transactions. As we grow through acquisitions, we face the additional challenges of integrating the operations, culture, information management systems and other characteristics of the acquired entity with our own, including sales models related to capital equipment. Our efforts to integrate acquisitions may be hampered by delays, the loss of certain employees, suppliers or customers, proceedings resulting from employment terminations, culture clashes, unbudgeted costs, and other issues, which may occur at levels that are more severe or prolonged than anticipated. For example, in May and June 2023 we completed the acquisitions of substantially all the assets of Bluegrass and a portfolio of dialysis catheter products and the BioSentry Biopsy Tract Sealant System from AngioDynamics, respectively. Our integrations of the acquired assets are in their early stages and substantial risks and uncertainties exist with respect to our ability to achieve the operating and financial results, product and market development and other benefits we have projected with respect to the acquisitions. Among other challenges, these acquisitions will require us to transfer the manufacturing operations conducted with respect to the acquired assets, develop new manufacturing capabilities, enhance and expand our sales and marketing capabilities and extend the capacities of our regulatory, and research and development groups. There is no certainty that we will be able to effectively integrate, manufacture, market or commercialize the acquired assets. We could also face other challenges associated with completed or prospective acquisitions, which we may not currently anticipate.

Additionally, past and future acquisitions may increase the risks of competition we face by, among other things, extending our operations into industry segments and product lines where we have few existing customers or qualified sales personnel and limited expertise. Further, as a result of certain acquisitions, we are selling capital equipment, in addition to our historical sales of disposable medical devices. The sale of capital equipment may create additional risks and potential liability, which may negatively affect our business, operations or financial condition.

In addition, we may not realize competitive advantages, synergies or other benefits anticipated in connection with any such acquisition or other transaction. If we do not adequately identify and value targets for, or manage issues related to, acquisitions and strategic transactions, such transactions may not produce the anticipated benefits and have an adverse effect on our business, operations or financial condition. We have incurred expenses in connection with the disposition of businesses and assets which we acquired but determined that they did not produce the benefits contemplated at the time of acquisition. We may incur similar expenses in the future.



**ITEM 5. OTHER INFORMATION**

During the fiscal quarter ended June 30, 2023, none of our directors or officers informed us of the adoption or termination of a “Rule 10b5-1 trading arrangement” or “non-Rule 10b5-1 trading arrangement,” as those terms are defined in Regulation S-K, Item 408.

**ITEM 6. EXHIBITS**

<u>Exhibit No.</u>	<u>Description</u>
3.1	<a href="#">Second Amended and Restated Articles of Incorporation*</a>
3.2	<a href="#">Third Amended and Restated Bylaws*</a>
10.1	<a href="#">Form of Restricted Stock Unit Award Agreement, dated May 18, 2023, by and between Merit Medical Systems, Inc. and each of the following individuals: A. Scott Anderson, Lonny J. Carpenter, Stephen C. Evans, David K. Floyd, Thomas J. Gunderson, Laura S. Kaiser, Michael R. McDonnell, F. Ann Millner, and Lynne N. Ward.†</a>
10.2	<a href="#">Fourth Amended and Restated Credit Agreement by and Among Merit Medical Systems, Inc. as Borrower and the Lenders referred to herein, as Lenders, and Wells Fargo Bank, National Association, as Administrative Agent, and Wells Fargo Securities, LLC, BOFA Securities, Inc., HSBC Bank USA, National Association, U.S. Bank National Association and Truist Securities, Inc., as Joint Lead Arrangers and Joint Bookrunners, and Bank of America, N.A., HSBC Bank USA, National Association, U.S. Bank National Association and Truist Bank as Co-Syndication Agents and TD Bank, N.A., as Documentation Agent dated June 6, 2023.</a>
10.3	<a href="#">Asset Purchase Agreement, dated June 8, 2023, by and among Merit Medical Systems, Inc. and AngioDynamics, Inc.</a>
31.1	<a href="#">Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
32.1	<a href="#">Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
32.2	<a href="#">Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
101	The following financial information from the quarterly report on Form 10-Q for the quarter ended June 30, 2023, formatted in Inline Extensible Business Reporting Language (iXBRL): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Income, (iii) Consolidated Statements of Comprehensive Income (iv) Consolidated Statements of Stockholders' Equity, (v) Consolidated Statements of Cash Flows, and (vi) related Condensed Notes to the Unaudited Consolidated Financial Statements, tagged in detail.
104	Cover Page Interactive Data File (the cover page XBRL tags are embedded within the Inline XBRL document).

\* These exhibits are incorporated herein by reference.

† Indicates management contract or compensatory plan or arrangement.

**SIGNATURES**

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

MERIT MEDICAL SYSTEMS, INC.

Date: July 28, 2023

By: /s/ FRED P. LAMPROPOULOS  
Fred P. Lampropoulos, President and  
Chief Executive Officer

Date: July 28, 2023

By: /s/ RAUL PARRA  
Raul Parra  
Chief Financial Officer and Treasurer

**MERIT MEDICAL SYSTEMS, INC 2018 LONG-TERM INCENTIVE PLAN**  
**RESTRICTED STOCK UNIT AWARD AGREEMENT**

This Restricted Stock Unit Award Agreement (this "Award Agreement"), dated effective as May 18, 2023 (the "Grant Date"), is made by and between Merit Medical Systems, Inc. (the "Company"), and \_\_\_\_\_, a director of the Company ("you").

**1. Award of Restricted Stock Units**

The Company hereby grants to you an award of restricted stock units ("RSUs") with respect to its common stock, no par value (the "Shares"), pursuant to the Merit Medical Systems, Inc. 2018 Long-Term Incentive Plan (as amended from time to time, the "Plan"), subject to the terms and conditions set forth in this Award Agreement and the Plan. The RSUs constitute Restricted Stock Units and this Award Agreement constitutes an "Award Agreement" under the Plan. Capitalized terms used but not otherwise defined in this Award Agreement and the Appendix A attached hereto have the applicable meanings set forth in the Plan. With respect to your RSUs granted hereunder, the applicable Total Number of Shares are as follows:

<b>Total Number of Shares</b>	<b>2,262</b>
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**2. Vesting Conditions to Award**

Subject to the other terms and conditions of this Award Agreement and the Plan, you will be entitled to a payment in Shares with respect to your RSUs based on your Total Number of Shares set forth above and the vesting provisions contained herein. Except as otherwise provided in Section 3 below, you shall become vested in the RSUs on the one (1) year anniversary of the Grant Date (the "Vesting Date") and in accordance with the Plan, subject to your Continuous Service with the Company through the Vesting Date. Failure to satisfy the foregoing service-based vesting condition will result in total forfeiture of your RSUs and all rights to payment hereunder.

**3. Effect of a Change in Control**

If a Change in Control occurs prior to the Vesting Date, then you will be entitled to receive, no later than thirty (30) days following the effective date of the Change in Control, the Total Number of Shares covered by this Award Agreement.

**4. Payment**

(a) Timing of Settlement. Subject to Section 2 of this Award Agreement, promptly following the Vesting Date the Company will issue to you the Total Number of Shares. Such issuance and payment will be made in accordance with Section 4(c) below within the thirty (30) day period following the Vesting Date; provided, however, that in the event of a Change in Control, your RSUs will be settled and paid within the thirty (30) day period specified in Section 3 above.

(b) No Dividend Equivalents. No Dividend Equivalents will be paid on or with respect to the RSUs.

(c) Form of Payment. All amounts payable with respect to your RSUs will be paid in the form of Shares. RSUs will not be settled or paid in cash.

(d) Taxes. Taxes may be assessed and/or withheld as required by law at applicable United States federal, state and/or other tax rates (under the laws of the jurisdictions in which you reside or that may otherwise be applicable to you) with respect to your RSUs and the issuance of Shares in payment of your RSUs. Notwithstanding anything in this Award Agreement to the contrary, the issuance of Shares in payment of your RSUs described in this Award

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Agreement will be reduced by a number of Shares having a then Fair Market Value equal to the amount necessary to satisfy the minimum tax withholding obligations applicable to such RSUs and Share issuance.

## 5. Other Provisions

(a) Future Adjustments. In the event of any merger, acquisition, disposition or other corporate event affecting the Company prior to the Vesting Date, the Committee may make such adjustments to the Total Number of Shares subject to this Award Agreement pursuant to Section 12.2 of the Plan.

(b) No Guaranty of Future Awards. This Award Agreement in no way guarantees you the right to or expectation that you may receive similar awards with respect to any other period which the Committee may, in its discretion, establish and as to which the Committee may elect to grant Awards under the Plan.

(c) No Rights as Shareholder. You will not be considered a shareholder of the Company with respect to the Shares covered by this Award Agreement unless and until such underlying Shares are issued to you in settlement of your RSUs.

(d) No Rights to Continued Service. This Award Agreement will not be deemed to create a contract or other promise of continued service as a director or otherwise with the Company and will not in any way prohibit or restrict the ability of the Company to terminate your service at any time for any reason, with or without cause, at will with or without notice.

(e) Compliance with Section 409A of the Code. This Award Agreement and your RSUs are intended to constitute and result in a "short-term deferral" that is exempt from the definition of a "nonqualified deferred compensation plan" under Section 409A of the Code.

(f) Plan. All terms and conditions of the Plan are incorporated herein by reference and constitute an integral part hereof. In the event of any conflict between the provisions of this Award Agreement and the Plan, the provisions of the Plan, including without limitation Sections 4.2, 13.5, 13.6 and 13.15 of the Plan, will govern and be controlling.

(g) Transfers. Neither the RSUs nor the right to receive Shares hereunder may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by you. Any attempt to assign, alienate, pledge, attach, sell or otherwise transfer or encumber the RSUs or the rights relating thereto will be wholly ineffective. Notwithstanding the foregoing, in the event of your death, Shares deliverable with respect to the vested RSUs will be delivered to your designated beneficiary under the Plan (or if none, to your estate).

(h) Securities Law Restrictions. The issuance of Shares hereunder is conditioned upon compliance by the Company and you with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's Shares may be listed. No Shares will be issued or transferred unless and until any then applicable requirements of state and federal laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel. In addition, the Company may require that prior to the issuance of Shares hereunder you enter into a written agreement to comply with any restrictions on subsequent disposition that the Company deems necessary or advisable under any applicable federal and state securities laws. The Shares issued hereunder may be legended to reflect such restrictions.

(i) Governing Law. This Award Agreement will be construed and interpreted in accordance with the laws of the State of Utah without regard to conflict of law principles.

(j) Effect on Other Benefits. Participation in the Plan is voluntary. The value of the RSUs is an extraordinary item of compensation outside the scope of your normal service and compensation rights, if any. As such, the RSUs are not part of normal or expected compensation for purposes of calculating any severance, bonuses, awards, or retirement benefits or similar payments unless specifically and otherwise provided in the plans or agreements governing such compensation.

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(k) Entire Agreement. This Award Agreement supersedes in its entirety all prior undertakings and agreements of the Company and you, whether oral or written, with respect to the RSUs granted hereunder.

**By executing and accepting this Award Agreement, you agree to be bound as a Participant by the terms and conditions herein, the Plan and all conditions established by the Committee and the Company in connection with Awards issued under the Plan.**

**MERIT MEDICAL SYSTEMS, INC.**

\_\_\_\_\_  
Fred P. Lampropoulos  
President and Chief Executive Officer

\_\_\_\_\_  
Director

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## APPENDIX A

### (Definitions)

For purposes of this Award Agreement, the following terms have the following meanings:

“Change in Control” has the meaning set forth in the Plan; provided, that no event will constitute a Change of Control unless it is described in Code Section 409A(a)(2)(A)(v) and the Treasury Regulations thereunder.

“Continuous Service” has the meaning set forth in the Plan and includes service with the Company as an employee or Director of the Company.

“Total Number of Shares” means the number of Shares specified in Section 1 of this Award Agreement.

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\$850,000,000

**FOURTH AMENDED AND RESTATED CREDIT AGREEMENT**

dated as of June 6, 2023

by and among

**MERIT MEDICAL SYSTEMS, INC.,**  
as Borrower,

the Lenders referred to herein,  
as Lenders,

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as Administrative Agent

**WELLS FARGO SECURITIES, LLC,**  
**BOFA SECURITIES, INC.,**  
**HSBC BANK USA, NATIONAL ASSOCIATION**  
**U.S. BANK NATIONAL ASSOCIATION**

and

**TRUIST SECURITIES, INC.,**  
as Joint Lead Arrangers and Joint Bookrunners

**BANK OF AMERICA, N.A.,**  
**HSBC BANK USA, NATIONAL ASSOCIATION,**  
**U.S. BANK NATIONAL ASSOCIATION**

and

**TRUIST BANK,**  
as Co-Syndication Agents

**TD BANK, N.A.,**  
as Documentation Agent

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FOURTH AMENDED AND RESTATED CREDIT AGREEMENT, dated as of June 6, 2023, by and among MERIT MEDICAL SYSTEMS, INC., a Utah corporation, as Borrower, the lenders who are party to this Agreement pursuant to the terms hereof, as Lenders, and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Administrative Agent for the Lenders.

STATEMENT OF PURPOSE

The Borrower has requested, and subject to the terms and conditions set forth in this Agreement, the Administrative Agent and the Lenders have agreed to extend certain credit facilities to the Borrower.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, such parties hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 Definitions. The following terms when used in this Agreement shall have the meanings assigned to them below:

“Adjusted Daily Simple SONIA” means, for purposes of any calculation, the rate per annum equal to (a) Daily Simple SONIA for such calculation plus (b) the SONIA Adjustment; provided that if Adjusted Daily Simple SONIA as so determined shall ever be less than the Floor, then Adjusted Daily Simple SONIA shall be deemed to be the Floor.

“Adjusted Eurocurrency Rate” means, as to any Loan denominated in any applicable Currency not bearing interest based on an RFR (which, as of the date hereof, shall mean Euros) for any Interest Period, a rate per annum determined by the Administrative Agent pursuant to the following formula:

$$\text{Adjusted Eurocurrency Rate} = \frac{\text{Eurocurrency Rate for such Currency for such Interest Period}}{1.00\text{-Eurocurrency Reserve Percentage}}$$

“Adjusted Term SOFR” means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) the Term SOFR Adjustment; provided that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

“Administrative Agent” means Wells Fargo, in its capacity as Administrative Agent hereunder, and any successor thereto appointed pursuant to Section 13.6.

“Administrative Agent’s Office” means, with respect to any Currency, the office of the Administrative Agent specified in or determined in accordance with the provisions of Section 14.1(c), with respect to such Currency.

“Administrative Questionnaire” means an administrative questionnaire in a form supplied by the Administrative Agent.

“Affected Financial Institution” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

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“Affiliate” means, 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.

“Agreement” means this Fourth Amended and Restated Credit Agreement.

“Alternative Currency” means (a) each of (i) Euros and (ii) Sterling and (b) each other currency (other than Dollars) that is approved in accordance with Section 1.13, in each case to the extent such currencies (A) are freely transferable and convertible into Dollars, (B) are dealt with in the London interbank deposit market and (C) are not subject to any requirement by any central bank or other governmental authorization in the country of issue of such currency to give authorization for the use of such currency by any Lender for making Loans unless such authorization has been obtained and remains in full force and effect.

“Alternative Currency Equivalent” means, subject to Section 1.11, for any amount, at the time of determination thereof, with respect to any amount expressed in Dollars, the equivalent amount thereof in the applicable Alternative Currency or Alternative L/C Currency as determined by the Administrative Agent or the applicable Issuing Lender (with notice thereof to the Administrative Agent), as applicable, in its sole discretion by reference to the most recent Spot Rate (as determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency or Alternative L/C Currency with Dollars.

“Alternative Currency Sublimit” means the lesser of (a) \$40,000,000 and (b) the aggregate amount of the Revolving Credit Commitments.

“Alternative L/C Currency” means (a) each of (i) Euros and (ii) Sterling and (b) each other currency (other than Dollars) that is approved by the applicable Issuing Lender in accordance with Section 1.13, in each case to the extent such currencies (A) are freely transferable and convertible into Dollars, (B) are dealt with in the London interbank deposit market and (C) are not subject to any requirement by any central bank or other governmental authorization in the country of issue of such currency to give authorization for the use of such currency by any Issuing Lender for issuing Letters of Credit unless such authorization has been obtained and remains in full force and effect.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption, including the United States Foreign Corrupt Practices Act of 1977 and the rules and regulations thereunder and the U.K. Bribery Act 2010 and the rules and regulations thereunder.

“Anti-Money Laundering Laws” means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules related to terrorism financing, money laundering, any predicate crime to money laundering or any financial record keeping, including any applicable provision of the Patriot Act and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“Applicable Law” means all applicable provisions of constitutions, laws, statutes, ordinances, rules, treaties, regulations, permits, licenses, approvals, interpretations and orders of courts or Governmental Authorities and all orders and decrees of all courts and arbitrators.

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“Applicable Margin” means the corresponding percentages per annum as set forth below based on the Consolidated Total Net Leverage Ratio:

<b>Pricing Level</b>	<b>Consolidated Total Net Leverage Ratio</b>	<b>Commitment Fee</b>	<b>Adjusted Term SOFR, Adjusted Eurocurrency Rate and Adjusted Daily Simple SONIA +</b>	<b>Base Rate +</b>
I	Less than 1.75 to 1.00	0.20%	1.25%	0.25%
II	Greater than or equal to 1.75 to 1.00, but less than 2.25 to 1.00	0.20%	1.50%	0.50%
III	Greater than or equal to 2.25 to 1.00, but less than 2.75 to 1.00	0.25%	1.75%	0.75%
IV	Greater than or equal to 2.75 to 1.00, but less than 3.75 to 1.00	0.30%	2.00%	1.00%
V	Greater than or equal to 3.75 to 1.00	0.30%	2.25%	1.25%

The Applicable Margin shall be determined and adjusted quarterly on the date ten (10) Business Days after the day by which the Borrower provides an Officer’s Compliance Certificate pursuant to Section 8.2(a) for the most recently ended fiscal quarter of the Borrower (each such date, a “Calculation Date”); provided that (a) the Applicable Margin shall be based on Pricing Level I until the first Calculation Date following the receipt by the Administrative Agent of the financial statements and the related Officer’s Compliance Certificate for the first full fiscal quarter ending after the Closing Date and, thereafter the Pricing Level shall be determined by reference to the Consolidated Total Net Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date, and (b) if the Borrower fails to provide the Officer’s Compliance Certificate when due as required by Section 8.2 for the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date, the Applicable Margin from the date on which such Officer’s Compliance Certificate was required to have been delivered shall be based on Pricing Level V until such time as such Officer’s Compliance Certificate is provided, at which time the Pricing Level shall be determined by reference to the Consolidated Total Net Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding such Calculation Date. The applicable Pricing Level shall be effective from one Calculation Date until the next Calculation Date. Any adjustment in the Pricing Level shall be applicable to all Extensions of Credit then existing or subsequently made or issued.

Notwithstanding the foregoing, in the event that any financial statement or Officer’s Compliance Certificate delivered pursuant to Section 8.1 or Section 8.2(a) is shown to be inaccurate (regardless of whether (i) this Agreement is in effect, (ii) any Commitments are in effect, or (iii) any Extension of Credit is outstanding when such inaccuracy is discovered or such financial statement or Officer’s Compliance Certificate was delivered), and such inaccuracy, if corrected, would have led to the application of a higher



Applicable Margin for any period (an “Applicable Period”) than the Applicable Margin applied for such Applicable Period, then (A) the Borrower shall immediately deliver to the Administrative Agent a corrected Officer’s Compliance Certificate for such Applicable Period, (B) the Applicable Margin for such Applicable Period shall be determined as if the Consolidated Total Net Leverage Ratio in the corrected Officer’s Compliance Certificate were applicable for such Applicable Period, and (C) the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with Section 5.4. Nothing in this paragraph shall limit the rights of the Administrative Agent and Lenders with respect to Sections 5.1(b) and 12.2 nor any of their other rights under this Agreement or any other Loan Document. The Borrower’s obligations under this paragraph shall survive the termination of the Commitments and the repayment of all other Obligations hereunder.

The Applicable Margins set forth above shall be increased as, and to the extent, required by Section 5.13.

“Applicable Maturity Date” means (a) with respect to any Revolving Credit Loan or Swingline Loan, the Revolving Credit Maturity Date, (b) the Initial Term Loan, the Term Loan Maturity Date or (c) any Incremental Term Loan (if any), the date as determined pursuant to, and in accordance with, Section 5.13.

“Applicable Time” means, with respect to any Loans and Letters of Credit and payments in any Alternative Currency or Alternative L/C Currency, the local time in the place of settlement for such Alternative Currency or Alternative L/C Currency as may be determined by the Administrative Agent or the applicable Issuing Lender (with notice to the Administrative Agent), as the case may be, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

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

“Arrangers” means, collectively, Wells Fargo Securities, LLC, BofA Securities, Inc., HSBC Bank USA, National Association, U.S. Bank National Association and Truist Securities, Inc., each in its capacity as a joint lead arranger and joint bookrunner.

“Asset Disposition” means the disposition of any or all of the assets (including, without limitation, any Capital Stock owned thereby) of any Credit Party or any Subsidiary thereof whether by sale, lease, transfer, division or otherwise. The term “Asset Disposition” shall not include any Equity Issuance.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 14.10), and accepted by the Administrative Agent, in substantially the form attached as **Exhibit G** or any other form approved by the Administrative Agent.

“Attributable Indebtedness” means, on any date of determination, (a) in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease, the capitalized amount or principal amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease.

“Available Tenor” means, as of any date of determination and with respect to any then-current Benchmark for any Currency, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (b) otherwise, any payment period for interest

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calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 5.8(c)(iv).

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

"Bail-In Legislation" means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bankruptcy Code" means 11 U.S.C. §§ 101 *et seq.*

"Base Rate" means, at any time, the highest of (a) the Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) Adjusted Term SOFR for a one-month tenor in effect on such day plus 1.0%; each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR, as applicable (provided that clause (c) shall not be applicable during any period in which Adjusted Term SOFR is unavailable or unascertainable). Notwithstanding the foregoing, in no event shall the Base Rate be less than the Floor.

"Base Rate Loan" means any Loan bearing interest at a rate based upon the Base Rate as provided in Section 5.1(a). All Base Rate Loans shall be denominated in Dollars and shall be made to the Borrower.

"Benchmark" means, initially, with respect to any (a) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Dollars, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or then-current Benchmark for Dollars, then "Benchmark" means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 5.8(c)(i), (b) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Sterling, Daily Simple SONIA; provided that if a Benchmark Transition Event has occurred with respect to such Daily Simple SONIA or the then-current Benchmark for Sterling, then "Benchmark" means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 5.8(c)(i) and (c) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euros, EURIBOR; provided that if a Benchmark Transition Event has occurred with respect to EURIBOR or the then-current Benchmark for Euros, then "Benchmark" means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 5.8(c)(i).

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“Benchmark Replacement” means, with respect to any Benchmark Transition Event for any then-current Benchmark, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for such Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for such Benchmark for syndicated credit facilities denominated in the applicable Currency at such time and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of any then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable Currency.

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark for any Currency:

(a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means, with respect to the then-current Benchmark for any Currency, the occurrence of one or more of the following events with respect to such Benchmark:

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(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the Federal Reserve Bank of New York, the central bank for the Currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Start Date” means, with respect to any Benchmark for any Currency, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90<sup>th</sup> day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“Benchmark Unavailability Period” means, with respect to any then-current Benchmark for any Currency, the period (if any) (x) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark pursuant to clauses (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 5.8(c)(i) and (y) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 5.8(c)(i).

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

“Beneficial Ownership Regulation” means 31 CFR § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets

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include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Borrower” Merit Medical Systems, Inc., a Utah corporation.

“Borrower Materials” has the meaning assigned thereto in Section 8.4.

“Business Day” means any day that (a) is not a Saturday, Sunday or other day on which the Federal Reserve Bank of New York is closed and (b) is not a day on which commercial banks in Charlotte, North Carolina or Salt Lake City, Utah, are closed.

“Calculation Date” has the meaning assigned thereto in the definition of Applicable Margin.

“Capital Asset” means, with respect to the Borrower and its Subsidiaries, any asset that should, in accordance with GAAP, be classified and accounted for as a capital asset on a Consolidated balance sheet of the Borrower and its Subsidiaries.

“Capital Expenditures” means, with respect to the Borrower and its Subsidiaries for any period, the aggregate cost of all Capital Assets acquired by the Borrower and its Subsidiaries during such period (excluding any Permitted Acquisition), as determined in accordance with GAAP, net of any Net Cash Proceeds received from (a) any disposition of Capital Assets (to the extent permitted hereunder) that have actually been reinvested during such period in other Capital Assets in accordance with Section 4.4(b)(ii) or (b) any Insurance and Condemnation Event that have actually been reinvested during such period in other Capital Assets in accordance with Section 4.4(b)(iii); provided that (i) Capital Expenditures shall not be less than zero and (ii) the Administrative Agent shall have received a certificate, in form and substance satisfactory to the Administrative Agent, executed by a Responsible Officer of the Borrower, certifying as to the other Capital Assets invested in with any such Net Cash Proceeds, the dates of such investments and the amount of such investments.

“Capital Lease” means any lease of any property by the Borrower or any of its Subsidiaries, as lessee, that should, in accordance with GAAP, be classified and accounted for as a capital lease on a Consolidated balance sheet of the Borrower and its Subsidiaries.

“Capital Stock” means (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests, (e) 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 and (f) any and all warrants, rights or options to purchase any of the foregoing.

“Cash Collateralize” means to pledge and deposit with, or deliver to, the Administrative Agent, or directly to the applicable Issuing Lender (with notice thereof to the Administrative Agent), for the benefit of one or more of the Issuing Lenders, the Swingline Lender or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations or Swingline Loans, cash or deposit account balances or, if the Administrative Agent and the applicable Issuing Lender and the Swingline Lender shall agree, in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent, such Issuing Lender and the Swingline Lender, as applicable. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means, collectively, (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency thereof maturing within two hundred seventy (270) days from the date of acquisition thereof, (b) commercial paper maturing no more than two hundred seventy (270) days from the date of creation thereof and currently having the highest rating obtainable from either

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Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc., or Moody's Investors Service, Inc., (c) certificates of deposit maturing no more than two hundred seventy (270) days from the date of creation thereof issued by commercial banks incorporated under the laws of the United States, each having combined capital, surplus and undivided profits of not less than \$500,000,000 and having a rating of "A" or better by a nationally recognized rating agency; provided that the aggregate amount invested in such certificates of deposit shall not at any time exceed \$5,000,000 for any one such certificate of deposit and \$10,000,000 for any one such bank, or (d) time deposits maturing no more than thirty (30) days from the date of creation thereof with commercial banks or savings banks or savings and loan associations each having membership either in the FDIC or the deposits of which are insured by the FDIC and in amounts not exceeding the maximum amounts of insurance thereunder.

"Cash Management Agreement" means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card (including non-card electronic payables and purchasing cards), electronic funds transfer, foreign exchange and other cash management arrangements.

"Cash Management Bank" means any Person that, (a) at the time it enters into a Cash Management Agreement with a Credit Party, is a Lender, an Affiliate of a Lender, the Administrative Agent or an Affiliate of the Administrative Agent, or (b) at the time it (or its Affiliate) becomes a Lender or the Administrative Agent (including on the Closing Date), is a party to a Cash Management Agreement with a Credit Party, in each case in its capacity as a party to such Cash Management Agreement.

"Cash Management Swingline Loans" means the collective reference to the Swingline Loans made pursuant to, and in accordance with, the terms of the Loan Sweep Agreement as contemplated by Section 2.2(a), and "Cash Management Swingline Loan" means any of such Swingline Loans.

"Change in Control" means an event or series of events by which:

(a) (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person or its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a "person" or "group" shall be deemed to have "beneficial ownership" of all Capital Stock that such "person" or "group" has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of more than thirty-five percent (35%) of the Capital Stock of the Borrower entitled to vote in the election of members of the board of directors (or equivalent governing body) of the Borrower or (ii) a majority of the members of the board of directors (or other equivalent governing body) of the Borrower shall not constitute Continuing Directors; or

(b) there shall have occurred under any indenture or other instrument evidencing any Indebtedness or Capital Stock of the Borrower or any of its Subsidiaries in excess of \$20,000,000 any "change in control" or similar provision (as set forth in the indenture, agreement or other evidence of such Indebtedness) obligating the Borrower or any of its Subsidiaries to repurchase, redeem or repay all or any part of the Indebtedness or Capital Stock provided for therein.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any

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Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, implemented or issued.

“Class” means, when used in reference to any Loan, whether such Loan is a Revolving Credit Loan, Swingline Loan or Term Loan and, when used in reference to any Commitment, whether such Commitment is a Revolving Credit Commitment or a Term Loan Commitment.

“Closing Date” means the date of this Agreement or such later Business Day upon which each condition described in Section 6.1 shall be satisfied or waived in all respects in a manner acceptable to the Administrative Agent, in its sole discretion.

“Code” means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder.

“Collateral” means the collateral security for the Secured Obligations pledged or granted pursuant to the Security Documents.

“Collateral Agreement” means the collateral agreement of even date herewith executed by the Credit Parties in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, which shall be in form and substance acceptable to the Administrative Agent.

“Commitment Fee” has the meaning assigned thereto in Section 5.3(a).

“Commitment Percentage” means, as to any Lender, such Lender’s Revolving Credit Commitment Percentage or Term Loan Percentage, as applicable.

“Commitments” means, collectively, as to all Lenders, the Revolving Credit Commitments and the Term Loan Commitments of such Lenders.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

“Conforming Changes” means, with respect to the use or administration of an initial Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate”, the definition of “Business Day,” the definition of “Eurocurrency Banking Day,” the definition of “RFR Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 5.9 and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

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“Consolidated” means, when used with reference to financial statements or financial statement items of any Person, such statements or items on a consolidated basis in accordance with applicable principles of consolidation under GAAP.

“Consolidated EBITDA” means, for any period, the sum of the following determined on a Consolidated basis, without duplication, for the Borrower and its Subsidiaries in accordance with GAAP:

(c) Consolidated Net Income for such period;

plus

(d) the sum of the following, without duplication, to the extent deducted in determining Consolidated Net Income for such period:

(i) income and franchise taxes paid during such period;

(ii) Consolidated Interest Expense for such period paid or payable in cash;

(iii) amortization, depreciation and other non-cash charges for such period (except to the extent that such non-cash charges are reserved for cash charges to be taken in the future);

(iv) non-cash charges or expenses related to equity incentives for such period, including stock-based compensation;

(v) extraordinary losses during such period (excluding extraordinary losses from discontinued operations);

(vi) Transaction Costs during such period in connection with the Transactions, any Permitted Acquisition and any Equity Issuance; provided that the aggregate amount of all Transaction Costs added pursuant to this clause (b)(vi) shall not exceed 15% of the Consolidated EBITDA (determined without giving effect to this clause (b)(vi) and clause (b)(ix));

(vii) fees paid to the Lenders and/or Administrative Agent under any Loan Document or pursuant to any amendment or waiver thereof during such period;

(viii) proceeds from business interruption insurance to the extent not already included in calculating Consolidated Net Income for such period; and

(ix) other nonrecurring charges for such period acceptable to the Administrative Agent in its sole discretion; provided that the aggregate amount of all nonrecurring charges added pursuant to this clause (b)(ix) shall not exceed 15% of the Consolidated EBITDA (determined without giving effect to clause (b)(vi) and this clause (b)(ix));

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(e) interest income and any extraordinary gains during such period;

less

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(f) non-cash gains for such period.

For purposes of this Agreement, Consolidated EBITDA shall be adjusted on a Pro Forma Basis.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the period of four (4) consecutive fiscal quarters ending on or immediately prior to such date to (b) Consolidated Interest Expense for the period of four (4) consecutive fiscal quarters ending on or immediately prior to such date

“Consolidated Interest Expense” means, for any period, the sum of the following determined on a Consolidated basis, without duplication, for the Borrower and its Subsidiaries in accordance with GAAP, interest expense (including, without limitation, interest expense attributable to Capital Leases and all net payment obligations pursuant to Hedge Agreements) for such period.

“Consolidated Net Income” means, for any period, the net income (or loss) of the Borrower and its Subsidiaries for such period, determined on a Consolidated basis, without duplication, in accordance with GAAP; provided, that in calculating Consolidated Net Income of the Borrower and its Subsidiaries for any period, there shall be excluded (a) the net income (or loss) of any Person (other than a Subsidiary which shall be subject to clause (c) below), in which the Borrower or any of its Subsidiaries has a joint interest with a third party, except to the extent such net income is actually paid in cash to the Borrower or any of its Subsidiaries by dividend or other distribution during such period, (b) the net income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of the Borrower or any of its Subsidiaries or is merged into or consolidated with the Borrower or any of its Subsidiaries or that Person’s assets are acquired by the Borrower or any of its Subsidiaries except to the extent included pursuant to the foregoing clause (a), and (c) the net income (if positive), of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary to the Borrower or any of its Subsidiaries of such net income (i) is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such Subsidiary or (ii) would be subject to any taxes payable on such dividends or distributions, but in each case only to the extent of such prohibition or taxes.

“Consolidated Senior Secured Indebtedness” means, as of any date of determination with respect to the Borrower and its Subsidiaries on a Consolidated basis without duplication, all Consolidated Total Funded Indebtedness (other than Subordinated Indebtedness) that is secured by a Lien on any asset or property of the Borrower or any of its Subsidiaries. For the avoidance of doubt, the Secured Obligations outstanding as of such date of determination shall constitute Consolidated Senior Secured Indebtedness.

“Consolidated Senior Secured Net Indebtedness” means, as of any date of determination, the sum of (a) Consolidated Senior Secured Indebtedness as of such date minus (b) the aggregate amount of Unrestricted Cash and Cash Equivalents then on hand as of such date not to exceed \$150,000,000 (excluding the proceeds of any Incremental Loan Commitment or any other Indebtedness incurred or made substantially concurrent with the determination of the amount of such Unrestricted Cash and Cash Equivalents).

“Consolidated Senior Secured Net Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Senior Secured Net Indebtedness on such date to (b) Consolidated EBITDA for the period of four (4) consecutive fiscal quarters ending on or immediately prior to such date.

“Consolidated Total Funded Indebtedness” means, as of any date of determination with respect to the Borrower and its Subsidiaries on a Consolidated basis without duplication, the sum of all Indebtedness of the Borrower and its Subsidiaries described in, clauses (a), (c), (f) and (i) of the definition of “Indebtedness”, but excluding intercompany indebtedness among the Credit Parties.

“Consolidated Total Net Funded Indebtedness” means, as of any date of determination, the sum of (a) Consolidated Total Funded Indebtedness as of such date minus (b) the aggregate amount of Unrestricted Cash and Cash Equivalents then on hand as of such date not to exceed \$150,000,000 (excluding the

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proceeds of any Incremental Loan Commitment or any other Indebtedness incurred or made substantially concurrent with the determination of the amount of such Unrestricted Cash and Cash Equivalents).

“Consolidated Total Net Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Total Net Funded Indebtedness on such date to (b) Consolidated EBITDA for the period of four (4) consecutive fiscal quarters ending on or immediately prior to such date.

“Continuing Directors” means the directors (or equivalent governing body) of the Borrower on the Closing Date and each other director (or equivalent) of the Borrower, if, in each case, such other director’s (or equivalent’s) election or nomination for election to the board of directors (or equivalent governing body) of the Borrower is approved by at least fifty-one percent (51%) of the then Continuing Directors.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Facility” means, collectively, the Revolving Credit Facility, the Term Loan Facility, the Swingline Facility and the L/C Facility.

“Credit Parties” means, collectively, the Borrower and the Subsidiary Guarantors.

“Currencies” means Dollars, each Alternative Currency and each Alternative L/C Currency, and “Currency” means any of such Currencies.

“Current Financial Statements” means (a) the audited Consolidated balance sheet of the Borrower and its Subsidiaries as of December 31, 2022 and the related audited statements of income and retained earnings and cash flows for the Fiscal Year then ended and (b) the unaudited Consolidated balance sheet of the and its Subsidiaries as of March 31, 2023 and related unaudited interim statements of income and retained earnings.

“Daily Simple SONIA” means, for any RFR Rate Day, a rate per annum equal to, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to Sterling, the greater of (i) SONIA for the day (such day, a “Sterling RFR Determination Day”) that is five (5) RFR Business Days prior to (A) if such RFR Rate Day is an RFR Business Day, such RFR Rate Day or (B) if such RFR Rate Day is not an RFR Business Day, the RFR Business Day immediately preceding such RFR Rate Day, in each case, as such SONIA is published by the SONIA Administrator on the SONIA Administrator’s Website; provided that if by 5:00 p.m. (London time) on the second (2<sup>nd</sup>) RFR Business Day immediately following any Sterling RFR Determination Day, SONIA in respect of such Sterling RFR Determination Day has not been published on the SONIA Administrator’s Website and a Benchmark Replacement Date with respect to Daily Simple SONIA has not occurred, then SONIA for such Sterling RFR Determination Day will be SONIA as published in respect of the first preceding RFR Business Day for which such SONIA was published on the SONIA Administrator’s Website; provided further that SONIA as determined pursuant to this proviso shall be utilized for purposes of calculation of Daily Simple SONIA for no more than three (3) consecutive RFR Rate Days and (ii) the Floor.

Any change in Daily Simple SONIA due to a change in SONIA shall be effective from and including the effective date of such change in SONIA without notice to the Borrower.

“Daily Simple SONIA Loan” means any Loan that bears interest at a rate based on Daily Simple SONIA.

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“Debt Issuance” means the issuance of any Indebtedness for borrowed money by any Credit Party or any of its Subsidiaries.

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

“Default” means any of the events specified in Section 12.1 which with the passage of time, the giving of notice or any other condition, would constitute an Event of Default.

“Defaulting Lender” means, subject to Section 5.15(b), any Lender that (a) has failed to (i) fund all or any portion of the Revolving Credit Loans or any Term Loan, if applicable, required to be funded by it hereunder 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 Lender, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of participations in Letters of Credit or Swingline Loans) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, any Issuing Lender or the Swingline Lender 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), (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 FDIC or any other state or federal regulatory authority acting in such a capacity or (iii) has 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 5.15(b)) upon delivery of written notice of such determination to the Borrower, each Issuing Lender, the Swingline Lender and each Lender.

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“Disputes” means any dispute, claim or controversy arising out of, connected with or relating to this Agreement or any other Loan Document, between or among parties hereto and to the other Loan Documents.

“Disqualified Capital Stock” means any Capital Stock that, by its terms (or by the terms of any security or other Capital Stock 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 Capital Stock), 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 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 Capital Stock) (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 Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provides for the scheduled payment of dividends in cash or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is 91 days after the final maturity date applicable to the Credit Facility; provided, that if such Capital Stock is issued pursuant to a plan for the benefit of the Borrower or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Dollar Equivalent” means, subject to Section 1.11, for any amount, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount and (b) if such amount is expressed in an Alternative Currency or Alternative L/C Currency, the equivalent of such amount in Dollars as determined by the Administrative Agent or the applicable Issuing Lender (with notice thereof to the Administrative Agent), as applicable, at such time in its sole discretion by reference to the most recent Spot Rate for such Alternative Currency or such Alternative L/C Currency (as determined as of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency or such Alternative L/C Currency.

“Dollars” or “\$” means, unless otherwise qualified, dollars in lawful currency of the United States.

“Domestic Subsidiary” means any Subsidiary organized under the laws of any political subdivision of the United States; provided that any Foreign Subsidiary (i) the Capital Stock of which is owned directly by any Credit Party and (ii) that is treated as a disregarded entity for tax purposes shall be deemed to be a Domestic Subsidiary.

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

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

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any

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delegee) having responsibility for the resolution of any credit institution or investment firm established in any EEA Member Country.

“Electronic Record” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

“Electronic Signature” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 14.10(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 14.10(b)(iii)).

“Employee Benefit Plan” means (a) any employee benefit plan within the meaning of Section 3(3) of ERISA that is maintained for employees of any Credit Party or any ERISA Affiliate or (b) any Pension Plan or Multiemployer Plan that has at any time within the preceding six (6) years been maintained for the employees of any Credit Party or any current or former ERISA Affiliate.

“EMU Legislation” means the legislative measures of the European Council for the introduction of, changeover to, or operation of a single or unified European currency.

“Environmental Claims” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, accusations, allegations, notices of noncompliance or violation, investigations (other than internal reports prepared by any Person in the ordinary course of business and not in response to any third party action or request of any kind) or proceedings relating in any way to any actual or alleged violation of or liability under any Environmental Law or relating to any permit issued, or any approval given, under any such Environmental Law, including, without limitation, any and all claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to public health or the environment in connection with exposure to, or releases of, Hazardous Materials.

“Environmental Laws” means any and all federal, foreign, state, provincial and local laws, statutes, ordinances, codes, rules, standards and regulations, permits, licenses, approvals, interpretations and orders of courts or Governmental Authorities, relating to the protection of public health or the environment, including, but not limited to, requirements pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation, handling, reporting, licensing, permitting, investigation or remediation of Hazardous Materials.

“Equity Issuance” means (a) any issuance by any Credit Party or any Subsidiary thereof to any Person that is not a Credit Party of (i) shares of its Capital Stock, (ii) any shares of its Capital Stock pursuant to the exercise of options or warrants or (iii) any shares of its Capital Stock pursuant to the conversion of any debt securities to equity and (b) any capital contribution from any Person that is not a Credit Party into any Credit Party or any Subsidiary thereof. The term “Equity Issuance” shall not include (A) any Asset Disposition or (B) any Debt Issuance.

“ERISA” means the Employee Retirement Income Security Act of 1974, and the rules and regulations thereunder.

“ERISA Affiliate” means any Person who together with any Credit Party or any of its Subsidiaries is treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code or Section 4001(b) of ERISA.

“Erroneous Payment” has the meaning assigned thereto in Section 13.11(a).

“Erroneous Payment Deficiency Assignment” has the meaning assigned thereto in Section 13.11(d).

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“Erroneous Payment Impacted Class” has the meaning assigned thereto in Section 13.11(d).

“Erroneous Payment Return Deficiency” has the meaning assigned thereto in Section 13.11(d).

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

“EURIBOR” has the meaning assigned thereto in the definition of “Eurocurrency Rate”.

“Euro” and “€” means the single currency of the Participating Member States introduced in accordance with the EMU Legislation.

“Eurocurrency Banking Day” means, for Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euros, a TARGET Day; provided, that for purposes of notice requirements in Sections 2.3(a), 2.4(c) and 5.2, in each case, such day is also a Business Day.

“Eurocurrency Rate” means, for any Eurocurrency Rate Loan for any Interest Period:

(a) denominated in Euros, the greater of (i) the rate of interest per annum equal to the Euro Interbank Offered Rate (“EURIBOR”) as administered by the European Money Markets Institute, or a comparable or successor administrator approved by the Administrative Agent, for a period comparable to the applicable Interest Period, at approximately 11:00 a.m. (Brussels time) on the applicable Rate Determination Date and (ii) the Floor; and

(b) if applicable and approved by the Administrative Agent and the Lenders pursuant to Section 1.13, denominated in any other Currency (other than Euros or Sterling), the rate designated with respect to such Currency at the time such currency is approved by the Administrative Agent and the Lenders pursuant to Section 1.13.

“Eurocurrency Rate Loan” means any Loan bearing interest at a rate based on the Adjusted Eurocurrency Rate.

“Eurocurrency Reserve Percentage” means, for any day, the percentage which is in effect for such day as prescribed by the FRB for determining the maximum reserve requirement (including any basic, supplemental or emergency reserves) in respect of eurocurrency liabilities or any similar category of liabilities for a member bank of the Federal Reserve System in New York City or any other reserve ratio or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Loans. The Adjusted Eurocurrency Rate for each outstanding Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

“Event of Default” means any of the events specified in Section 12.1; provided that any requirement for passage of time, giving of notice, or any other condition, has been satisfied.

“Exchange Act” means the Securities Exchange Act of 1934.

“Excluded Swap Obligation” means, with respect to any Credit Party, any Swap Obligation if, and to the extent that, all or a portion of the liability of such Credit Party for or the guarantee of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Swap Obligation (or any liability or 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 Credit Party'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 liability for or the guarantee of such Credit Party or the grant of such security interest becomes effective with respect to such Swap Obligation (such determination being made after giving effect to any applicable keepwell, support or other agreement for the benefit of the applicable Credit Party, including under the keepwell provisions in the Guaranty Agreement). 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 for the reasons identified in the immediately preceding sentence of this definition.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, United States federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 5.12(b)) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 5.11, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 5.11(g) and (d) any United States federal withholding Taxes imposed under FATCA.

"Existing Credit Agreement" means that certain Third Amended and Restated Credit Agreement dated as of July 31, 2019 by and among the Borrower, as borrower, the lenders party thereto, as lenders, and Wells Fargo Bank, National Association, as administrative agent, as amended, restated, supplemented or otherwise modified as of the date hereof.

"Existing Letters of Credit" means those letters of credit existing on the Closing Date and identified on Schedule 1.1(a).

"Extensions of Credit" means, as to any Lender at any time, (a) an amount equal to the sum of (i) the aggregate principal amount of all Revolving Credit Loans made by such Lender then outstanding, (ii) such Lender's Revolving Credit Commitment Percentage of the L/C Obligations then outstanding, (iii) such Lender's Revolving Credit Commitment Percentage of the Swingline Loans then outstanding and (iv) the aggregate principal amount of the Term Loans made by such Lender then outstanding, or (b) the making of any Loan or participation in any Letter of Credit by such Lender, as the context requires.

"Facility Capital Expenditures" means Capital Expenditures of the Borrower and its Subsidiaries associated with the acquisition, leasing, building and expansion of manufacturing facilities, research facilities, customer service and distribution facilities and other facilities acquired, built or expanded by the Borrower and its Subsidiaries in connection with the business thereof (including, without limitation, the acquisition of property and plant related thereto).

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“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“FDIC” means the Federal Deposit Insurance Corporation.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if such rate is not so published for any day which is a Business Day, the Federal Funds Rate for such day shall be the average of the quotation for such day on such transactions received by the Administrative Agent from three (3) federal funds brokers of recognized standing selected by the Administrative Agent. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Fee Letters” means (a) the separate engagement letter agreement dated April 13, 2023 among the Borrower and Wells Fargo Securities, LLC, (b) the separate additional arranger fee letter agreement dated as of the Closing Date among the Borrower and the Arrangers (other than Wells Fargo Securities, LLC) and (c) any letter agreement between the Borrower and any Issuing Lender (other than Wells Fargo) relating to certain fees payable to such Issuing Lender in its capacity as such.

“First Tier Foreign Subsidiary” means any Foreign Subsidiary that is a “controlled foreign corporation” within the meaning of Section 957 of the Code and the Capital Stock of which is owned directly by any Credit Party.

“Fiscal Year” means the fiscal year of the Borrower and its Subsidiaries ending on December 31<sup>st</sup>.

“Floor” means a rate of interest equal to 0.00%.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, any Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, any Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

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

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

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

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

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“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Approvals” means all authorizations, consents, approvals, permits, licenses and exemptions of, and all registrations and filings with or issued by, Governmental Authorities.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guaranty Agreement” means the unconditional guaranty agreement of even date herewith executed by the Borrower and the Subsidiary Guarantors in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, which shall be in form and substance acceptable to the Administrative Agent.

“Guaranty Obligation” means, with respect to the Borrower and its Subsidiaries, without duplication, any obligation, contingent or otherwise, of any such Person pursuant to which such Person has directly or indirectly guaranteed any Indebtedness or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of any such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement condition or otherwise) or (b) entered into for the purpose of assuring in any other manner the obligee of such Indebtedness or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided, that the term Guaranty Obligation shall not include (i) endorsements for collection or deposit in the ordinary course of business and (ii) guarantees of obligations to reimburse Governmental Authorities in connection with an economic development incentive to the extent not considered a contingent obligation under GAAP unless and until demand is made for payment under the agreement evidencing such economic development incentive; provided, further, that the amount of any Guaranty Obligations shall be equal to the amount of the obligation so guaranteed or otherwise supported, if any, or, if less, the amount to which such guaranty is specifically limited, unless such primary obligation and the amount for which such guarantor may be liable are not stated or determinable, in which case the amount of such guaranty shall be such guarantor’s maximum reasonably anticipated liability in respect thereof as determined by such guarantor in good faith.

“Hazardous Materials” means any substances or materials (a) which are or become defined as hazardous wastes, hazardous substances, pollutants, contaminants, chemical substances or mixtures or toxic substances under any Environmental Law, (b) which are toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise harmful to human health or the environment and are or become regulated by any Governmental Authority under Environmental Laws, (c) the presence of which require investigation or remediation under any Environmental Law, (d) the discharge or emission or release of which requires a permit or license under any Environmental Law or other Governmental Approval, (e) which are deemed to constitute a nuisance or a trespass which pose a health or safety hazard to Persons or neighboring properties, (f) which consist of underground or aboveground storage tanks, whether empty, filled or partially filled with any substance, or (g) which contain, without limitation, asbestos, polychlorinated biphenyls, urea formaldehyde foam insulation, petroleum hydrocarbons, petroleum derived substances or waste, crude oil, nuclear fuel, natural gas or synthetic gas.

“Hedge Agreement” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward

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foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement.

“Hedge Bank” means any Person that, (a) at the time it enters into a Hedge Agreement with a Credit Party permitted under Article XI, is a Lender, an Affiliate of a Lender, the Administrative Agent or an Affiliate of the Administrative Agent or (b) at the time it (or its Affiliate) becomes a Lender or the Administrative Agent (including on the Closing Date), is a party to a Hedge Agreement with a Credit Party, in each case in its capacity as a party to such Hedge Agreement.

“Hedge Termination Value” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include a Lender or any Affiliate of a Lender).

“Increased Amount Date” has the meaning assigned thereto in Section 5.13(a).

“Incremental Facilities Limit” means, with respect to any proposed incurrence of an Incremental Loan Commitment, the sum of the following:

(g) the amount equal to the sum of (i) \$200,000,000 plus (ii) the sum of (1) the aggregate principal amount of Term Loans prepaid pursuant to Section 4.4(a) plus (2) the aggregate amount of all optional prepayments of Revolving Credit Loans (solely to the extent accompanied by permanent optional reductions in the Revolving Credit Commitment), in each case to the extent such prepayments are not funded with the proceeds of Indebtedness that, in accordance with GAAP, constitutes, or when incurred, constituted a long-term liability less (iii) the total aggregate initial principal amount (as of the date of incurrence thereof) of all Incremental Loan Commitments incurred under this clause (a) after the Closing Date and prior to the incurrence of such Incremental Loan Commitment; plus

(h) the amount of additional Indebtedness that would cause the Consolidated Senior Secured Net Leverage Ratio as of the four (4) consecutive fiscal quarter period most recently ended prior to the incurrence of such additional Indebtedness (or in the case of any additional Indebtedness, the proceeds of which will finance a Limited Conditionality Acquisition, the date determined pursuant to Section 1.14) for which financial statements have been delivered to the Administrative Agent hereunder, calculated on a Pro Forma Basis after giving effect to the incurrence of such additional Indebtedness and any Permitted Acquisition to be consummated using the proceeds of such additional Indebtedness and assuming that the Revolving Credit Facility (including any proposed Incremental Revolving Credit Increase) is fully drawn at such time, not to exceed 3.25 to 1.00.

Unless the Borrower otherwise notifies the Administrative Agent, if all or any portion of any Incremental Loan Commitments would be permitted under clause (b) above on the applicable date

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of incurrence, such Incremental Loan Commitments (or the relevant portion thereof) shall be deemed to have been incurred in reliance on clause (b) above prior to the utilization of any amount available under clause (a) above. Furthermore, notwithstanding anything to the contrary contained herein, for purposes of calculating the Consolidated Senior Secured Net Leverage Ratio, (1) all additional Indebtedness incurred pursuant to any Incremental Loan Commitment shall be deemed to be secured Indebtedness and (2) the proceeds from any additional Indebtedness incurred pursuant to any Incremental Loan Commitment shall not be netted from Consolidated Senior Secured Net Indebtedness.

“Incremental Lender” has the meaning assigned thereto in Section 5.13(a).

“Incremental Loan Commitments” has the meaning assigned thereto in Section 5.13(a)(ii).

“Incremental Loans” has the meaning assigned thereto in Section 5.13(a)(ii).

“Incremental Revolving Credit Commitment” has the meaning assigned thereto in Section 5.13(a)(ii).

“Incremental Revolving Credit Increase” has the meaning assigned thereto in Section 5.13(a)(ii).

“Incremental Term Loan” has the meaning assigned thereto in Section 5.13(a)(i).

“Incremental Term Loan Commitment” has the meaning assigned thereto in Section 5.13(a)(i).

“Indebtedness” means, with respect to any Person at any date and without duplication, the sum of the following:

(i) all liabilities, obligations and indebtedness for borrowed money including, but not limited to, obligations evidenced by bonds, debentures, notes or other similar instruments of any such Person;

(j) all obligations to pay the deferred purchase price of property or services of any such Person (including, without limitation, all obligations under non-competition, earn-out or similar agreements), except trade payables (i) arising in the ordinary course of business not more than ninety (90) days past due, or (ii) that are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided for on the books of such Person;

(k) the Attributable Indebtedness of such Person with respect to such Person’s obligations in respect of Capital Leases and Synthetic Leases (regardless of whether accounted for as indebtedness under GAAP);

(l) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person to the extent of the value of such property (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business);

(m) all Indebtedness of any other Person secured by a Lien on any asset owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements, except trade payables arising in the ordinary course of business), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

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(n) all obligations, contingent or otherwise, of any such Person relative to the face amount of letters of credit, whether or not drawn, including, without limitation, any Reimbursement Obligation, and banker's acceptances issued for the account of any such Person;

(o) all obligations of any such Person in respect of Disqualified Capital Stock;

(p) all Net Hedging Obligations of any such Person; and

(q) all Guaranty Obligations of any such Person with respect to any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person.

“Indemnified Taxes” means (a) Taxes other than Excluded Taxes imposed on, or with respect to, any payment made by, or on account of, any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

“Initial Issuing Lender” means Wells Fargo.

“Initial Term Loan” means the term loan made, or to be made, to the Borrower by the Term Loan Lenders pursuant to Section 4.1.

“Insurance and Condemnation Event” means the receipt by any Credit Party or any of its Subsidiaries of any cash insurance proceeds or condemnation award payable by reason of theft, loss, physical destruction or damage, taking or similar event with respect to any of their respective Property.

“Interest Payment Date” means (a) as to any Base Rate Loan or Daily Simple SONIA Loan, the last Business Day of each March, June, September and December and the Applicable Maturity Date and (b) as to any Eurocurrency Rate Loan or Term SOFR Loan, the last day of each Interest Period therefor and, in the case of any Interest Period of more than three (3) months' duration, each day prior to the last day of such Interest Period that occurs at three-month intervals after the first day of such Interest Period; provided, that each such three-month interval payment day shall be the immediately succeeding Business Day if such day is not a Business Day, unless such day is not a Business Day but is a day of the relevant month after which no further Business Day occurs in such month, in which case such day shall be the immediately preceding Business Day and the Applicable Maturity Date.

“Interest Period” means, as to each Eurocurrency Rate Loan or Term SOFR Loan, the period commencing on the date such Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan or Term SOFR Loan, as applicable, and ending on the date one (1), three (3) or six (6) months thereafter, in each case as selected by the Borrower in its Notice of Borrowing or Notice of Conversion/Continuation and subject to availability; provided that:

(r) the Interest Period shall commence on the date of advance of or conversion to any Eurocurrency Rate Loan or any Term SOFR Loan, as applicable, and, in the case of immediately successive Interest Periods, each successive Interest Period shall commence on the date on which the immediately preceding Interest Period expires;

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(s) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day;

(t) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the relevant calendar month at the end of such Interest Period;

(u) no Interest Period shall extend beyond the Applicable Maturity Date, and Interest Periods shall be selected by the Borrower so as to permit the Borrower to make the quarterly principal installment payments pursuant to Section 4.3 without payment of any amounts pursuant to Section 5.9;

(v) there shall be no more than ten (10) Interest Periods in effect at any time; and

(w) no tenor that has been removed from this definition pursuant to Section 5.8(c)(iv) shall be available for specification in any Notice of Borrowing or Notice of Conversion/Continuation.

“Investment Company Act” means the Investment Company Act of 1940 (15 U.S.C. § 80(a)(1), *et seq.*).

“IRS” means the United States Internal Revenue Service.

“ISP” means the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time).

“Issuing Lender” means (a) with respect to Letters of Credit issued hereunder on or after the Closing Date, (i) the Initial Issuing Lender and (ii) any other Revolving Credit Lender to the extent it has agreed in its sole discretion to act as an “Issuing Lender” hereunder and that has been approved in writing by the Borrower and the Administrative Agent (such approval by the Administrative Agent not to be unreasonably delayed or withheld) as an “Issuing Lender” hereunder, in each case in its capacity as issuer of any Letter of Credit; provided that the total number of Issuing Lenders under this clause (a) shall not exceed four (4) and (b) with respect to the Existing Letters of Credit, Wells Fargo, in its capacity as issuer thereof.

“Junior Indebtedness” means, with respect to the Borrower and its Subsidiaries, any (a) Subordinated Indebtedness, (b) Indebtedness secured by Liens that are junior to the Liens securing the Secured Obligations and (c) unsecured Indebtedness with an aggregate outstanding principal amount in excess of the Threshold Amount.

“L/C Commitment” means, as to any Issuing Lender, the obligation of such Issuing Lender to issue Letters of Credit for the account of the Borrower or one or more of its Subsidiaries from time to time in an aggregate amount equal to such amount as separately agreed to in a written agreement between the Borrower and such Issuing Lender (which such agreement shall be promptly delivered to the Administrative Agent upon execution), in each case as such amount may

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be changed after the Closing Date in a written agreement between the Borrower and such Issuing Lender (which such agreement shall be promptly delivered to the Administrative Agent upon execution); provided that the L/C Commitment with respect to any Person that ceases to be an Issuing Lender for any reason pursuant to the terms hereof shall be \$0 (subject to the Letters of Credit of such Person remaining outstanding in accordance with the provisions hereof).

“L/C Facility” means the letter of credit facility established pursuant to Article III.

“L/C Obligations” means at any time, an amount equal to the sum of (a) the aggregate undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit which have not then been reimbursed pursuant to Section 3.5.

“L/C Participants” means, with respect to any Letter of Credit, the collective reference to all the Revolving Credit Lenders other than the applicable Issuing Lender.

“L/C Sublimit” means the lesser of (a) \$40,000,000 and (b) the aggregate amount of the Revolving Credit Commitments.

“LCA Test Date” has the meaning assigned thereto in Section 1.14(a).

“Lender” means each Person executing this Agreement as a Lender on the Closing Date and any other Person that shall have become a party to this Agreement as a Lender pursuant to an Assignment and Assumption or pursuant to Section 5.13, other than any Person that ceases to be a party hereto as a Lender pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender.

“Lender Joinder Agreement” means a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent delivered in connection with Section 5.13.

“Lending Office” means, with respect to any Lender, the office of such Lender maintaining such Lender’s Extensions of Credit.

“Letter of Credit Application” means an application requesting such Issuing Lender to issue a Letter of Credit in the form specified by the applicable Issuing Lender from time to time.

“Letter of Credit Documents” means, with respect to any Letter of Credit, such Letter of Credit, the Letter of Credit Application, a letter of credit agreement or reimbursement agreement and any other document, agreement and instrument required by the applicable Issuing Lender and relating to such Letter of Credit, in each case in the form specified by the applicable Issuing Lender from time to time.

“Letters of Credit” means the collective reference to letters of credit issued pursuant to Section 3.1 and the Existing Letters of Credit. Letters of Credit may be issued in Dollars or an Alternative L/C Currency.

“Leverage Ratio Increase” has the meaning assigned thereto in Section 10.1.

“Lien” means, with respect to any asset, any mortgage, leasehold mortgage, lien, pledge, charge, security interest, hypothecation or encumbrance of any kind in respect of such asset. For the purposes of this Agreement, a Person shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention agreement relating to such asset.

“Limited Conditionality Acquisition” means any acquisition by the Borrower or any Subsidiary thereof in the form of acquisitions of all or substantially all of the business or a line of business (whether by the acquisition of Capital Stock, assets or any combination thereof) that (a) is not prohibited hereunder, (b) is financed in whole or in part with a substantially concurrent incurrence of Incremental Loans, (c) is not conditioned on the availability of, or on obtaining, third-party financing and (d) is completed within six

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(6) months of the LCA Test Date (or such longer period as may be agreed to by the Administrative Agent and the lenders providing the Incremental Loans in connection therewith).

“Loan Documents” means, collectively, this Agreement, each Note, the Letter of Credit Documents, the Security Documents, the Fee Letters and each other document, instrument, certificate and agreement executed and delivered by the Credit Parties or any of their respective Subsidiaries in favor of or provided to the Administrative Agent or any Secured Party in connection with this Agreement or otherwise referred to herein or contemplated hereby (excluding any Secured Hedge Agreement and any Secured Cash Management Agreement).

“Loan Sweep Activation Date” means the date which is twenty (20) Business Days after the date on which the Borrower shall have delivered to the Administrative Agent and the Swingline Lender a duly executed Loan Sweep Agreement.

“Loan Sweep Agreement” means, collectively, any document, instrument, certificate, note or agreement executed and delivered in connection with the treasury management services arrangement between the Borrower and Wells Fargo that governs the borrowing and repayment of Cash Management Swingline Loans, including, without limitation, the Master Agreement for Treasury Management Services, the Wells Fargo Stagecoach Sweep Service Description, the Acceptance of Services, the Master Repurchase Agreement, the applicable deposit account agreement and all other Service Documentation, as such term is defined in the Master Agreement for Treasury Management Services, each as may be, individually or collectively, amended, restated, supplemented or otherwise modified from time to time.

“Loan Sweep Termination Date” means the date which is ten (10) Business Days after the date on which the Borrower shall have delivered to the Administrative Agent a termination notice with respect to the Loan Sweep Agreement.

“Loans” means the collective reference to the Revolving Credit Loans, the Term Loans and the Swingline Loans (including, without limitation, the Cash Management Swingline Loans), and “Loan” means any of such Loans.

“Material Adverse Effect” means a material adverse effect on (a) the properties, business, operations, condition (financial or otherwise), assets or liabilities (whether actual or contingent) of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of any such Person to perform its obligations under the Loan Documents to which it is a party, (c) the rights and remedies of the Administrative Agent or any Lender under any Loan Document or (d) the legality, validity, binding effect or enforceability against any Credit Party of any Loan Document to which it is a party.

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 105% of the Dollar Equivalent of the Fronting Exposure of each of the Issuing Lenders with respect to Letters of Credit issued by it and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 12.2(b), an amount equal to the Dollar Equivalent of 105% of the aggregate outstanding amount of all L/C Obligations and (c) otherwise, an amount determined by the Administrative Agent and each of the applicable Issuing Lenders that is entitled to Cash Collateral hereunder at such time in their sole discretion.

“Multiemployer Plan” means a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA to which any Credit Party or any ERISA Affiliate is making, or is accruing an obligation to make, or has accrued an obligation to make contributions within the preceding six (6) years.

“Net Cash Proceeds” means, as applicable, (a) with respect to any Asset Disposition or Insurance and Condemnation Event, the gross proceeds received by any Credit Party or any of its

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Subsidiaries therefrom (including any cash, Cash Equivalents, deferred payment pursuant to, or by monetization of, a note receivable or otherwise, as and when received) less the sum of (i) all income taxes and other taxes assessed by a Governmental Authority as a result of such transaction or event, (ii) all reasonable and customary out-of-pocket fees and expenses incurred in connection with such transaction or event and (iii) the principal amount of, premium, if any, and interest on any Indebtedness secured by a Lien on the asset (or a portion thereof) disposed of, which Indebtedness is required to be repaid in connection with such transaction or event, and (b) with respect to any Equity Issuance or Debt Issuance, the gross cash proceeds received by any Credit Party or any of its Subsidiaries therefrom less all reasonable and customary out-of-pocket legal, underwriting and other fees and expenses incurred in connection therewith.

“Net Hedging Obligations” means, as of any date, the Hedge Termination Value of any Hedge Agreement on such date.

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver, amendment, modification or termination that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 14.2 and (b) has been approved by the Required Lenders.

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

“Non-Guarantor Subsidiary” means any Subsidiary of the Borrower that is not a Subsidiary Guarantor.

“Notes” means the collective reference to the Revolving Credit Notes, the Swingline Note and the Term Loan Notes.

“Notice of Account Designation” has the meaning assigned thereto in Section 2.3(b).

“Notice of Borrowing” has the meaning assigned thereto in Section 2.3(a).

“Notice of Conversion/Continuation” has the meaning assigned thereto in Section 5.2.

“Notice of Prepayment” has the meaning assigned thereto in Section 2.4(c).

“Obligations” means, in each case, whether now in existence or hereafter arising: (a) the principal of and interest on (including interest accruing after the filing of any bankruptcy or similar petition) the Loans, (b) the L/C Obligations and (c) all other fees and commissions (including attorneys’ fees), charges, indebtedness, loans, liabilities, financial accommodations, obligations, covenants and duties owing by the Credit Parties to the Lenders, the Issuing Lenders or the Administrative Agent, in each case under any Loan Document, with respect to any Loan or Letter of Credit of every kind, nature and description, direct or indirect, absolute or contingent, due or to become due, contractual or tortious, liquidated or unliquidated, and whether or not evidenced by any note and including interest and fees that accrue after the commencement by or against any Credit Party of any proceeding under any Debtor Relief Laws, naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“Officer’s Compliance Certificate” means a certificate of the chief financial officer or the treasurer of the Borrower substantially in the form attached as *Exhibit F*.

“Operating Lease” means, as to any Person as determined in accordance with GAAP, any lease of Property (whether real, personal or mixed) by such Person as lessee which is not a Capital Lease.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security

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interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.12).

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent (or to the extent payable to an Issuing Lender or the Swingline Lender, such Issuing Lender or Swingline Lender, as applicable, in each case, with notice to the Administrative Agent) to be customary in the place of disbursement or payment for the settlement of international banking transactions, and (b) with respect to any amount denominated in an Alternative Currency or an Alternative L/C Currency, an overnight rate determined by the Administrative Agent (or to the extent payable to an Issuing Lender or the Swingline Lender, such Issuing Lender or Swingline Lender, as applicable, in each case, with notice to the Administrative Agent) to be customary in the place of disbursement or payment for the settlement of international banking transactions.

“Participant” has the meaning assigned thereto in Section 14.10(d).

“Participant Register” has the meaning assigned thereto in Section 14.10(d).

“Participating Member State” means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Patriot Act” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“Payment Recipient” has the meaning assigned thereto in Section 13.11(a).

“PBGC” means the Pension Benefit Guaranty Corporation or any successor agency.

“Pension Plan” means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV of ERISA or Section 412 of the Code and which (a) is maintained for the employees of any Credit Party or any ERISA Affiliate or (b) has at any time within the preceding six (6) years been maintained for the employees of any Credit Party or any current or former ERISA Affiliates.

“Permitted Acquisition” means any acquisition by the Borrower or any Subsidiary thereof in the form of acquisitions of all or substantially all of the business or a line of business (whether by the acquisition of Capital Stock, assets or any combination thereof) of any other Person if each such acquisition meets all of the following requirements (which in the case of a Limited Conditionality Acquisition shall be subject to Section 1.14):

(x) with respect to any such acquisition:

(i) no less than ten (10) Business Days prior to the proposed closing date of such acquisition, the Borrower shall have delivered written notice of such acquisition to the Administrative Agent, which notice shall include the proposed closing date of such acquisition;

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(ii) such acquisition shall have been approved by the board of directors (or equivalent governing body) of the Person to be acquired;

(iii) the Person or business to be acquired shall be in a substantially similar line of business as the Borrower and its Subsidiaries pursuant to Section 11.11;

(iv) if such transaction is a merger or consolidation, the Borrower or a Subsidiary Guarantor shall be the surviving Person and no Change in Control shall have been effected thereby;

(v) the Borrower shall have delivered to the Administrative Agent such documents reasonably requested by the Administrative Agent or the Required Lenders (through the Administrative Agent) pursuant to Section 9.11 to be delivered at the time required pursuant to Section 9.11; and

(vi) no Event of Default shall have occurred and be continuing both before and after giving effect to such acquisition and any Indebtedness incurred in connection therewith;

(y) with respect to any such acquisition with respect to which the Permitted Acquisition Consideration for such acquisition (or series of related acquisitions) exceeds \$150,000,000, individually:

(i) no later than five (5) Business Days prior to the proposed closing date of such acquisition, the Borrower shall have delivered to the Administrative Agent and the Lenders an Officer's Compliance Certificate for the most recent fiscal quarter end preceding such acquisition for which financial statements are available demonstrating, in form and substance reasonably satisfactory thereto, compliance with each covenant contained in Article X (it being agreed and acknowledged that, notwithstanding anything to the contrary contained in this Agreement, (A) the covenant contained in Section 10.1 (giving effect to any Leverage Ratio Increase then in effect pursuant to Section 10.1) shall be calculated on a Pro Forma Basis as of the date of the acquisition and after giving effect thereto and any Indebtedness incurred in connection therewith and (B) with respect to the covenant contained in Section 10.2, Consolidated EBITDA shall be calculated on a Pro Forma Basis as of the date of the acquisition and after giving effect thereto and any Indebtedness incurred in connection therewith, but no other component of the ratio set forth in Section 10.2 shall be calculated on a Pro Forma Basis);

(ii) prior to the proposed closing date of such acquisition, to the extent requested by the Administrative Agent or any Lender (through the Administrative Agent), the Borrower (1) shall have delivered to the Administrative Agent promptly upon the finalization thereof copies of substantially final Permitted Acquisition Documents and (2) shall have delivered to, or made available for inspection by, the Administrative Agent any Permitted Acquisition Diligence Information delivered to the Borrower; and

(iii) the Borrower shall provide such other documents and other information as may be reasonably (both in scope of such request and timing of such request) requested by the Administrative Agent or the Required Lenders (through the Administrative Agent) in

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connection with the acquisition, provided such information is reasonably available to the Borrower.

“Permitted Acquisition Consideration” means the aggregate amount of the purchase price, including, but not limited to, any assumed debt, earn-outs (valued at the maximum amount payable thereunder), deferred payments, or Capital Stock of the Borrower, net of the applicable acquired company’s cash and Cash Equivalents, balance (as shown on its most recent financial statements delivered in connection with the applicable Permitted Acquisition) in connection with any applicable Permitted Acquisition as set forth in the applicable Permitted Acquisition Documents executed by the Borrower or any of its Subsidiaries in order to consummate the applicable Permitted Acquisition.

“Permitted Acquisition Diligence Information” means with respect to any acquisition proposed by the Borrower or any Subsidiary Guarantor, to the extent applicable, all material financial information, all material contracts, all material customer lists, all material supply agreements, and all other material information, in each case, reasonably requested to be delivered to the Administrative Agent and which is made available to the Borrower or any Subsidiary Guarantor in connection with such acquisition (except to the extent that any such information is (a) subject to any confidentiality agreement, unless mutually agreeable arrangements can be made to preserve such information as confidential, (b) classified or (c) subject to any attorney-client privilege).

“Permitted Acquisition Documents” means with respect to any acquisition proposed by the Borrower or any Subsidiary Guarantor, final copies or substantially final drafts if not executed at the required time of delivery of the purchase agreement, sale agreement, merger agreement or other agreement evidencing such acquisition, including, without limitation, all legal opinions and each other document executed, delivered, contemplated by or prepared in connection therewith and any amendment, modification or supplement to any of the foregoing.

“Permitted Equipment Sale-Leaseback Transaction” means any sale-leaseback by and between any Credit Party, as seller, and any third party reasonably satisfactory to the Administrative Agent, as buyer, in connection with equipment owned by such Credit Party; provided that (a) at the time of any such sale-leaseback, no Default or Event of Default shall exist or would result from such sale-leaseback, (b) the equipment which is the subject of any such sale-leaseback shall be sold for no less than the fair market value thereof, (c) the consideration received in connection with any such sale-leaseback shall be no less than one hundred percent (100%) in cash, (d) the lease executed in connection with any such sale-leaseback shall be an operating lease and shall be subject to customary market terms, and (e) the requirements of Section 4.4(b) are complied with in connection therewith.

“Permitted Liens” means the Liens permitted pursuant to Section 11.2.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Platform” means Debt Domain, Intralinks, SyndTrak or a substantially similar electronic transmission system.

“Prime Rate” means, at any time, the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate. Each change in the Prime Rate shall be effective as of the opening of business on the day such change in such prime rate occurs. The parties hereto acknowledge that the rate announced publicly by the Administrative Agent as its prime rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks.

“Pro Forma Basis” means, for purposes of determining the effect of any Specified Transaction in calculating certain definitions and compliance with any test or financial covenant under this Agreement for any period, that such Specified Transaction (and all other Specified Transactions that have been consummated during the applicable period) and the following

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transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the Property or Person subject to such Specified Transaction, (i) in the case of a disposition of all or substantially all of the Capital Stock of a Subsidiary or any division, business unit, product line or line of business or any classification of any asset, business unit, division or line of business as a discontinued operation, shall be excluded and (ii) in the case of a Permitted Acquisition, shall be included, (b) any retirement of Indebtedness and (c) any Indebtedness incurred or assumed by the Borrower or any of its Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination; provided, that the foregoing pro forma adjustments may be applied to any such definition, test or financial covenant solely to the extent that such adjustments (y) are reasonably expected to be realized within twelve (12) months of such Specified Transaction as set forth in reasonable detail on a certificate of a Responsible Officer of the Borrower delivered to the Administrative Agent and (z) are calculated on a basis consistent with GAAP and Regulation S-X of the Exchange Act or as approved by the Administrative Agent and the Required Lenders.

“Property” means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Capital Stock.

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

“Public Lenders” has the meaning assigned thereto in Section 8.4.

“Qualified Capital Stock” means any Capital Stock that is not Disqualified Capital Stock.

“Rate Determination Date” means, with respect to any Interest Period, two (2) Eurocurrency Banking Days prior to the commencement of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in the applicable interbank market, as determined by the Administrative Agent; provided that to the extent that such market practice is not administratively feasible for the Administrative Agent, such other day as otherwise reasonably determined by the Administrative Agent).

“Recipient” means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Lender, as applicable.

“Register” has the meaning assigned thereto in Section 14.10(c).

“Reimbursement Obligation” means the obligation of the Borrower to reimburse any Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit issued by such Issuing Lender.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Relevant Governmental Body” means (a) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Dollars, the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto and (b) with respect to a Benchmark Replacement in respect of

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Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, any Alternative Currency, (i) the central bank for the Currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (ii) any working group or committee officially endorsed or convened by (A) the central bank for the Currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, (B) any central bank or other supervisor that is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement, (C) a group of those central banks or other supervisors or (D) the Financial Stability Board or any part thereof.

“Removal Effective Date” has the meaning assigned thereto in Section 11.6(b).

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than fifty percent (50%) of the Total Credit Exposures of all Lenders; provided that the Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided further that if there are at least two (2) but not more than three (3) Non-Defaulting Lenders at such time, then Required Lenders must include at least two (2) such Non-Defaulting Lenders.

“Required Revolving Credit Lenders” means, at any date, any combination of Revolving Credit Lenders holding more than fifty percent (50%) of the sum of the aggregate amount of the Revolving Credit Commitment or, if the Revolving Credit Commitment has been terminated, any combination of Revolving Credit Lenders holding more than fifty percent (50%) of the aggregate Extensions of Credit under the Revolving Credit Facility; provided that the Revolving Credit Commitment of, and the portion of the Extensions of Credit under the Revolving Credit Facility, as applicable, held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Credit Lenders; provided further that if there are at least two (2) but not more than three (3) Non-Defaulting Lenders who are Revolving Credit Lenders at such time, then Required Revolving Credit Lenders must include at least two (2) such Non-Defaulting Lenders who are Revolving Credit Lenders.

“Resignation Effective Date” has the meaning assigned thereto in Section 11.6(a).

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” means, as to any Person, the chief executive officer, president, chief financial officer, controller, treasurer or assistant treasurer of such Person or any other officer of such Person reasonably acceptable to the Administrative Agent, in such Person’s capacity as such (and not on an individual basis); provided that, to the extent requested thereby, the Administrative Agent shall have received a certificate of such Person certifying as to the incumbency and genuineness of the signature of each such officer. Any document delivered hereunder or under any other Loan Document that is signed by a Responsible Officer of a Person shall be conclusively presumed to have been authorized by all necessary corporate, limited liability company, partnership and/or other action on the part of such Person and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Person.

“Restricted Junior Indebtedness Payments” has the meaning assigned thereto in Section 11.9(b).

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“Restricted Payment” has the meaning assigned thereto in Section 11.6.

“Revaluation Date” means, subject to Section 1.11:

(a) with respect to any Revolving Credit Loan denominated in an Alternative Currency, each of the following: (i) the date of the borrowing of such Revolving Credit Loan (including any borrowing or deemed borrowing in respect of any unreimbursed portion of any payment by the applicable Issuing Lender under any Letter of Credit denominated in an Alternative Currency) but only as to the amounts so borrowed on such date, (ii) each date of a continuation of such Revolving Credit Loan pursuant to the terms of this Agreement, but only as to the amounts so continued on such date, and (iii) such additional dates as the Administrative Agent shall determine; and

(b) with respect to any Letter of Credit denominated in an Alternative L/C Currency, each of the following: (i) each date of issuance of such Letter of Credit, but only as to the Letter of Credit so issued on such date, (ii) each date such Letter of Credit is amended to increase the face amount of such Letter of Credit but only as to the amount of such increase, (iii) in the case of all Existing Letters of Credit denominated in Alternative L/C Currencies, the Closing Date, but only as to such Existing Letters of Credit and (iv) such additional dates as the Administrative Agent or the applicable Issuing Lender (with notice thereof to the Administrative Agent) shall determine or the Required Lenders shall require.

“Revolving Credit Commitment” means (a) as to any Revolving Credit Lender, the obligation of such Revolving Credit Lender to make Revolving Credit Loans to, and to purchase participations in L/C Obligations and Swingline Loans for the account of, the Borrower hereunder in an aggregate principal Dollar amount at any time outstanding not to exceed the amount set forth opposite such Revolving Credit Lender’s name on the Register, as such Dollar amount may be modified at any time or from time to time pursuant to the terms hereof (including, without limitation, Section 5.13) and (b) as to all Revolving Credit Lenders, the aggregate commitment of all Revolving Credit Lenders to make Revolving Credit Loans, as such Dollar amount may be modified at any time or from time to time pursuant to the terms hereof (including, without limitation, Section 5.13). The aggregate Revolving Credit Commitment of all the Revolving Credit Lenders as of the Closing Date shall be \$700,000,000. The Revolving Credit Commitment of each Revolving Credit Lender as of the Closing Date is set forth opposite the name of such Lender on Schedule 1.1(b).

“Revolving Credit Commitment Percentage” means, with respect to any Revolving Credit Lender at any time, the percentage of the total Revolving Credit Commitments of all the Revolving Credit Lenders represented by such Revolving Credit Lender’s Revolving Credit Commitment. If the Revolving Credit Commitments have terminated or expired, the Revolving Credit Commitment Percentages shall be determined based upon the Revolving Credit Commitments most recently in effect, giving effect to any assignments. The Revolving Credit Commitment Percentage of each Revolving Credit Lender on the Closing Date is set forth opposite the name of such Lender on Schedule 1.1(b).

“Revolving Credit Exposure” means, as to any Revolving Credit Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Credit Loans and such Revolving Credit Lender’s participation in L/C Obligations and Swingline Loans at such time.

“Revolving Credit Facility” means the revolving credit facility established pursuant to Article II (including any increase in such revolving credit facility established pursuant to Section 5.13).

“Revolving Credit Lenders” means, collectively, all of the Lenders with a Revolving Credit Commitment.

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“Revolving Credit Loan” means any revolving loan made to the Borrower pursuant to Section 2.1, and all such revolving loans collectively as the context requires.

“Revolving Credit Maturity Date” means the earliest to occur of (a) June 6, 2028, (b) the date of termination of the entire Revolving Credit Commitment by the Borrower pursuant to Section 2.5, and (c) the date of termination of the Revolving Credit Commitment pursuant to Section 12.2(a).

“Revolving Credit Note” means a promissory note made by the Borrower in favor of a Revolving Credit Lender evidencing the Revolving Credit Loans made by such Revolving Credit Lender, substantially in the form attached as **Exhibit A-1**, and any amendments, supplements and modifications thereto, any substitutes therefor, and any replacements, restatements, renewals or extension thereof, in whole or in part.

“Revolving Credit Outstandings” means the sum of (a) with respect to Revolving Credit Loans on any date of determination, the Dollar Equivalent amount of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Revolving Credit Loans occurring on such date; plus (b) with respect to Swingline Loans, (i) on any date of determination that is prior to the Loan Sweep Activation Date or on or after the Loan Sweep Termination Date, the Dollar Equivalent amount of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Swingline Loans occurring on such date and (ii) on any date of determination that is on and after the Loan Sweep Activation Date and prior to the Loan Sweep Termination Date, the Swingline Reserve; plus (c) with respect to any L/C Obligations on any date of determination, the Dollar Equivalent amount of the aggregate outstanding amount thereof on such date after giving effect to any Extensions of Credit occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of outstanding unpaid drawings under any Letters of Credit or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

“Revolving Extensions of Credit” means (a) any Revolving Credit Loan then outstanding, (b) any Letter of Credit then outstanding or (c) any Swingline Loan then outstanding.

“RFR” means, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, (a) Dollars, SOFR and (b) Sterling, SONIA.

“RFR Business Day” means, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, (a) Dollars, any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities and (b) Sterling, any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which banks are closed for general business in London; provided, that for purposes of notice requirements in Sections 2.3(a), 2.4(c) and 5.2, in each case, such day is also a Business Day.

“RFR Loan” means a Term SOFR Loan or a Daily Simple SONIA Loan, as the context may require.

“RFR Rate Day” means any day pursuant to which any calculation of an RFR is made.

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency or an Alternative L/C Currency, same day or other funds as may be determined by the Administrative Agent or the applicable Issuing Lender (with notice thereof to the Administrative Agent), to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency or Alternative L/C Currency.

“Sanctioned Country” means, at any time, a country, region or territory which is itself (or whose government is) the subject or target of any Sanctions (including, as of the Closing Date,

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Cuba, Iran, North Korea, Syria, Crimea, the so-called Luhansk People's Republic and the so-called Donetsk People's Republic).

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC (including OFAC's Specially Designated Nationals and Blocked Persons List and OFAC's Consolidated Non-SDN List), the U.S. Department of State, the United Nations Security Council, the European Union, any European member state, His Majesty's Treasury, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any such Person or Persons described in clauses (a) and (b), including a Person that is deemed by OFAC to be a Sanctions target based on the ownership of such legal entity by Sanctioned Person(s) or (d) any Person otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

"Sanctions" means any and all economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes and restrictions and anti-terrorism laws, including but not limited to those imposed, administered or enforced from time to time by the U.S. government (including those administered by OFAC or the U.S. Department of State), the United Nations Security Council, the European Union, any European member state, His Majesty's Treasury, or other relevant sanctions authority in any jurisdiction in which (a) the Borrower or any of its Subsidiaries or Affiliates is located or conducts business, (b) in which any of the proceeds of the Extensions of Credit will be used, or (c) from which repayment of the Extensions of Credit will be derived.

"SEC" means the U.S. Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Cash Management Agreement" means any Cash Management Agreement between or among any Credit Party and any Cash Management Bank.

"Secured Hedge Agreement" means any Hedge Agreement between or among any Credit Party and any Hedge Bank.

"Secured Obligations" means, collectively, (a) the Obligations and (b) all existing or future payment and other obligations owing by any Credit Party under (i) any Secured Hedge Agreement and (ii) any Secured Cash Management Agreement; provided that the "Secured Obligations" of a Credit Party shall exclude any Excluded Swap Obligations with respect to such Credit Party.

"Secured Parties" means, collectively, the Administrative Agent, the Lenders, the Issuing Lenders, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 13.5, any other holder from time to time of any of any Secured Obligations and, in each case, their respective successors and permitted assigns.

"Security Documents" means the collective reference to the Collateral Agreement, the Guaranty Agreements, and each other agreement or writing pursuant to which any Credit Party purports to pledge or grant a security interest in any Property or assets securing the Secured Obligations or any such Person purports to guaranty the payment and/or performance of the Secured Obligations.

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

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“SOFRA Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“SONIA” means a rate equal to the Sterling Overnight Index Average as administered by the SONIA Administrator.

“SONIA Adjustment” means a percentage equal to 0.0326% per annum.

“SONIA Administrator” means the Bank of England (or any successor administrator of the Sterling Overnight Index Average).

“SONIA Administrator’s Website” means the Bank of England’s website, currently at <http://www.bankofengland.co.uk>, or any successor source for the Sterling Overnight Index Average identified as such by the SONIA Administrator from time to time.

“Special Notice Currency” means at any time an Alternative Currency or Alternative L/C Currency, other than the currency of a country that is a member of the Organization for Economic Cooperation and Development at such time located in North America.

“Specified Transactions” means (a) any disposition of all or substantially all of the assets or Capital Stock of any Subsidiary of the Borrower or any division, business unit, product line or line of business, (b) any Permitted Acquisition, (c) any incurrence of Indebtedness, (d) the classification of any asset, business unit, division or line of business as a discontinued operation, (e) the Transactions.

“Spot Rate” means, subject to Section 1.13, for a Currency, the rate provided (either by publication or otherwise provided or made available to the Administrative Agent or the applicable Issuing Lender (with notice to the Administrative Agent)) by Thomson Reuters Corp. (or equivalent service chosen by the Administrative Agent in its reasonable discretion) as the spot rate for the purchase of such Currency with another currency at a time selected by the Administrative Agent or the applicable Issuing Lender (with notice to the Administrative Agent) in accordance with the procedures generally used by the Administrative Agent for syndicated credit facilities in which it acts as administrative agent or, if applicable, the Issuing Lender for syndicated credit facilities in which it acts as issuing lender.

“Sterling” and “£” means the lawful currency of the United Kingdom.

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“Subordinated Indebtedness” means the collective reference to any Indebtedness of any Credit Party or any Subsidiary thereof subordinated in right and time of payment to the Obligations and containing such other terms and conditions, in each case as are satisfactory to the Administrative Agent.

“Subsidiary” means as to any Person, any corporation, partnership, limited liability company or other entity of which more than fifty percent (50%) of the outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors (or equivalent governing body) or other managers of such corporation, partnership, limited liability company or other entity is at the time owned by (directly or indirectly) or the management is otherwise controlled by (directly or indirectly) such Person (irrespective of whether, at the time, Capital Stock of any other class or classes of such corporation, partnership, limited liability company or other entity shall have or might have voting power by reason of the happening of any contingency). Unless otherwise qualified, references to “Subsidiary” or “Subsidiaries” herein shall refer to those of the Borrower.

“Subsidiary Guarantors” means, collectively, all direct and indirect Subsidiaries of the Borrower (other than the Borrower and Foreign Subsidiaries to the extent that and for so long as the guaranty of such Foreign Subsidiary would have material adverse tax consequences for the Borrower or any other Credit Party or result in a violation of Applicable Laws) in existence on the Closing Date or which becomes a party to the Guaranty Agreement pursuant to Section 9.11.

“Sustainability Structuring Agent” means HSBC Bank USA, National Association.

“Swap Obligation” means, with respect to any Credit Party, 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.

“Swingline Commitment” means the lesser of (a) \$30,000,000 and (b) the aggregate amount of the Revolving Credit Commitments.

“Swingline Facility” means the swingline facility established pursuant to Section 2.2.

“Swingline Lender” means Wells Fargo in its capacity as swingline lender hereunder, or any successor thereto.

“Swingline Loan” means any swingline loan made by the Swingline Lender to the Borrower in Dollars pursuant to Section 2.2, and all such swingline loans collectively as the context requires.

“Swingline Note” means a promissory note made by the Borrower in favor of the Swingline Lender evidencing the Swingline Loans made by the Swingline Lender, substantially in the form attached as **Exhibit A-2**, and any amendments, supplements and modifications thereto, any substitutes therefor, and any replacements, restatements, renewals or extension thereof, in whole or in part.

“Swingline Participation Amount” has the meaning assigned thereto in Section 2.2(b)(iii).

“Swingline Reserve” means, on any date of determination, the amount of the Swingline Commitment as of such date.

“Synthetic Lease” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an Operating Lease in accordance with GAAP.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“TARGET Day” means any day on which TARGET2 is open for the settlement of payments in Euros.

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“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, tax-related fines, additions to tax or penalties applicable thereto.

“Term Loan Commitment” means (a) as to any Term Loan Lender, the obligation of such Term Loan Lender to make a portion of the Initial Term Loan and/or Incremental Term Loans, as applicable, to the account of the Borrower hereunder on the Closing Date (in the case of the Initial Term Loan) or the applicable borrowing date (in the case of any Incremental Term Loan) in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on the Register, as such amount may be increased, reduced or otherwise modified at any time or from time to time pursuant to the terms hereof and (b) as to all Term Loan Lenders, the aggregate commitment of all Term Loan Lenders to make such Term Loans. The aggregate Term Loan Commitment with respect to the Initial Term Loan of all Term Loan Lenders on the Closing Date shall be \$150,000,000. The Term Loan Commitment of each Term Loan Lender as of the Closing Date is set forth opposite the name of such Term Loan Lender on Schedule 1.1(b).

“Term Loan Facility” means the term loan facility established pursuant to Article IV (including any new term loan facility established pursuant to Section 5.13).

“Term Loan Lender” means any Lender with a Term Loan Commitment and/or outstanding Term Loans.

“Term Loan Maturity Date” means the first to occur of (a) June 6, 2028, and (b) the date of acceleration of the Term Loans pursuant to Section 12.2(a).

“Term Loan Note” means a promissory note made by the Borrower in favor of a Term Loan Lender evidencing the portion of the Term Loans made by such Term Loan Lender, substantially in the form attached as **Exhibit A-3**, and any substitutes therefor, and any replacements, restatements, renewals or extension thereof, in whole or in part.

“Term Loan Percentage” means, with respect to any Term Loan Lender at any time, the percentage of the total outstanding principal balance of the Term Loan represented by the outstanding principal balance of such Term Loan Lender’s Term Loan. The Term Loan Percentage of each Term Loan Lender as of the Closing Date is set forth opposite the name of such Lender on Schedule 1.1(b).

“Term Loans” means the Initial Term Loans and, if applicable, the Incremental Term Loans and “Term Loan” means any of such Term Loans.

“Term SOFR” means:

(a) for any calculation with respect to a Term SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the “Periodic Term SOFR Determination Day”) that is two (2) RFR Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding RFR Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding RFR Business Day is not more than three (3) RFR Business Days prior to such Periodic Term SOFR Determination Day; and

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(b) for any calculation with respect to a Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "Base Rate Term SOFR Determination Day") that is two (2) RFR Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding RFR Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding RFR Business Day is not more than three (3) RFR Business Days prior to such Base Rate Term SOFR Determination Day.

"Term SOFR Adjustment" means a percentage equal to 0.10% per annum.

"Term SOFR Administrator" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

"Term SOFR Loan" means any Loan that bears interest at a rate based on Adjusted Term SOFR other than pursuant to clause (c) of the definition of "Base Rate".

"Term SOFR Reference Rate" means the forward-looking term rate based on SOFR.

"Termination Event" means, except for any such event or condition that could not reasonably be expected to have a Material Adverse Effect: (a) a "Reportable Event" described in Section 4043 of ERISA for which the notice requirement has not been waived by the PBGC, or (b) the withdrawal of any Credit Party or any ERISA Affiliate from a Pension Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, or (c) the termination of a Pension Plan, the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, or (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC, or (e) any other event or condition which would constitute grounds under Section 4042(a) of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, or (f) the imposition of a Lien pursuant to Section 430 of the Code or Section 303(k) of ERISA, or (g) the partial or complete withdrawal of any Credit Party or any ERISA Affiliate from a Multiemployer Plan if withdrawal liability is asserted by such plan, or (h) any event or condition which results in the reorganization or insolvency of a Multiemployer Plan under Sections 4241 or 4245 of ERISA, or (i) any event or condition which results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by PBGC of proceedings to terminate a Multiemployer Plan under Section 4042 of ERISA.

"Threshold Amount" means \$25,000,000.

"Total Credit Exposure" means, as to any Lender at any time, the unused Commitments, Revolving Credit Exposure and outstanding Term Loans of such Lender at such time.

"Transaction Costs" means (a) all transaction fees, charges and other amounts related to the Transactions, any Permitted Acquisition consummated on or after the Closing Date and any Equity Issuance consummated on or after the Closing Date (including, without limitation, any financing fees, merger and acquisition fees, legal fees and expenses, due diligence fees or any other fees and expenses in connection therewith) and (b) severance costs, restructuring costs and inventory markup in connection with the Transactions, any Permitted Acquisition consummated on or after the Closing Date and any Equity Issuance consummated after the Closing Date, in each case, to the extent such costs, fees, charges and other amounts have been approved by the Administrative Agent.

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“Transactions” means, collectively, (a) the repayment in full of all Indebtedness (other than Indebtedness permitted pursuant to Section 11.1) on the Closing Date, (b) the initial Extensions of Credit and (c) the payment of the Transaction Costs incurred in connection with items (a) and (b) above.

“UCC” means the Uniform Commercial Code as in effect in the State of New York.

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unrestricted Cash and Cash Equivalents” means, as of any date of determination, one hundred percent (100%) of the aggregate amount of Unrestricted cash and Cash Equivalents of the Borrower and its Domestic Subsidiaries (other than Unrestricted cash and Cash Equivalents in deposit accounts or securities accounts located in China). For purposes hereof, “Unrestricted” means, when referring to cash and Cash Equivalents of the Borrower and its Subsidiaries, that such cash and Cash Equivalents (a) do not appear, or would not be required to appear, as “restricted” on the financial statements of the Borrower and its Subsidiaries (unless related to the Loan Documents or the Liens created thereunder), (b) are not subject to a Lien in favor of any Person (other than Liens permitted under Sections 11.2(a) or 11.2(i)) or (c) are not otherwise unavailable to the Borrower and its Subsidiaries.

“U.S. Person” means any Person that is a “United States person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning assigned thereto in Section 5.11(g).

“United States” means the United States of America.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness, in each case of clauses (a) and (b), without giving effect to the application of any prior prepayment to such installment, sinking fund, serial maturity or other required payment of principal.

“Wells Fargo” means Wells Fargo Bank, National Association, a national banking association.

“Wholly-Owned” means, with respect to a Subsidiary, that all of the shares of Capital Stock of such Subsidiary are, directly or indirectly, owned or controlled by the Borrower and/or one or more of its Wholly-Owned Subsidiaries (except for directors’ qualifying shares or other shares required by Applicable

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Law to be owned by a Person other than the Borrower and/or one or more of its Wholly-Owned Subsidiaries).

“Withholding Agent” means the Borrower and the Administrative Agent.

“Write-Down and Conversion Powers” means (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.2 Other Definitions and Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document: (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”, (d) the word “will” shall be construed to have the same meaning and effect as the word “shall”, (e) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (f) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (g) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (h) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (i) the term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, (j) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including” and (k) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

SECTION 1.3 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP, applied on a consistent basis, as in effect from time to time and in a manner consistent with that used in preparing the audited financial statements required by Section 8.1(a), except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant)

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contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP; provided, further that (A) all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the effectiveness of FASB ASC 842 shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purpose of this Agreement (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with FASB ASC 842 (on a prospective or retroactive basis or otherwise) to be treated as Capital Lease obligations in the financial statements and (B) all financial statements delivered to the Administrative Agent hereunder shall contain a schedule showing the modifications necessary to reconcile the adjustments made pursuant to clause (A) above with such financial statements.

SECTION 1.4 UCC Terms. Terms defined in the UCC in effect on the Closing Date and not otherwise defined herein shall, unless the context otherwise indicates, have the meanings provided by those definitions. Subject to the foregoing, the term “UCC” refers, as of any date of determination, to the UCC then in effect.

SECTION 1.5 Rounding. Any financial ratios required to be maintained pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio or percentage is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.6 References to Agreement and Laws. Unless otherwise expressly provided herein, (a) any definition or reference to formation documents, governing documents, agreements (including the Loan Documents) and other contractual documents or instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) any definition or reference to any Applicable Law, including, without limitation, Anti-Corruption Laws, Anti-Money Laundering Laws, the Bankruptcy Code, the Code, the Commodity Exchange Act, ERISA, the Exchange Act, the Patriot Act, the UCC, the Investment Company Act, the Interstate Commerce Act, the Trading with the Enemy Act of the United States or any of the foreign assets control regulations of the United States Treasury Department, shall include all

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statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Applicable Law.

SECTION 1.7 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.8 Letter of Credit Amounts. Unless otherwise specified, all references herein to the amount of a Letter of Credit at any time shall be deemed to mean the maximum face amount, or the Dollar Equivalent of the maximum face amount, if applicable, of such Letter of Credit after giving effect to all increases thereof contemplated by such Letter of Credit or the Letter of Credit Documents therefor (at the time specified therefor in such applicable Letter of Credit or Letter of Credit Documents and as such amount may be reduced by (a) any permanent reduction of such Letter of Credit or (b) any amount which is drawn, reimbursed and no longer available under such Letter of Credit).

SECTION 1.9 Guaranty Obligations/Earn-Outs. Unless otherwise specified, (a) the amount of any Guaranty Obligation shall be the lesser of the principal amount of the obligations guaranteed and still outstanding and the maximum amount for which the guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guaranty Obligation and (b) the amount of any earn-out or similar obligation shall be the amount of such obligation as reflected on the balance sheet of such Person in accordance with GAAP.

SECTION 1.10 Covenant Compliance Generally. For purposes of determining compliance under Sections 11.1, 11.2, 11.3, 11.5 and 11.6, any amount in a currency other than Dollars will be converted to Dollars in a manner consistent with that used in calculating Consolidated Net Income in the most recent annual financial statements of the Borrower and its Subsidiaries delivered pursuant to Section 8.1(b). Notwithstanding the foregoing, for purposes of determining compliance with Sections 11.1, 11.2 and 11.3, with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no breach of any basket contained in such sections shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred; provided that for the avoidance of doubt, the foregoing provisions of this Section 1.10 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred at any time under such Sections.

SECTION 1.11 Exchange Rates; Currency Equivalents.

(a) The Administrative Agent or the applicable Issuing Lender (with notice thereof to the Administrative Agent), as applicable, shall determine the Dollar Equivalent amounts of Extensions of Credit denominated in Alternative Currencies or Alternative L/C Currencies, as applicable. Such Dollar Equivalent shall become effective as of such Revaluation Date and shall be the Dollar Equivalent of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Borrower hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any Currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or the applicable Issuing Lender (with notice thereof to the Administrative Agent), as applicable.

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(b) Wherever in this Agreement in connection with a borrowing, conversion, continuation or prepayment of an RFR Loan or a Eurocurrency Rate Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum, a required maximum or multiple amount, is expressed in Dollars, but such RFR Loan, Eurocurrency Rate Loan or Letter of Credit is denominated in an Alternative Currency or an Alternative L/C Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency or an Alternative L/C Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the applicable Issuing Lender, as applicable.

(c) Notwithstanding the foregoing provisions of this Section 1.11 or any other provision of this Agreement, (i) each Issuing Lender may compute the Dollar Equivalent of the maximum amount of each applicable Letter of Credit issued by such Issuing Lender by reference to exchange rates determined using any reasonable method customarily employed by such Issuing Lender for such purpose and (ii) the Dollar Equivalent of all Existing Letters of Credit denominated in Alternative L/C Currencies shall as of the Closing Date be as set forth on Schedule 1.1(a).

(d) Notwithstanding the foregoing provisions of this Section 1.11 or any other provision of this Agreement, in connection with Daily Simple SONIA Loans, the Spot Rate on each date of borrowing shall be the Spot Rate in effect as of the Revaluation Date applicable to the first borrowing of any such Daily Simple SONIA Loans (or, if applicable, any later Revaluation Date pursuant to clause (a)(iii) of the definition of "Revaluation Date").

#### SECTION 1.12 Change of Currency.

(a) The 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 or applicable offshore 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 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.

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SECTION 1.13 Additional Alternative Currencies or Alternative L/C Currencies.

(a) The Borrower may from time to time request that (i) Revolving Credit Loans be made in a currency other than those specifically listed in the definition of "Alternative Currency" and/or (ii) Letters of Credit be issued in a currency other than those specifically listed in the definition of "Alternative L/C Currency"; provided that such requested currency is (A) a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars (B) dealt with in the London or other applicable offshore interbank deposit market and (C) for which no central bank or other governmental authorization in the country of issue of such currency is required to give authorization for the use of such currency by any Lender for making Revolving Credit Loans or any Issuing Lender for issuing Letters of Credit, as applicable, unless such authorization has been obtained and remains in full force and effect. In the case of any such request with respect to the making of Revolving Credit Loans, such request shall be subject to the approval of the Administrative Agent and the Revolving Credit Lenders; and in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent, the Revolving Credit Lenders and the applicable Issuing Lender or Issuing Lenders.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., (i) with respect to a request for an additional Alternative Currency, 20 Business Days prior to the date of the desired Extension of Credit (or such other time or date as may be agreed by the Administrative Agent in its sole discretion) or (ii) with respect to a request for an additional Alternative L/C Currency, five (5) Business Days prior to the date of the desired Letter of Credit (or such other time or date as may be agreed by the applicable Issuing Lender(s), in its (their) sole discretion, with notice to the Administrative Agent). Each such request shall also identify the applicable benchmark rate that is to apply to Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, such requested additional Alternative Currency. In the case of any such request pertaining to Revolving Credit Loans, the Administrative Agent shall promptly notify each Revolving Credit Lender thereof; and in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the applicable Issuing Lender(s) thereof. Each Revolving Credit Lender (in the case of any such request pertaining to Revolving Credit Loans) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Revolving Credit Loans in such requested currency and the usage of such benchmark rate. The applicable Issuing Lender(s) (in the case of a request pertaining to Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., three Business Days after receipt of such request whether it consents, in its sole discretion, to the issuance of Letters of Credit in such requested currency and the usage of such benchmark rate.

(c) Any failure by a Revolving Credit Lender or the applicable Issuing Lender(s), as the case may be, to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Lender or the applicable Issuing Lender(s), as the case may be, to permit Revolving Credit Loans to be made or Letters of Credit to be issued in such requested currency and such benchmark rate to be used. If the Administrative Agent and all the Revolving Credit Lenders consent to making Revolving Credit Loans in such requested currency and using such benchmark rate, the Administrative Agent shall so notify the Borrower and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for

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purposes of any borrowings of Revolving Credit Loans; and if the Administrative Agent, all the Revolving Credit Lenders and the applicable Issuing Lender(s) consent to the issuance of Letters of Credit 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 Alternative L/C Currency hereunder for purposes of any Letter of Credit issuances by such Issuing Lender(s). If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.13, the Administrative Agent shall promptly so notify the Borrower.

(d) In connection with any approved request for an Alternative Currency or an Alternative L/C Currency, the Administrative Agent will have the right to make any technical, administrative or operational changes that the Administrative Agent decides may be appropriate to reflect the inclusion of such Alternative Currency or such Alternative L/C Currency, as applicable, and the adoption and implementation of the benchmark rate applicable thereto and to permit the administration thereof by the Administrative Agent from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

**SECTION 1.14 Limited Conditionality Acquisitions.** In the event that the Borrower notifies the Administrative Agent in writing that any proposed acquisition by the Borrower or any Subsidiary thereof in the form of acquisitions of all or substantially all of the business or a line of business (whether by the acquisition of Capital Stock, assets or any combination thereof) is a Limited Conditionality Acquisition and that the Borrower wishes to test the conditions to such acquisition and the availability of the Incremental Loans that is to be used to finance such acquisition in accordance with this Section, then, so long as agreed to by the Administrative Agent and the lenders providing such Indebtedness, the following provisions shall apply:

(a) any condition to such acquisition or such Indebtedness that requires that no Default or Event of Default shall have occurred and be continuing at the time of such acquisition or the incurrence of such Indebtedness, shall be satisfied if (i) no Default or Event of Default shall have occurred and be continuing at the time of the execution of the definitive purchase agreement, merger agreement or other acquisition agreement governing such acquisition (the "LCA Test Date") and (ii) no Event of Default under any of Sections 12.1(a), 12.1(b), 12.1(f), 12.1(h) or 12.1(i) shall have occurred and be continuing both before and after giving effect to such acquisition and any Indebtedness incurred in connection therewith (including such additional Indebtedness);

(b) any condition to such acquisition or such Indebtedness that the representations and warranties in this Agreement and the other Loan Documents shall be true and correct at the time of such acquisition or the incurrence of such Indebtedness shall be subject to customary "SunGard" or other customary applicable "certain funds" conditionality provisions (including, without limitation, a condition that the representations and warranties under the relevant agreements relating to such Limited Conditionality Acquisition as are material to the lenders providing such Indebtedness shall be true and correct, but only to the extent that the Borrower or its applicable Subsidiary has the right to terminate its obligations under such agreement as a result of a breach of such representations and warranties or the failure of those representations and warranties to be true and correct), so long as all representations and warranties in this Agreement and the other Loan Documents are true and correct as of the LCA Test Date;

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(c) any financial ratio test or condition, may upon the written election of the Borrower delivered to the Administrative Agent prior to the execution of the definitive agreement for such acquisition, be tested either (i) upon the execution of the definitive agreement with respect to such Limited Conditionality Acquisition or (ii) upon the consummation of the Limited Conditionality Acquisition and related incurrence of Indebtedness, in each case, after giving effect to the relevant Limited Conditionality Acquisition and related incurrence of Indebtedness, on a Pro Forma Basis; provided that the failure to deliver a notice under this Section 1.14(c) prior to the date of execution of the definitive agreement for such Limited Conditionality Acquisition shall be deemed an election to test the applicable financial ratio under subclause (ii) of this Section 1.14(c); and

(d) if the Borrower has made an election with respect to any Limited Conditionality Acquisition to test a financial ratio test or condition at the time specified in subs-clause (c)(i) of this Section, then in connection with any subsequent calculation of any ratio or basket on or following the relevant date of execution of the definitive agreement with respect to such Limited Conditionality Acquisition and prior to the earlier of (i) the date on which such Limited Conditionality Acquisition is consummated or (ii) the date that the definitive agreement for such Limited Conditionality Acquisition is terminated or expires without consummation of such Limited Conditionality Acquisition, any such ratio or basket shall be required to be satisfied (x) on a Pro Forma Basis assuming such Limited Conditionality Acquisition and other transactions in connection therewith (including the incurrence or assumption of Indebtedness) have been consummated and (y) assuming such Limited Conditionality Acquisition and other transactions in connection therewith (including the incurrence or assumption of Indebtedness) have not been consummated.

The foregoing provisions shall apply with similar effect during the pendency of multiple Limited Conditionality Acquisitions such that each of the possible scenarios is separately tested. Notwithstanding anything to the contrary herein, in no event shall there be more than two Limited Conditionality Acquisitions at any time outstanding.

SECTION 1.15 Rates. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, Adjusted Daily Simple SONIA, Daily Simple SONIA, the Eurocurrency Rate, the Adjusted Eurocurrency Rate or any other Benchmark, or any component definition thereof or rates referred to in the definition thereof, or with respect to any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 5.8(c), will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, Adjusted Daily Simple SONIA, Daily Simple SONIA, the Eurocurrency Rate, the Adjusted Eurocurrency Rate, such Benchmark or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its Affiliates or other related entities may engage in transactions that affect the calculation of a Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to the Borrower. The Administrative Agent may select information sources or

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services in its reasonable discretion to ascertain any Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

SECTION 1.16 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Capital Stock at such time.

## ARTICLE II

### REVOLVING CREDIT FACILITY

SECTION 2.1 Revolving Credit Loans. Subject to the terms and conditions of this Agreement and the other Loan Documents, and in reliance upon the representations and warranties set forth herein, each Revolving Credit Lender severally agrees to make Revolving Credit Loans to the Borrower in Dollars or one or more Alternative Currencies from time to time from the Closing Date to, but not including, the Revolving Credit Maturity Date as requested by the Borrower in accordance with the terms of Section 2.3; provided, that (a) the Revolving Credit Outstandings shall not exceed the Revolving Credit Commitment, (b) the Revolving Credit Exposure of any Revolving Credit Lender shall not at any time exceed such Revolving Credit Lender's Revolving Credit Commitment and (c) the aggregate principal amount of all outstanding Revolving Credit Loans denominated in Alternative Currencies and Letters of Credit denominated in Alternative L/C Currencies shall not exceed the Alternative Currency Sublimit. Each Revolving Credit Loan by a Revolving Credit Lender shall be in a principal amount equal to such Revolving Credit Lender's Revolving Credit Commitment Percentage of the aggregate principal amount of Revolving Credit Loans requested on such occasion. Subject to the terms and conditions hereof, the Borrower may borrow, repay and reborrow Revolving Credit Loans hereunder from the Closing Date through and including the Revolving Credit Maturity Date.

#### SECTION 2.2 Swingline Loans.

(a) Availability.

(i) Subject to the terms and conditions of this Agreement and the other Loan Documents, and in reliance upon the representations and warranties set forth herein, prior to the Loan Sweep Activation Date or on or after the Loan Sweep Termination Date, the Swingline Lender agrees to make Swingline Loans in Dollars to the Borrower from time to time from the Closing Date through, but not including, the Revolving Credit Maturity Date; provided, that (A) after giving effect to any amount requested, the Revolving Credit Outstandings shall not exceed the Revolving Credit Commitment and (B) the aggregate

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principal amount of all outstanding Swingline Loans (after giving effect to any amount requested), shall not exceed the lesser of (1) the Revolving Credit Commitment less the sum of all outstanding Revolving Credit Loans and the L/C Obligations and (2) the Swingline Commitment.

(ii) Subject to the terms and conditions of this Agreement and the other Loan Documents, and in reliance upon the representations and warranties set forth herein, on and after the Loan Sweep Activation Date and prior to the Loan Sweep Termination Date, the Swingline Lender agrees to make Swingline Loans in Dollars to the Borrower from time to time from the Closing Date through, but not including, the Revolving Credit Maturity Date pursuant to, and in accordance with, the Loan Sweep Agreement; provided, that (A) after giving effect to any amount requested, the Revolving Credit Outstandings shall not exceed the Revolving Credit Commitment and (B) the aggregate principal amount of all outstanding Swingline Loans (after giving effect to any amount requested), shall not exceed the lesser of (1) the Revolving Credit Commitment less the sum of all outstanding Revolving Credit Loans and the L/C Obligations and (2) the Swingline Commitment.

(b) Refunding.

(i) The Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of the Borrower (which hereby irrevocably directs the Swingline Lender to act on its behalf), by written notice given no later than 11:00 a.m. on any Business Day request each Revolving Credit Lender to make, and each Revolving Credit Lender hereby agrees to make, a Revolving Credit Loan in Dollars as a Base Rate Loan in an amount equal to such Revolving Credit Lender's Revolving Credit Commitment Percentage of the aggregate amount of the Swingline Loans outstanding on the date of such notice, to repay the Swingline Lender. Each Revolving Credit Lender shall make the amount of such Revolving Credit Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 1:00 p.m. on the day specified in such notice. The proceeds of such Revolving Credit Loans shall be immediately made available by the Administrative Agent to the Swingline Lender for application by the Swingline Lender to the repayment of the Swingline Loans. No Revolving Credit Lender's obligation to fund its respective Revolving Credit Commitment Percentage of a Swingline Loan shall be affected by any other Revolving Credit Lender's failure to fund its Revolving Credit Commitment Percentage of a Swingline Loan, nor shall any Revolving Credit Lender's Revolving Credit Commitment Percentage be increased as a result of any such failure of any other Revolving Credit Lender to fund its Revolving Credit Commitment Percentage of a Swingline Loan.

(ii) The Borrower shall pay to the Swingline Lender on demand, and in any event on the Revolving Credit Maturity Date, in Same Day Funds the amount of such Swingline Loans to the extent amounts received from the Revolving Credit Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. In addition, the Borrower hereby irrevocably authorizes the Administrative Agent to charge any account maintained by the Borrower with the Swingline Lender (up to the amount available therein) in order to immediately pay the Swingline Lender the amount of such Swingline Loans to the extent amounts received from the Revolving Credit

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Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. If any portion of any such amount paid to the Swingline Lender shall be recovered by or on behalf of the Borrower from the Swingline Lender in bankruptcy or otherwise, the loss of the amount so recovered shall be ratably shared among all the Revolving Credit Lenders in accordance with their respective Revolving Credit Commitment Percentages.

(iii) If for any reason any Swingline Loan cannot be refinanced with a Revolving Credit Loan pursuant to Section 2.2(b)(i), each Revolving Credit Lender shall, on the date such Revolving Credit Loan was to have been made pursuant to the notice referred to in Section 2.2(b)(i), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to the Swingline Lender an amount (the "Swingline Participation Amount") equal to such Revolving Credit Lender's Revolving Credit Commitment Percentage of the aggregate principal amount of Swingline Loans then outstanding. Each Revolving Credit Lender will immediately transfer to the Swingline Lender, in Same Day Funds, the amount of its Swingline Participation Amount. Whenever, at any time after the Swingline Lender has received from any Revolving Credit Lender such Revolving Credit Lender's Swingline Participation Amount, the Swingline Lender receives any payment on account of the Swingline Loans, the Swingline Lender will distribute to such Revolving Credit Lender its Swingline Participation Amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Revolving Credit Lender's pro rata portion of such payment if such payment is not sufficient to pay the principal of and interest on all Swingline Loans then due); provided that in the event that such payment received by the Swingline Lender is required to be returned, such Revolving Credit Lender will return to the Swingline Lender any portion thereof previously distributed to it by the Swingline Lender.

(iv) Each Revolving Credit Lender's obligation to make the Revolving Credit Loans referred to in Section 2.2(b)(i) and to purchase participating interests pursuant to Section 2.2(b)(iii) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Revolving Credit Lender or the Borrower may have against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Article VI, (C) any adverse change in the condition (financial or otherwise) of the Borrower, (D) any breach of this Agreement or any other Loan Document by the Borrower, any other Credit Party or any other Revolving Credit Lender or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(v) If any Revolving Credit Lender fails to make available to the Administrative Agent, for the account of the Swingline Lender, any amount required to be paid by such Revolving Credit Lender pursuant to the foregoing provisions of this Section 2.2(b) by the time specified in Section 2.2(b)(i) or 2.2(b)(iii), as applicable, the Swingline Lender shall be entitled to recover from such Revolving Credit Lender (acting through the

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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 Swingline Lender at a rate per annum equal to the Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Swingline Lender in connection with the foregoing. If such Revolving Credit Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Credit Lender's Revolving Credit Loan or Swingline Participation Amount, as the case may be. A certificate of the Swingline Lender submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this clause (v) shall be conclusive absent manifest error.

(c) Defaulting Lenders. Notwithstanding anything to the contrary contained in this Agreement, this Section 2.2 shall be subject to the terms and conditions of Section 5.14 and Section 5.15.

### SECTION 2.3 Procedure for Advances of Revolving Credit Loans and Swingline Loans.

(a) Requests for Borrowing. The Borrower shall give the Administrative Agent irrevocable prior written notice substantially in the form of **Exhibit B** (a "Notice of Borrowing") not later than 11:00 a.m. (i) on the same Business Day as each Base Rate Loan and each Swingline Loan (other than Cash Management Swingline Loans) and (ii)(A) in the case of a Term SOFR Loan, at least three (3) RFR Business Days before such Term SOFR Loan, (B) in the case of a Daily Simple SONIA Loan, at least five (5) RFR Business Days before such Daily Simple SONIA Loan, and (C) in the case of a Eurocurrency Rate Loan denominated in any Alternative Currency, at least four (4) Eurocurrency Banking Days before such Eurocurrency Rate Loan (or five (5) Eurocurrency Banking Days in the case of a Special Notice Currency), of its intention to borrow, in each case, specifying (A) the date of such borrowing, which shall be a Business Day (and, as applicable, a RFR Business Day or Eurocurrency Banking Day), (B) the Currency of such borrowing, (C) the amount of such borrowing, which shall be, (x) with respect to Base Rate Loans (other than Swingline Loans) in an aggregate principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof, (y) with respect to Eurocurrency Rate Loans and Daily Simple SONIA Loans in an aggregate principal amount of \$2,500,000 or a whole multiple of \$1,000,000 in excess thereof and (z) with respect to Swingline Loans (other than Cash Management Swingline Loans) in an aggregate principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof (or, in each case, the remaining amount of the Revolving Credit Commitment or the Swingline Commitment, as applicable), (D) whether such Loan is to be a Revolving Credit Loan or Swingline Loan, (E) in the case of a Revolving Credit Loan whether such Revolving Credit Loan is to be a Eurocurrency Rate Loan, a Daily Simple SONIA Loan, a Term SOFR Loan or a Base Rate Loan, and (F) in the case of a Eurocurrency Rate Loan or a Term SOFR Loan, the duration of the Interest Period applicable thereto. If the Borrower fails to specify the Currency of a Loan in a Notice of Borrowing, then the applicable Loans shall be made in Dollars. If the Borrower fails to specify a type of Loan denominated in Dollars in a Notice of Borrowing, then the applicable Loans shall be made as Base Rate Loans. If the Borrower requests a borrowing of a Eurocurrency Rate Loan or a Term SOFR Loan in any such Notice of Borrowing, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. A Notice of Borrowing received after 11:00 a.m. shall be deemed received on the next Business Day,

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RFR Business Day or Eurocurrency Banking Day, as applicable. The Administrative Agent shall promptly notify the Revolving Credit Lenders of each Notice of Borrowing.

(b) Disbursement of Revolving Credit and Swingline Loans. Not later than 1:00 p.m. in the case of any Loan denominated in Dollars, and not later than the Applicable Time specified by the Administrative Agent, in the case of any Loan denominated in an Alternative Currency, in each case on the proposed borrowing date, (i) each Revolving Credit Lender will make available to the Administrative Agent, for the account of the Borrower, at the Administrative Agent's Office in Same Day Funds, in the applicable Currency, such Revolving Credit Lender's Revolving Credit Commitment Percentage of the Revolving Credit Loans to be made on such borrowing date and (ii) the Swingline Lender will make available to the Administrative Agent, for the account of the Borrower, at the Administrative Agent's Office in Same Day Funds, the Swingline Loans (other than Cash Management Swingline Loans) to be made on such borrowing date. The Borrower hereby irrevocably authorizes the Administrative Agent to disburse the proceeds of each borrowing requested pursuant to this Section 2.3 in Same Day Funds by crediting or wiring such proceeds to the deposit account of the Borrower identified in the most recent notice substantially in the form attached as **Exhibit C** (a "Notice of Account Designation") delivered by the Borrower to the Administrative Agent or as may be otherwise agreed upon by the Borrower and the Administrative Agent from time to time. Subject to Section 5.7 hereof, the Administrative Agent shall not be obligated to disburse the portion of the proceeds of any Revolving Credit Loan requested pursuant to this Section 2.3 to the extent that any Revolving Credit Lender has not made available to the Administrative Agent its Revolving Credit Commitment Percentage of such Loan. Revolving Credit Loans to be made for the purpose of refunding Swingline Loans shall be made by the Revolving Credit Lenders as provided in Section 2.2(b).

(c) Cash Management Swingline Loans. Notwithstanding anything to the contrary contained in this Section 2.3, all borrowing requests and all disbursements in connection with Cash Management Swingline Loans shall be made pursuant to, and in accordance with, the Loan Sweep Agreement.

#### SECTION 2.4 Repayment and Prepayment of Revolving Credit and Swingline Loans.

(a) Repayment on Termination Date. The Borrower hereby agrees to repay the outstanding principal amount of (i) all Revolving Credit Loans in full on the Revolving Credit Maturity Date, and (ii) all Swingline Loans in accordance with Section 2.2(b) (but, in any event, no later than the Revolving Credit Maturity Date), in each case, (A) in the Currency in which such Loan is denominated and (B) together with all accrued but unpaid interest thereon.

(b) Mandatory Prepayments.

(i) If at any time the Revolving Credit Outstandings exceed the Revolving Credit Commitment, the Borrower agrees to repay immediately upon notice from the Administrative Agent, by payment to the Administrative Agent for the account of the Revolving Credit Lenders, Extensions of Credit in an amount equal to such excess with each such repayment applied first, to the principal amount of outstanding Swingline Loans until paid in full, second to the principal amount of outstanding Revolving Credit Loans until paid in full and third, with respect to any Letters of Credit then outstanding, as a

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payment of Cash Collateral into a Cash Collateral account opened by the Administrative Agent, for the benefit of the Revolving Credit Lenders, in an amount equal to the lesser of (x) such excess or (y) the aggregate L/C Obligations then outstanding (such Cash Collateral to be applied in accordance with Section 12.2(b)).

(ii) If at any time the sum of the Dollar Equivalent of the total Revolving Credit Exposure denominated in Alternative Currencies shall exceed an amount equal to 105% of the Alternative Currency Sublimit, the Borrower agrees to repay immediately upon notice from the Administrative Agent, by payment to the Administrative Agent for the account of the Revolving Credit Lenders, Revolving Extensions of Credit in an aggregate amount sufficient to reduce such amount as of such date of payment to an amount not to exceed 100% of the Alternative Currency Sublimit with each such repayment applied first to the principal amount of outstanding Revolving Credit Loans denominated in any Alternative Currency and second, with respect to any Letters of Credit denominated in any Alternative Currency then outstanding, as a payment of Cash Collateral in the applicable Currency into a Cash Collateral account or Cash Collateral accounts opened by the Administrative Agent, for the benefit of the Revolving Credit Lenders (any such Cash Collateral to be applied in accordance with Section 12.2(b)).

(iii) If at any time the outstanding Swingline Loans exceed the lesser of (A) the aggregate amount of the Revolving Credit Commitments less the sum of all outstanding Revolving Credit Loans and the L/C Obligations and (B) the Swingline Commitment, the Borrower agrees to repay immediately upon notice from the Administrative Agent, by payment to the Administrative Agent for the account of the Revolving Credit Lenders, Extensions of Credit in an amount equal to such excess with each such repayment applied to the principal amount of outstanding Swingline Loans.

(c) Optional Prepayments. The Borrower may at any time and from time to time prepay Revolving Credit Loans and Swingline Loans, in whole or in part, without premium or penalty (except as provided in subsection (d)), with irrevocable prior written notice to the Administrative Agent substantially in the form attached as **Exhibit D** (a "Notice of Prepayment") given not later than 11:00 a.m. (i) on the same Business Day as prepayment of each Base Rate Loan and each Swingline Loan (other than a Cash Management Swingline Loan) and (ii) (A) in the case of a Term SOFR Loan, at least three (3) RFR Business Days before prepayment of such Term SOFR Loan, (B) in the case of a Daily Simple SONIA Loan, at least five (5) RFR Business Days before prepayment of such Daily Simple SONIA Loan and (C) in the case of a Eurocurrency Rate Loan denominated in any Alternative Currency, at least four (4) Eurocurrency Banking Days before prepayment of such Eurocurrency Rate Loan (or five (5) Eurocurrency Banking Days in the case of a prepayment of Eurocurrency Rate Loans denominated in a Special Notice Currency), in each case, specifying the date, Currency and amount of prepayment and whether the prepayment is of Eurocurrency Rate Loans, Daily Simple SONIA Loans, Term SOFR Loans, Base Rate Loans, Swingline Loans or a combination thereof, and, if of a combination thereof, the amount allocable to each; provided that the Borrower may at any time and from time to time prepay Cash Management Swingline Loans pursuant to, and in accordance with, the Loan Sweep Agreement. Upon receipt of such notice, the Administrative Agent shall promptly notify each Revolving Credit Lender. If any such notice is given, the amount specified in such notice shall be due and payable on the date set forth in such notice. Partial prepayments shall be in an aggregate amount of

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\$1,000,000 or a whole multiple of \$500,000 in excess thereof with respect to Base Rate Loans (other than Swingline Loans), \$2,500,000 or a whole multiple of \$1,000,000 in excess thereof with respect to Eurocurrency Rate Loans or Daily Simple SONIA Loans and \$100,000 or a whole multiple of \$100,000 in excess thereof with respect to Swingline Loans. A Notice of Prepayment received after 11:00 a.m. shall be deemed received on the next Business Day, RFR Business Day or Eurocurrency Banking Day, as applicable. Each such repayment shall be accompanied by any amount required to be paid pursuant to Section 5.9 hereof. Notwithstanding the foregoing, any Notice of Prepayment delivered in connection with any refinancing of all of the Credit Facility with the proceeds of such refinancing or of any incurrence of Indebtedness or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence of such other identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met (provided that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 5.9).

(d) Prepayment of Revolving Credit Loans in connection with Mandatory Prepayments. In the event proceeds remain after the prepayments of Term Loan Facility pursuant to Section 4.4(b), the amount of such excess proceeds shall be used on the date of the required prepayment under Section 4.4(b) to prepay the outstanding principal amount of the Revolving Extensions of Credit, without a corresponding reduction of the Revolving Credit Commitment, with remaining proceeds, if any, refunded to the Borrower. Each prepayment of the Revolving Extensions of Credit pursuant to this subsection (d) shall be applied (1) first, to the principal amount of outstanding Swingline Loans until paid in full, (2) second to the principal amount of outstanding Revolving Credit Loans until paid in full and (3) third, with respect to any Letters of Credit then outstanding, a payment of Cash Collateral into a Cash Collateral account opened by the Administrative Agent, for the benefit of the Revolving Credit Lenders, in an amount equal to the aggregate L/C Obligations then outstanding (such Cash Collateral to be applied in accordance with Section 12.2(b)).

(e) Limitation on Prepayment of Eurocurrency Rate Loans. The Borrower may not prepay any Eurocurrency Rate Loan or Term SOFR Loan on any day other than on the last day of the Interest Period applicable thereto, or any Daily Simple SONIA Loan on any day other than an Interest Payment Date therefor, unless such prepayment is accompanied by any amount required to be paid pursuant to Section 5.9 hereof.

(f) Hedge Agreements. No repayment or prepayment of the Extensions of Credit pursuant to this Section 2.4 shall affect any of the Borrower's obligations under any Hedge Agreement entered into with respect to the Extensions of Credit.

#### SECTION 2.5 Permanent Reduction of the Revolving Credit Commitment.

(a) Voluntary Reduction. The Borrower shall have the right at any time and from time to time, upon at least five (5) Business Days prior written notice to the Administrative Agent, to permanently reduce, without premium or penalty, (i) the entire Revolving Credit Commitment at any time or (ii) portions of the Revolving Credit Commitment, from time to time, in an aggregate principal amount not less than \$500,000 or any whole multiple of \$500,000 in excess thereof. Any reduction of the Revolving Credit Commitment shall be applied to the Revolving Credit

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Commitment of each Revolving Credit Lender according to its Revolving Credit Commitment Percentage. All Commitment Fees accrued until the effective date of any termination of the Revolving Credit Commitment shall be paid on the effective date of such termination. Notwithstanding the foregoing, any notice to reduce the Revolving Credit Commitment delivered in connection with any refinancing of all of the Credit Facility with the proceeds of such refinancing or of any incurrence of Indebtedness or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence of such identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met (provided that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 5.9).

(b) Corresponding Payment. Each permanent reduction permitted pursuant to this Section 2.5 shall be accompanied by a payment of principal sufficient to reduce the aggregate outstanding Revolving Credit Loans, Swingline Loans and L/C Obligations, as applicable, after such reduction to the Revolving Credit Commitment as so reduced and if the aggregate amount of all outstanding Letters of Credit exceeds the Revolving Credit Commitment as so reduced, the Borrower shall be required to deposit Cash Collateral in a Cash Collateral account opened by the Administrative Agent in an amount equal to the amount of such excess. Such Cash Collateral shall be applied in accordance with Section 12.2(b). Any reduction of the Revolving Credit Commitment to zero shall be accompanied by payment of all outstanding Revolving Credit Loans and Swingline Loans (and furnishing of Cash Collateral satisfactory to the Administrative Agent for all L/C Obligations) and shall result in the termination of the Revolving Credit Commitment, the Swingline Commitment, the Alternative Currency Sublimit and the Revolving Credit Facility. If the reduction of the Revolving Credit Commitment requires the repayment of any Eurocurrency Rate Loan, any Term SOFR Loan or any Daily Simple SONIA Loan, such repayment shall be accompanied by any amount required to be paid pursuant to Section 5.9 hereof.

(c) Cash Management Swingline Loans. Notwithstanding anything in this Section 2.5 to the contrary, on and after the Loan Sweep Activation Date, the Borrower shall not be permitted to reduce the Revolving Credit Commitments to an amount that is less than the Swingline Commitment (unless the Swingline Commitment is reduced to an amount that is equal to or less than the aggregate amount of the Revolving Credit Commitments).

SECTION 2.6 Termination of Revolving Credit Facility. The Revolving Credit Facility and the Revolving Credit Commitments shall terminate on the Revolving Credit Maturity Date.

### ARTICLE III

#### LETTER OF CREDIT FACILITY

##### SECTION 3.1 L/C Commitment.

(a) Availability. Subject to the terms and conditions of this Agreement, each Issuing Lender, in reliance on the agreements of the Revolving Credit Lenders set forth in Section 3.4(a), agrees to issue standby Letters of Credit in Dollars or one or more Alternative L/C Currencies in the Dollar Equivalent of an aggregate amount not to exceed its L/C Commitment for the account of the Borrower or, subject to Section 3.8, any Subsidiary thereof. Letters of Credit may be issued

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on any Business Day from the Closing Date through but not including the thirtieth (30<sup>th</sup>) Business Day prior to the Revolving Credit Maturity Date in such form as may be approved from time to time by the applicable Issuing Lender; provided, that no Issuing Lender shall issue any Letter of Credit if, after giving effect to such issuance, (i) the Dollar Equivalent of the aggregate amount of the outstanding Letters of Credit issued by such Issuing Lender would exceed its L/C Commitment, (ii) the Dollar Equivalent of the L/C Obligations would exceed the L/C Sublimit, (iii) the Dollar Equivalent of the Revolving Credit Outstandings would exceed the Revolving Credit Commitment or (iv) the Dollar Equivalent of the aggregate principal amount of all outstanding Revolving Credit Loans denominated in Alternative Currencies and Letters of Credit denominated in Alternative L/C Currencies would exceed the Alternative Currency Sublimit.

(b) Terms of Letters of Credit. Each Letter of Credit shall (i) be denominated in Dollars or one or more Alternative L/C Currencies, (ii) expire on a date no more than twelve (12) months after the date of issuance or last renewal or extension of such Letter of Credit (subject to automatic renewal or extension for additional one (1) year periods (but not to a date later than the date set forth below) pursuant to the terms of the Letter of Credit Documents or other documentation acceptable to the applicable Issuing Lender), which date shall be no later than the fifth (5th) Business Day prior to the Revolving Credit Maturity Date and (iii) be subject to the ISP or the UCP as set forth in the Letter of Credit Documents or as determined by the applicable Issuing Lender and, to the extent not inconsistent therewith, the laws of the State of New York. No Issuing Lender shall at any time be obligated to issue any Letter of Credit hereunder if (A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Lender from issuing such Letter of Credit, or request that such Issuing Lender refrain from, or any Applicable Law applicable to such Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Lender shall prohibit, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Lender with respect to letters of credit generally or such Letter of Credit in particular any restriction or reserve or capital requirement (for which such Issuing Lender is not otherwise compensated) not in effect on the Closing Date, or any unreimbursed loss, cost or expense that was not applicable, in effect or known to such Issuing Lender as of the Closing Date and that such Issuing Lender in good faith deems material to it, (B) the conditions set forth in Section 6.2 are not satisfied, (C) the issuance of such Letter of Credit would violate one or more policies of such Issuing Lender applicable to letters of credit generally, (D) the proceeds of which would be made available to any Person (x) to fund any activity or business of or with any Sanctioned Person, or in any Sanctioned Country or (y) in any manner that would result in a violation of any Sanctions by any party to this Agreement or (E) any Revolving Credit Lender is at that time a Defaulting Lender, unless such Issuing Lender has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such Issuing Lender (in its sole discretion) with the Borrower or such Lender to eliminate such Issuing Lender's actual or potential Fronting Exposure (after giving effect to Section 5.15(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such Issuing Lender has actual or potential Fronting Exposure, as it may elect in its sole discretion. An Issuing Lender shall be under no obligation to amend any Letter of Credit if (x) such Issuing Lender would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof or (y) the beneficiary of such Letter of Credit does not accept the proposed amendment to the Letter of Credit. References herein to "issue" and derivations thereof with respect to Letters of Credit shall

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also include extensions or modifications of any outstanding Letters of Credit, unless the context otherwise requires. As of the Closing Date, each of the Existing Letters of Credit shall constitute, for all purposes of this Agreement and the other Loan Documents, a Letter of Credit issued and outstanding hereunder.

(c) Defaulting Lenders. Notwithstanding anything to the contrary contained in this Agreement, Article III shall be subject to the terms and conditions of Section 5.14 and Section 5.15.

SECTION 3.2 Procedure for Issuance and Disbursement of Letters of Credit.

(a) The Borrower may from time to time request that any Issuing Lender issue, amend, renew or extend a Letter of Credit by delivering to such Issuing Lender at its applicable office (with a copy to the Administrative Agent at the Administrative Agent's Office) a Letter of Credit Application therefor, completed to the satisfaction of such Issuing Lender, and such other certificates, documents and other Letter of Credit Documents and information as such Issuing Lender or the Administrative Agent may request, not later than 11:00 a.m. at least two (2) Business Days (or such later date and time as the Administrative Agent and such Issuing Lender may agree in their sole discretion) prior to the proposed date of issuance, amendment, renewal or extension, as the case may be. Such notice shall specify (i) the requested date of issuance, amendment, renewal or extension (which shall be a Business Day), (ii) the date on which such Letter of Credit is to expire (which shall comply with Section 3.1(b)), (iii) the amount and Currency of such Letter of Credit, (iv) the name and address of the beneficiary thereof, (v) the purpose and nature of such Letter of Credit and (vi) such other information as shall be necessary to issue, amend, renew or extend such Letter of Credit. Upon receipt of any Letter of Credit Application, the applicable Issuing Lender shall, process such Letter of Credit Application and the certificates, documents and other Letter of Credit Documents and information delivered to it in connection therewith in accordance with its customary procedures and shall, subject to Section 3.1 and Article VI, promptly issue, amend, renew or extend the Letter of Credit requested thereby (subject to the timing requirements set forth in this Section 3.2) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed by such Issuing Lender and the Borrower. Additionally, the Borrower shall furnish to the applicable Issuing Lender and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, renewal or extension, including any Letter of Credit Documents, as the applicable Issuing Lender or the Administrative Agent may require. The applicable Issuing Lender shall promptly furnish to the Borrower and the Administrative Agent a copy of such Letter of Credit and the related Letter of Credit Documents and the Administrative Agent shall promptly notify each Revolving Credit Lender of the issuance and upon request by any Revolving Credit Lender, furnish to such Revolving Credit Lender a copy of such Letter of Credit and the amount of such Revolving Credit Lender's participation therein.

(b) The Issuing Lender for any Letter of Credit shall, within the time allowed by Applicable Laws or the specific terms of the Letter of Credit following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit. Such Issuing Lender shall promptly after such examination notify the Administrative Agent and the Borrower in writing of such demand for payment if such Issuing Lender has or will honor such demand for payment thereunder; provided that any failure to give or delay in giving such notice

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shall not relieve the Borrower of its obligation to reimburse such Issuing Lender and the L/C Participants with respect to such payment.

### SECTION 3.3 Commissions and Other Charges.

(a) Letter of Credit Commissions. Subject to Section 5.15(a)(iii)(B), the Borrower shall pay to the Administrative Agent, for the account of the applicable Issuing Lender and the L/C Participants, a letter of credit commission with respect to each Letter of Credit in the amount equal to the Dollar Equivalent of the daily amount available to be drawn under such standby Letters of Credit times the Applicable Margin with respect to Revolving Credit Loans that are Eurocurrency Rate Loans or RFR Loans (determined, in each case, on a per annum basis). Such commission shall be payable in Dollars quarterly in arrears on the last Business Day of each calendar quarter (commencing with the first such date to occur after the issuance of such Letter of Credit), on the Revolving Credit Maturity Date and thereafter on demand of the Administrative Agent. The Administrative Agent shall, promptly following its receipt thereof, distribute to the applicable Issuing Lender and the L/C Participants all commissions received pursuant to this Section 3.3 in accordance with their respective Revolving Credit Commitment Percentages.

(b) Issuance Fee. In addition to the foregoing commission, the Borrower shall pay directly to the applicable Issuing Lender, for its own account, an issuance fee with respect to each Letter of Credit issued by such Issuing Lender as set forth in the applicable Fee Letter or as otherwise agreed upon between by such Issuing Lender and the Borrower. Such issuance fee shall be payable in Dollars quarterly in arrears on the last Business Day of each calendar quarter commencing with the first such date to occur after the issuance of such Letter of Credit, on the Revolving Credit Maturity Date and thereafter on demand of the applicable Issuing Lender. For the avoidance of doubt, such issuance fee shall be applicable to and paid upon each of the Existing Letters of Credit.

(c) Other Fees, Costs, Charges and Expenses. In addition to the foregoing fees and commissions, the Borrower shall pay or reimburse each Issuing Lender for such normal and customary fees, costs, charges and expenses as are incurred or charged by such Issuing Lender in issuing, effecting payment under, amending or otherwise administering any Letter of Credit issued by such Issuing Lender.

### SECTION 3.4 L/C Participations.

(a) Each Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce each Issuing Lender to issue Letters of Credit hereunder, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from each Issuing Lender, on the terms and conditions hereinafter stated, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Credit Commitment Percentage in each Issuing Lender's obligations and rights under and in respect of each Letter of Credit issued by such Issuing Lender hereunder and the amount of each draft paid by such Issuing Lender thereunder. Each L/C Participant unconditionally and irrevocably agrees with each Issuing Lender that, if a draft is paid under any Letter of Credit issued by such Issuing Lender for which such Issuing Lender is not reimbursed in full by the Borrower through a Revolving Credit Loan or otherwise in accordance with the terms of this Agreement, such L/C

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Participant shall pay to such Issuing Lender, in the Currency of such Letter of Credit, upon demand at such Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Credit Commitment Percentage of the amount of such draft, or any part thereof, which is not so reimbursed.

(b) Upon becoming aware of any amount required to be paid by any L/C Participant to any Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by such Issuing Lender under any Letter of Credit, issued by it, such Issuing Lender shall notify the Administrative Agent of such unreimbursed amount and the Currency thereof and the Administrative Agent shall notify each L/C Participant (with a copy to the applicable Issuing Lender) of the amount, Currency and due date of such required payment and such L/C Participant shall pay to the Administrative Agent (which, in turn shall pay such Issuing Lender) the amount specified on the applicable due date. If any such amount is paid to such Issuing Lender after the date such payment is due, such L/C Participant shall pay to the Administrative Agent, which in turn shall pay such Issuing Lender, in the applicable currency in which such Letter of Credit is denominated, on demand, in addition to such amount, the product of (i) such amount, times (ii) the applicable Overnight Rate as determined by the Administrative Agent during the period from and including the date such payment is due to the date on which such payment is immediately available to such Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360, plus any administrative, processing or similar fees customarily charged by such Issuing Lender in connection with the foregoing. A certificate of such Issuing Lender with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error. With respect to payment to such Issuing Lender of the unreimbursed amounts described in this Section, if the L/C Participants receive notice that any such payment is due (A) prior to 1:00 p.m. on any Business Day, such payment shall be due that Business Day, and (B) after 1:00 p.m. on any Business Day, such payment shall be due on the following Business Day.

(c) Whenever, at any time after any Issuing Lender has made payment under any Letter of Credit issued by it and has received from any L/C Participant its Revolving Credit Commitment Percentage of such payment in accordance with this Section, such Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Administrative Agent or otherwise), or any payment of interest on account thereof, such Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided, that in the event that any such payment received by such Issuing Lender shall be required to be returned by such Issuing Lender, such L/C Participant shall return to the Administrative Agent, which shall in turn pay to such Issuing Lender the portion thereof previously distributed by such Issuing Lender to it.

(d) Each L/C Participant's obligation to make the Revolving Credit Loans and to purchase participating interests pursuant to this Section 3.4 or Section 3.5, as applicable, shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such Revolving Credit Lender or the Borrower may have against such Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Article VI, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Credit Party or any other Revolving Credit Lender, (v) any

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adverse change in the relevant exchange rates or in the availability of the relevant Alternative L/C Currency to any L/C Participant or in the relevant currency markets generally or (vi) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

### SECTION 3.5 Reimbursement.

(a) Reimbursement Obligation of the Borrower. In the event of any drawing under any Letter of Credit, the Borrower agrees to reimburse (either with the proceeds of a Revolving Credit Loan as provided for in this Section or with funds from other sources), in Same Day Funds, in the Currency of such Letter of Credit, the applicable Issuing Lender, by paying to the Administrative Agent the amount of such drawing not later than 12:00 noon on (i) the Business Day that the Borrower receives notice of such drawing, if such notice is received by the Borrower prior to 10:00 a.m., or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time, for the amount of (x) such draft so paid and (y) any amounts referred to in Section 3.3(c) incurred by such Issuing Lender in connection with such payment.

(b) Reimbursement by the Revolving Credit Lenders. Unless the Borrower shall immediately notify the Administrative Agent and such Issuing Lender that the Borrower intends to reimburse such Issuing Lender for such drawing from other sources or funds, the Borrower shall be deemed to have timely given a Notice of Borrowing to the Administrative Agent requesting that the Revolving Credit Lenders make a Revolving Credit Loan denominated in Dollars as a Base Rate Loan on the applicable repayment date in the amount (it being agreed that (x) if such drawing is denominated in an Alternative L/C Currency, with such reimbursement obligation hereunder converted to a reimbursement obligation in an amount equal to the Dollar Equivalent of such amount in such Alternative L/C Currency and (y) such drawing shall be made without regard to the minimum and multiples specified in Section 2.3(a)) of (i) such draft so paid and (ii) any amounts referred to in Section 3.3(c) incurred by such Issuing Lender in connection with such payment (including any and all costs, fees and other expenses incurred by the applicable Issuing Lender in effecting the payment of any Letter of Credit denominated in an Alternative L/C Currency), and the Revolving Credit Lenders shall make a Revolving Credit Loan denominated in Dollars as a Base Rate Loan in such amount, the proceeds of which shall be applied to reimburse such Issuing Lender for the amount of the related drawing and such fees and expenses. Each Revolving Credit Lender acknowledges and agrees that its obligation to fund a Revolving Credit Loan in accordance with this Section to reimburse such Issuing Lender for any draft paid under a Letter of Credit issued by it is absolute and unconditional and shall not be affected by any circumstance whatsoever, including non-satisfaction of the conditions set forth in Section 2.3(a) or Article VI. If the Borrower has elected to pay the amount of such drawing with funds from other sources and shall fail to reimburse such Issuing Lender in the applicable Currency as provided above, or if the amount of such drawing is not fully refunded through a Base Rate Loan as provided above, the unreimbursed amount of such drawing shall bear interest at the rate which would be payable on any outstanding Base Rate Loans which were then overdue from the date such amounts become payable (whether at stated maturity, by acceleration or otherwise) until paid in full.

(c) Exchange Indemnification and Increased Costs. The Borrower shall, upon demand from any Issuing Lender or L/C Participant, pay to such Issuing Lender or L/C Participant, the

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amount of (i) any loss or cost or increased cost incurred by such Issuing Lender or L/C Participant, (ii) any reduction in any amount payable to or in the effective return on the capital to such Issuing Lender or L/C Participant and (iii) any currency exchange loss, in each case that such Issuing Lender or L/C Participant sustains as a result of the Borrower's repayment in Dollars of any Letter of Credit denominated in an Alternative L/C Currency. A certificate of such Issuing Lender setting forth in reasonable detail the basis for determining such additional amount or amounts necessary to compensate such Issuing Lender shall be conclusively presumed to be correct save for manifest error.

SECTION 3.6 Obligations Absolute.

(a) The Borrower's obligations under this Article III (including the Reimbursement Obligation) shall be absolute, unconditional and irrevocable under any and all circumstances whatsoever, and shall be performed strictly in accordance with the terms of this Agreement, and irrespective of:

(i) any lack of validity or enforceability of any Letter of Credit, any Letter of Credit Document or this Agreement, or any term or provision therein or herein;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have or have had against the applicable Issuing Lender or any beneficiary of a Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the applicable Issuing Lender 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) the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent, forged or insufficient in any respect or any statement in such draft or other document 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 Lender under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit;

(v) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Borrower or any Subsidiary or in the relevant currency markets generally;

(vi) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement in such draft or other document being untrue or inaccurate in any respect; or

(vii) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder.

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(b) The Borrower also agrees that the applicable Issuing Lender and the L/C Participants shall not be responsible for, and the Borrower's Reimbursement Obligation under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee.

The applicable Issuing Lender, the L/C Participants and their respective Related Parties shall not have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the applicable Issuing Lender; provided that the foregoing shall not be construed to excuse an Issuing Lender from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by Applicable Law) suffered by the Borrower that are caused by such Issuing Lender's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the applicable Issuing Lender (as finally determined by a court of competent jurisdiction), such Issuing Lender shall be deemed to have exercised care in each such determination.

(c) In furtherance of the foregoing and without limiting the generality thereof, the parties agree that (i) with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Lender may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit, (ii) an Issuing Lender may act upon any instruction or request relative to a Letter of Credit or requested Letter of Credit that such Issuing Lender in good faith believes to have been given by a Person authorized to give such instruction or request and (iii) an Issuing Lender may replace a purportedly lost, stolen, or destroyed original Letter of Credit or missing amendment thereto with a certified true copy marked as such or waive a requirement for its presentation. The responsibility of any Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit issued by it shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment substantially conforms to the requirements under such Letter of Credit.

(d) Notwithstanding anything to the contrary herein, no Issuing Lender shall be responsible to the Borrower for, and such Issuing Lender's rights and remedies against the Borrower shall not be impaired by, any action or inaction of such Issuing Lender required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Applicable Laws or any order of a jurisdiction in which

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such Issuing Lender or the beneficiary is located, the practice stated in the ISP or in the decisions, opinions, practice statements or official commentary of the International Chamber of Commerce Banking Commission, the Banker's Association for Finance and Trade (BAFT) or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such laws or practice rules.

SECTION 3.7 Effect of Letter of Credit Documents. To the extent that any provision of any Letter of Credit Document related to any Letter of Credit is inconsistent with the provisions of this Article III, the provisions of this Article III shall apply.

SECTION 3.8 Resignation of Issuing Lenders.

(a) Any Issuing Lender may resign at any time by giving 30 days' prior notice to the Administrative Agent, the Lenders and the Borrower. After the resignation of an Issuing Lender hereunder, the retiring Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit or to extend, renew or increase the outstanding Letter of Credit.

(b) Any resigning Issuing Lender shall retain all the rights, powers, privileges and duties of an Issuing Lender hereunder with respect to all Letters of Credit issued by it that are outstanding as of the effective date of its resignation as an Issuing Lender and all L/C Obligations with respect thereto (including the right to require the Revolving Credit Lenders to take such actions as are required under Section 3.4). Without limiting the foregoing, upon the resignation of a Lender as an Issuing Lender hereunder, the Borrower may, or at the request of such resigned Issuing Lender the Borrower shall, use commercially reasonable efforts to, arrange for one or more of the other Issuing Lenders to issue Letters of Credit in the applicable Currency hereunder in substitution for the Letters of Credit, if any, issued by such resigned Issuing Lender and outstanding at the time of such resignation, or make other arrangements satisfactory to the resigned Issuing Lender to effectively cause another Issuing Lender to assume the obligations of the resigned Issuing Lender with respect to any such Letters of Credit.

SECTION 3.9 Reporting of Letter of Credit Information and L/C Commitment. At any time that there is an Issuing Lender that is not also the financial institution acting as Administrative Agent, then (a) no later than the fifth Business Day following the last day of each calendar month, (b) on each date that a Letter of Credit is amended, terminated or otherwise expires, (c) on each date that a Letter of Credit is issued or the expiry date of a Letter of Credit is extended, and (d) upon the request of the Administrative Agent, each Issuing Lender (or, in the case of clauses (b), (c) or (d) of this Section, the applicable Issuing Lender) shall deliver to the Administrative Agent a report setting forth in form and detail reasonably satisfactory to the Administrative Agent information (including, without limitation, any reimbursement, Cash Collateral, or termination in respect of Letters of Credit issued by such Issuing Lender) with respect to each Letter of Credit issued by such Issuing Lender that is outstanding hereunder. In addition, each Issuing Lender shall provide notice to the Administrative Agent of its L/C Commitment, or any change thereto, promptly upon it becoming an Issuing Lender or making any change to its L/C Commitment. No failure on the part of any Issuing Lender to provide such information pursuant to this Section 3.9 shall limit the obligations of the Borrower or any Revolving Credit Lender hereunder with respect to its reimbursement and participation obligations hereunder.

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SECTION 3.10 Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, or states that a Subsidiary is the “account party,” “applicant,” “customer,” “instructing party,” or the like of or for such Letter of Credit, and without derogating from any rights of the applicable Issuing Lender (whether arising by contract, at law, in equity or otherwise) against such Subsidiary in respect of such Letter of Credit, the Borrower (a) shall be obligated to reimburse, or to cause the applicable Subsidiary to reimburse, the applicable Issuing Lender hereunder for any and all drawings under such Letter of Credit as if such Letter of Credit had been issued solely for the account of the Borrower and (b) irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of any of its Subsidiaries inures to the benefit of the Borrower and that the Borrower’s business derives substantial benefits from the businesses of such Subsidiaries.

#### ARTICLE IV

#### TERM LOAN FACILITY

SECTION 4.1 Initial Term Loan. Subject to the terms and conditions of this Agreement and the other Loan Documents, and in reliance upon the representations and warranties set forth in this Agreement and the other Loan Documents, each Term Loan Lender severally agrees to make the Initial Term Loan to the Borrower in Dollars on the Closing Date in a principal amount equal to such Lender’s Term Loan Commitment as of the Closing Date. Notwithstanding the foregoing, if the total Term Loan Commitment as of the Closing Date is not drawn on the Closing Date, the undrawn amount shall automatically be cancelled.

#### SECTION 4.2 Procedure for Advance of Term Loans.

(a) Initial Term Loan. The Borrower shall give the Administrative Agent an irrevocable Notice of Borrowing prior to 11:00 a.m. on the Closing Date requesting that the Term Loan Lenders make the Initial Term Loan as a Base Rate Loan on such date (provided that the Borrower may request, no later than three (3) RFR Business Days prior to the Closing Date, that the Lenders make the Initial Term Loan as a Term SOFR Loan if the Borrower has delivered to the Administrative Agent a letter in form and substance reasonably satisfactory to the Administrative Agent indemnifying the Lenders in the manner set forth in Section 5.9 of this Agreement). The Notice of Borrowing shall specify (A) the date of such borrowing, which shall be a Business Day (and a RFR Business Day, in the case of Term SOFR Loan), (B) the Currency of such borrowing, which shall be Dollars, (C) the amount of such borrowing, (D) whether such Term Loan is to be a Term SOFR Loan or a Base Rate Loan, and (E) in the case of a Term SOFR Loan, the duration of the Interest Period applicable thereto. If the Borrower fails to specify a type of Term Loan in Dollars in a Notice of Borrowing, then the applicable Term Loan shall be made as a Base Rate Loan. If the Borrower requests a borrowing of a Term SOFR Loan in any such Notice of Borrowing, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Upon receipt of such Notice of Borrowing from the Borrower, the Administrative Agent shall promptly notify each Term Loan Lender thereof. Not later than 1:00 p.m. on the Closing Date, each Term Loan Lender will make available to the Administrative Agent

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for the account of the Borrower, at the Administrative Agent’s Office in Same Day Funds in Dollars, the amount of such Initial Term Loan to be made by such Term Loan Lender on the Closing Date. The Borrower hereby irrevocably authorizes the Administrative Agent to disburse the proceeds of the Initial Term Loan in Same Day Funds in Dollars by wire transfer to such Person or Persons as may be designated by the Borrower in writing.

(b) Incremental Term Loans. Any Incremental Term Loan shall be borrowed pursuant to and in accordance with Section 5.13.

**SECTION 4.3 Repayment of Term Loans.**

(a) Initial Term Loan. The Borrower shall repay the aggregate outstanding principal amount of the Initial Term Loan in consecutive quarterly installments on the last Business Day of each of March, June, September and December commencing September 30, 2023 as set forth below, in Dollars, except as the amounts of individual installments may be adjusted pursuant to Section 4.4 hereof:

<b>FISCAL YEAR</b>	<b>PAYMENT DATE (Last Business Day Of)</b>	<b>PRINCIPAL INSTALLMENT (\$)</b>
2023	September 2023	937,500
	December 2023	937,500
2024	March 2024	937,500
	June 2024	937,500
	September 2024	937,500
	December 2024	937,500
2025	March 2025	937,500
	June 2025	937,500
	September 2025	1,875,000
	December 2025	1,875,000
2026	March 2026	1,875,000
	June 2026	1,875,000
	September 2026	1,875,000
	December 2026	1,875,000
2027	March 2027	1,875,000
	June 2027	1,875,000
	September 2027	2,812,500
	December 2027	2,812,500
2028	March 2028	2,812,500
	Term Loan Maturity Date	Remaining Initial Term Loan

If not sooner paid, the Initial Term Loan shall be paid in full, together with accrued interest thereon, on the Term Loan Maturity Date.

(b) Incremental Term Loans. The Borrower shall repay the aggregate principal amount of each Incremental Term Loan (if any) as determined pursuant to, and in accordance with, Section 5.13.



#### SECTION 4.4 Prepayments of Term Loans.

(a) Optional Prepayments. The Borrower shall have the right at any time and from time to time, without premium or penalty, except as set forth in Section 5.9, to prepay the Term Loans, in whole or in part, upon delivery to the Administrative Agent of a Notice of Prepayment not later than 11:00 a.m. (i) on the same Business Day as the prepayment of each Base Rate Loan and (ii) at least three (3) RFR Business Days before the prepayment of each Term SOFR Loan, in each case specifying the date and amount of repayment, whether the repayment is of Term SOFR Loans or Base Rate Loans or a combination thereof, and if a combination thereof, the amount allocable to each and whether the prepayment is of the Initial Term Loan, an Incremental Term Loan or a combination thereof, and if a combination thereof, the amount allocable to each. Each optional prepayment of the Term Loan hereunder shall be in an aggregate principal amount of at least \$2,500,000 or any whole multiple of \$1,000,000 in excess thereof and shall be applied, on a pro rata basis, to the outstanding principal installments of the Initial Term Loan and, if applicable, any Incremental Term Loans, as directed by the Borrower. Each repayment shall be accompanied by any amount required to be paid pursuant to Section 5.9 hereof. A Notice of Prepayment received after 11:00 a.m. shall be deemed received on the next Business Day or RFR Business Day, as applicable. The Administrative Agent shall promptly notify the applicable Term Loan Lenders of each Notice of Prepayment. Notwithstanding the foregoing, any Notice of Prepayment delivered in connection with any refinancing of all of the Credit Facility with the proceeds of such refinancing or of any other incurrence of Indebtedness or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence of such other identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met; provided that the delay or failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 5.9.

(b) Mandatory Prepayments.

(i) Debt Issuances. The Borrower shall make mandatory principal prepayments of the Extensions of Credit in the manner set forth in clause (iv) below in an amount equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from any Debt Issuance not otherwise permitted pursuant to Section 11.1. Such prepayment shall be made within three (3) Business Days after the date of receipt of the Net Cash Proceeds of any such Debt Issuance.

(ii) Asset Dispositions. The Borrower shall make mandatory principal prepayments of the Extensions of Credit in the manner set forth in clause (iv) below in amounts equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from any Asset Disposition (other than any Asset Disposition permitted pursuant to, and in accordance with, clauses (a) through (i) and clause (k) of Section 11.5). Such prepayments shall be made within three (3) Business Days after the date of receipt of the Net Cash Proceeds of any such Asset Disposition by such Credit Party or any of its Subsidiaries; provided that, other than with respect to the Net Cash Proceeds of any Permitted Equipment Sale-Leaseback Transaction, so long as no Event of Default has occurred and is continuing, no prepayment shall be required under this Section 4.4(b)(ii) to the extent that such Net Cash Proceeds are committed to be reinvested pursuant to a legally binding agreement in

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assets used or useful in the business of the Borrower and its Subsidiaries within twelve (12) months after receipt of such Net Cash Proceeds and are thereafter actually reinvested in assets used or useful in the business of the Borrower and its Subsidiaries within eighteen (18) months after receipt of such Net Cash Proceeds by such Credit Party or such Subsidiary; provided further that any portion of such Net Cash Proceeds not committed to be reinvested pursuant to a legally binding agreement within such twelve (12) month period or actually reinvested within such eighteen (18) month period shall be prepaid in accordance with this Section 4.4(b)(ii) on or before the last day of such applicable period.

(iii) Insurance and Condemnation Events. The Borrower shall make mandatory principal prepayments of the Extensions of Credit in the manner set forth in clause (iv) below in an amount equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from any Insurance and Condemnation Event. Such prepayments shall be made within three (3) Business Days after the date of receipt of Net Cash Proceeds of any such Insurance and Condemnation Event by such Credit Party or such Subsidiary; provided that, so long as no Event of Default has occurred and is continuing, no prepayment shall be required under this Section 4.4(b)(iii) to the extent that such Net Cash Proceeds are committed to be reinvested pursuant to a legally binding agreement in assets used or useful in the business of the Borrower and its Subsidiaries within twelve (12) months after receipt of such Net Cash Proceeds and are thereafter actually reinvested in assets used or useful in the business of the Borrower within eighteen (18) months after receipt of such Net Cash Proceeds by such Credit Party or such Subsidiary; provided further that any portion of the Net Cash Proceeds not committed to be reinvested pursuant to a legally binding agreement within such twelve (12) month period or actually reinvested within such eighteen (18) month period shall be prepaid in accordance with this Section 4.4(b)(iii) on or before the last day of such applicable period.

(iv) Notice; Manner of Payment. Upon the occurrence of any event triggering the prepayment requirement under clauses (i) through (iii) above, the Borrower shall promptly deliver a Notice of Prepayment to the Administrative Agent, and upon receipt of such notice, the Administrative Agent shall promptly so notify the Lenders. Each prepayment of the Extensions of Credit under this Section 4.4(b) shall be applied as follows: (1) first, ratably between the Initial Term Loans and (unless otherwise agreed by the applicable Incremental Lenders) any Incremental Term Loans to reduce in inverse order of maturity the remaining scheduled principal installments of the Initial Term Loans and (unless otherwise agreed by the applicable Incremental Lenders) any Incremental Term Loans and (2) second, to the extent of any excess, to repay the Revolving Extensions of Credit pursuant to Section 2.4(d), without a corresponding reduction in the Revolving Credit Commitment.

(v) Prepayment of Term SOFR Loans. Each prepayment shall be accompanied by any amount required to be paid pursuant to Section 5.9; provided that, so long as no Default or Event of Default shall have occurred and be continuing, if any prepayment of Term SOFR Loans is required to be made under this Section 4.4(b) prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 4.4(b) in respect of any such Term SOFR Loan prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit an amount sufficient to make any such

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prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into an account held at, and subject to the sole control of, the Administrative Agent until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Credit Party) to apply such amount to the prepayment of such Term Loans in accordance with this Section 4.4(b). Upon the occurrence and during the continuance of any Default or Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Credit Party) to apply such amount to the prepayment of the outstanding Term Loans in accordance with the relevant provisions of this Section 4.4(b).

(vi) No Reborrowings. Amounts prepaid under the Term Loans pursuant to this Section 4.4 may not be reborrowed.

## ARTICLE V

### GENERAL LOAN PROVISIONS

#### SECTION 5.1 Interest.

(a) Interest Rate Options. Revolving Credit Loans and Term Loans may be (i) with respect to Revolving Credit Loans denominated in Dollars or Term Loans, (A) Base Rate Loans or (B) Term SOFR Loans, (ii) with respect to Revolving Credit Loans denominated in Euros or other Currencies (other than Dollars or Sterling), Eurocurrency Rate Loans, or (iii) with respect to Revolving Credit Loans denominated in Sterling, Daily Simple SONIA Loans, each as further provided herein. Subject to the provisions of this Section:

(x) at the election of the Borrower (where applicable), Term Loans that are (1) Base Rate Loans shall bear interest at the Base Rate plus the Applicable Margin and (2) Term SOFR Loans shall bear interest at Adjusted Term SOFR plus the Applicable Margin;

(y) at the election of the Borrower (where applicable), Revolving Credit Loans that are (1) Base Rate Loans shall bear interest at the Base Rate plus the Applicable Margin, (2) Term SOFR Loans shall bear interest at Adjusted Term SOFR plus the Applicable Margin, (3) Eurocurrency Rate Loans shall bear interest at the applicable Adjusted Eurocurrency Rate plus the Applicable Margin and (4) Daily Simple SONIA Loans shall bear interest at the applicable Adjusted Daily Simple SONIA plus the Applicable Margin; and

(z) any Swingline Loan shall bear interest at the Base Rate plus the Applicable Margin.

The Borrower shall select the rate of interest and Interest Period, if any, applicable to any Loan at the time a Notice of Borrowing is given or at the time a Notice of Conversion/Continuation is given pursuant to Section 5.2.

(b) Default Rate. Subject to Section 12.3, (i) immediately upon the occurrence and during the continuance of an Event of Default under Section 12.1(a), (b), (h) or (i), or (ii) at the election of the Required Lenders (or the Administrative Agent at the direction of the Required Lenders), upon the occurrence and during the continuance of any other Event of Default, (A) the

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Borrower shall no longer have the option to request Eurocurrency Rate Loans, RFR Loans, Swingline Loans or Letters of Credit, (B) all outstanding Eurocurrency Rate Loans and Term SOFR Loans shall bear interest at a rate per annum of two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to Eurocurrency Rate Loans or Term SOFR Loans, as applicable, until the end of the applicable Interest Period and shall automatically be converted to a Base Rate Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of the applicable Alternative Currency, if applicable) at the end of the applicable Interest Period therefor and shall, as of such conversion, bear interest at a rate per annum of two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to Base Rate Loans, (C) all Daily Simple SONIA Loans shall automatically be converted to a Base Rate Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of the applicable Alternative Currency, if applicable) immediately and shall, as of such conversion, bear interest at a rate per annum of two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to Base Rate Loans, (D) all outstanding Base Rate Loans and other Obligations arising hereunder or under any other Loan Document shall bear interest at a rate per annum equal to two percent (2%) in excess of the rate (including the Applicable Margin) then applicable to Base Rate Loans or such other Obligations arising hereunder or under any other Loan Document and (E) all accrued and unpaid interest shall be due and payable on demand of the Administrative Agent. Interest shall continue to accrue on the Obligations after the filing by or against the Borrower of any petition seeking any relief in bankruptcy or under any Debtor Relief Law.

(c) Interest Payment and Computation. Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto commencing June 30, 2023; provided that (i) in the event of any repayment or prepayment of any Eurocurrency Rate Loan or Term SOFR Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (ii) in the event of any conversion of any Eurocurrency Rate Loan or Term SOFR Loan prior to the end of the Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion. All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest provided hereunder shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365/366-day year), except that interest on Loans denominated in any Alternative Currency as to which market practice differs from the foregoing shall be computed in accordance with market practice for such Loans.

(d) Maximum Rate. In no contingency or event whatsoever shall the aggregate of all amounts deemed interest under this Agreement charged or collected pursuant to the terms of this Agreement exceed the highest rate permissible under any Applicable Law which a court of competent jurisdiction shall, in a final determination, deem applicable hereto. In the event that such a court determines that the Lenders have charged or received interest hereunder in excess of the highest applicable rate, the rate in effect hereunder shall automatically be reduced to the maximum rate permitted by Applicable Law and the Lenders shall at the Administrative Agent's option (i) promptly refund to the Borrower any interest received by the Lenders in excess of the maximum lawful rate or (ii) apply such excess to the principal balance of the Obligations. It is the intent hereof that the Borrower not pay or contract to pay, and that neither the Administrative Agent nor any Lender receive or contract to receive, directly or indirectly in any manner whatsoever, interest in excess of that which may be paid by the Borrower under Applicable Law.

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(e) Initial Benchmark Conforming Changes. In connection with the use or administration of any Benchmark, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Administrative Agent will promptly notify the Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of any Benchmark.

SECTION 5.2 Notice and Manner of Conversion or Continuation of Loans. Provided that no Default or Event of Default has occurred and is then continuing, the Borrower shall have the option, subject to Section 5.1(a), to (a) convert at any time, subject to the notice requirements herein, all or any portion of any outstanding Base Rate Loans (other than Swingline Loans) in a principal amount equal to \$2,500,000 or any whole multiple of \$1,000,000 in excess thereof (or such lesser amount as shall represent all of the Base Rate Loans then outstanding) into one or more Term SOFR Loans, (b) upon the expiration of any Interest Period therefor, (i) convert all or any part of any outstanding Term SOFR Loans in a principal amount equal to \$1,000,000 or a whole multiple of \$500,000 in excess thereof (or such lesser amount as shall represent all of the Term SOFR Loans then outstanding) into Base Rate Loans (other than Swingline Loans) or (ii) continue any Term SOFR Loans as Term SOFR Loans, (c) upon the expiration of any Interest Period therefor, continue any Eurocurrency Rate Loans as Eurocurrency Rate Loans and (d) upon the occurrence of the Interest Payment Date therefor, continue any Daily Simple SONIA Loans as Daily Simple SONIA Loans. Whenever the Borrower desires to convert or continue Loans as provided above, the Borrower shall give the Administrative Agent irrevocable prior written notice in the form attached as **Exhibit E** (a "Notice of Conversion/Continuation") not later than 11:00 a.m. (i) in the case of a Loan denominated in Dollars, at least three (3) RFR Business Days before the day on which a proposed conversion or continuation of such Loan is to be effective, (ii) in the case of a Loan denominated in Sterling, at least five (5) RFR Business Days before the day on which a proposed conversion or continuation of such Loan is to be effective, and (iii) in the case of a Loan denominated in any Alternative Currency that is to be a Eurocurrency Rate Loan, at least four (4) Eurocurrency Banking Days (or five (5) Eurocurrency Banking Days in the case of a Special Notice Currency) before the day on which a proposed conversion or continuation of such Loan is to be effective, in each case, specifying (A) the Loans to be converted or continued, and, in the case of any Eurocurrency Rate Loan or Term SOFR Loan to be converted or continued, the last day of the Interest Period therefor, (B) the effective date of such conversion or continuation (which shall be a Business Day), (C) the principal amount and Currency of such Loans to be converted or continued, and (D) in the case of any Eurocurrency Rate Loan or Term SOFR Loan, the Interest Period to be applicable to such converted or continued Eurocurrency Rate Loan or Term SOFR Loan. If the Borrower fails to deliver a timely Notice of Conversion/Continuation with respect to a Daily Simple SONIA Loan prior to the Interest Payment Date therefor, then, unless such Daily Simple SONIA Loan is repaid as provided herein, the Borrower shall be deemed to have selected that such Daily Simple SONIA Loan shall automatically be converted to a Base Rate Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of the applicable Alternative Currency, if applicable) as of such Interest Payment Date. If the Borrower fails to deliver a timely Notice of Conversion/Continuation with respect to a Eurocurrency Rate Loan or a Term SOFR Loan prior to the end of the Interest Period therefor, then, unless such Eurocurrency Rate Loan or Term SOFR Loan, as applicable, is repaid as provided herein, the Borrower shall be

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deemed to have selected that such Eurocurrency Rate Loan or Term SOFR Loan, as applicable, shall automatically be converted to a Base Rate Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of the applicable Alternative Currency) at the end of such Interest Period.

If the Borrower requests a conversion to, or continuation of, a Eurocurrency Rate Loan or a Term SOFR Loan, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swingline Loan may not be converted to a Eurocurrency Rate Loan or a Term SOFR Loan. The Administrative Agent shall promptly notify the affected Lenders of such Notice of Conversion/Continuation.

### SECTION 5.3 Fees.

(a) Commitment Fee. Commencing on the Closing Date, subject to Section 5.15(a)(iii) (A), the Borrower shall pay to the Administrative Agent, for the account of the Revolving Credit Lenders, a non-refundable commitment fee (the "Commitment Fee") at a rate per annum equal to the amounts set forth under the heading "Commitment Fee" in the definition of Applicable Margin on the average daily unused portion of the Revolving Credit Commitment of the Revolving Credit Lenders (other than the Defaulting Lenders, if any); provided that the amount of outstanding Swingline Loans shall not be considered usage of the Revolving Credit Commitment for the purpose of calculating the Commitment Fee. The Commitment Fee shall be payable in arrears on the last Business Day of each calendar quarter during the term of this Agreement commencing June 30, 2023 and ending on the date upon which all Obligations (other than contingent indemnification obligations not then due) arising under the Revolving Credit Facility shall have been indefeasibly and irrevocably paid and satisfied in full, all Letters of Credit have been terminated or expired (or been Cash Collateralized) and the Revolving Credit Commitment has been terminated. The Commitment Fee shall be distributed by the Administrative Agent to the Revolving Credit Lenders (other than any Defaulting Lenders) pro rata in accordance with such Revolving Credit Lenders' respective Revolving Credit Commitment Percentages.

(b) Other Fees. The Borrower shall pay to Wells Fargo Securities, LLC and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letters to which they are a party. The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified.

### SECTION 5.4 Manner of Payment.

#### (a) Sharing of Payments.

(i) Except as otherwise expressly provided herein and except with respect to principal of and interest on Loans denominated in an Alternative Currency or any amounts payable in an Alternative Currency or Alternative L/C Currency, each payment by the Borrower on account of the principal of or interest on the Loans or of any fee, commission or other amounts (including the Reimbursement Obligation) payable to the Lenders under this Agreement shall be made not later than 1:00 p.m. on the date specified for payment under this Agreement to the Administrative Agent at the Administrative Agent's Office for

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the account of the Lenders entitled to such payment in Dollars, in Same Day Funds and shall be made without any setoff, counterclaim or deduction whatsoever.

(ii) Except as otherwise expressly provided herein, with respect to principal of and interest on Loans denominated in an Alternative Currency or any amounts payable in an Alternative Currency or Alternative L/C Currency, each payment by the Borrower on account of the principal of or interest on the Loans or of any fee, commission or other amounts (including the Reimbursement Obligation) payable to the Lenders under this Agreement shall be made not later than the Applicable Time specified by the Administrative Agent on the date specified for payment under this Agreement to the Administrative Agent at the applicable Administrative Agent's Office for the account of the Lenders entitled to such payment in such Alternative Currency or such Alternative L/C Currency, in Same Day Funds and shall be made without any setoff, counterclaim or deduction whatsoever.

(iii) Any payment received after such time but before 2:00 p.m. (or, with respect to a payment to be made in an Alternative Currency or Alternative L/C Currency, the Applicable Time specified by the Administrative Agent) on such day shall be deemed a payment on such date for the purposes of Section 10.1, but for all other purposes shall be deemed to have been made on the next succeeding Business Day. Any payment received after 2:00 p.m. (or, with respect to a payment to be made in an Alternative Currency or Alternative L/C Currency, the Applicable Time specified by the Administrative Agent) shall be deemed to have been made on the next succeeding Business Day for all purposes.

(iv) Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, the Borrower is prohibited by any Applicable Law from making any required payment hereunder in an Alternative Currency or an Alternative L/C Currency, the Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency or the Alternative L/C Currency payment amount.

(v) Upon receipt by the Administrative Agent of each such payment, the Administrative Agent shall distribute to each such Lender at its address for notices set forth herein its Commitment Percentage in respect of the relevant Credit Facility (or other applicable share as provided herein) of such payment and shall wire advice of the amount of such credit to each Lender. Each payment to the Administrative Agent on account of the principal of or interest on the Swingline Loans or of any fee, commission or other amounts payable to the Swingline Lender shall be made in like manner, but for the account of the Swingline Lender. Each payment to the Administrative Agent of any Issuing Lender's fees or L/C Participants' commissions shall be made in like manner, but for the account of such Issuing Lender or the L/C Participants, as the case may be. Each payment to the Administrative Agent of Administrative Agent's fees or expenses shall be made for the account of the Administrative Agent and any amount payable to any Lender under Sections 5.9, 5.10, 5.11 or 14.3 shall be paid to the Administrative Agent for the account of the applicable Lender. Subject to the definitions of Interest Period and Interest Payment Date, if any payment under this Agreement shall be specified to be made upon a day which is not a Business Day, it shall be made on the next succeeding day which is a Business Day

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and such extension of time shall in such case be included in computing any interest if payable along with such payment.

(b) Defaulting Lenders. Notwithstanding the foregoing, if there exists a Defaulting Lender each payment by the Borrower to such Defaulting Lender hereunder shall be applied in accordance with Section 5.15(a)(ii).

#### SECTION 5.5 Evidence of Indebtedness.

(a) Extensions of Credit. The Extensions of Credit made by each Lender and each Issuing Lender shall be evidenced by one or more accounts or records maintained by such Lender or such Issuing Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender or each Issuing Lender shall be conclusive absent manifest error of the amount of the Extensions of Credit made by the Lenders or the Issuing Lenders to the Borrower and its Subsidiaries and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender or any Issuing Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Credit Note, a Term Loan Note and/or a Swingline Note, as applicable, which shall evidence such Lender's Revolving Credit Loans, Term Loans and/or Swingline Loans, as applicable, in addition to such accounts or records. Each Lender may attach schedules to its Notes and endorse thereon the date, amount, currency and maturity of its Loans and payments with respect thereto.

(b) Participations. In addition to the accounts and records referred to in subsection (a), each Revolving Credit Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Revolving Credit Lender of participations in Letters of Credit and Swingline Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Revolving Credit Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

SECTION 5.6 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations (other than pursuant to Sections 5.9, 5.10, 5.11 or 14.3) greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them; provided that:

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(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) the application of Cash Collateral provided for in Section 5.14 or (C) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in Swingline Loans and Letters of Credit to any assignee or participant, other than to the Borrower or any of its Subsidiaries or Affiliates (as to which the provisions of this paragraph shall apply).

Each Credit Party 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 each Credit Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Credit Party in the amount of such participation.

#### SECTION 5.7 Administrative Agent's Clawback.

(a) Funding by Lenders; Presumption by Administrative Agent. In connection with any borrowing hereunder, the Administrative Agent may assume that each Lender has made its respective share of such borrowing available on such date in accordance with Sections 2.3(b) and 5.13 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 severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in the applicable Currency 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 applicable Overnight Rate and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate 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.

(b) Payments by the Borrower; Presumptions by Administrative Agent. 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, the Issuing Lenders or the Swingline Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders, the Issuing Lenders or the Swingline Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders, the Issuing Lenders or the Swingline Lender,

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as the case maybe, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, Issuing Lender or the Swingline Lender in the applicable Currency, 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 applicable Overnight Rate.

(c) Nature of Obligations of Lenders. The obligations of the Lenders under this Agreement to make the Loans, to issue or participate in Letters of Credit and to make payments under this Section, Section 5.11(e), Section 11.12, Section 14.3(c) or Section 14.7, as applicable, are several and are not joint or joint and several. The failure of any Lender to make available its Commitment Percentage of any Loan requested by the Borrower shall not relieve it or any other Lender of its obligation, if any, hereunder to make its Commitment Percentage of such Loan available on the borrowing date, but no Lender shall be responsible for the failure of any other Lender to make its Commitment Percentage of such Loan available on the borrowing date.

#### SECTION 5.8 Changed Circumstances.

(a) Circumstances Affecting Eurocurrency Rates and RFRs. Subject to clause (c) below, in connection with any RFR Loan or Eurocurrency Rate Loan, a request therefor, a conversion to or a continuation thereof or otherwise, if for any reason (i) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that (x) if Adjusted Daily Simple SONIA is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, reasonable and adequate means do not exist for ascertaining Adjusted Daily Simple SONIA pursuant to the definition thereof or (y) if Adjusted Term SOFR or a Eurocurrency Rate is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, reasonable and adequate means do not exist for ascertaining Adjusted Term SOFR or such Eurocurrency Rate, as applicable, for the applicable Currency and the applicable Interest Period with respect to a proposed Term SOFR Loan or Eurocurrency Rate Loan, as applicable, on or prior to the first day of such Interest Period, (ii) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that a fundamental change has occurred in the foreign exchange or interbank markets with respect to an applicable Alternative Currency (including changes in national or international financial, political or economic conditions or currency exchange rates or exchange controls), (iii) with respect to any Eurocurrency Rate Loan, the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that deposits are not being offered in the applicable Currency to banks in the London or other applicable offshore interbank market for the applicable Currency, amount or Interest Period of such Eurocurrency Rate Loan, or (iv) the Required Lenders shall determine (which determination shall be conclusive and binding absent manifest error) that (x) if Adjusted Daily Simple SONIA is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, Adjusted Daily Simple SONIA does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans or (y) if Adjusted Term SOFR or a Eurocurrency Rate is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, Adjusted Term SOFR or such Eurocurrency Rate, as applicable, does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans during

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the applicable Interest Period and, in the case of (x) or (y), the Required Lenders have provided notice of such determination to the Administrative Agent, then, in each case, the Administrative Agent shall promptly give notice thereof to the Borrower. Upon notice thereof by the Administrative Agent to the Borrower, any obligation of the Lenders to make RFR Loans or Eurocurrency Rate Loans, as applicable, in each such Currency, and any right of the Borrower to convert any Loan in each such Currency (if applicable) to or continue any Loan as an RFR Loan or a Eurocurrency Rate Loan, as applicable, in each such Currency, shall be suspended (to the extent of the affected RFR Loans or Eurocurrency Rate Loans or, in the case of Term SOFR Loans or Eurocurrency Rate Loans, the affected Interest Periods) until the Administrative Agent (with respect to clause (iv), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of RFR Loans or Eurocurrency Rate Loans in each such affected Currency (to the extent of the affected RFR Loans or Eurocurrency Rate Loans or, in the case of Term SOFR Loans or Eurocurrency Rate Loans, the affected Interest Periods) or, failing that, (I) in the case of any request for a borrowing of an affected Term SOFR Loan, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (II) in the case of any request for a borrowing of an affected RFR Loan or Eurocurrency Rate Loan in an Alternative Currency, then such request shall be ineffective and (B)(I) any outstanding affected Term SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period and (II) any outstanding affected Loans denominated in an Alternative Currency, at the Borrower's election, shall either (1) be converted into Base Rate Loans denominated in Dollars (in an amount equal to the Dollar Equivalent of such Alternative Currency) immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period or (2) be prepaid in full immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period; provided that if no election is made by the Borrower by the date that is the earlier of (x) three (3) Business Days after receipt by the Borrower of such notice or (y) with respect to a Eurocurrency Rate Loan the last day of the current Interest Period, the Borrower shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest (except with respect to any prepayment or conversion of a Daily Simple SONIA Loan) on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.9.

(b) Laws Affecting Eurocurrency Rate or RFR Availability. If, after the date hereof, the introduction of, or any change in, any Applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Lenders (or any of their respective Lending Offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Lenders (or any of their respective Lending Offices) to honor its obligations hereunder to make or maintain any Daily Simple SONIA Loan, Term SOFR Loan or Eurocurrency Rate Loan, or to determine or charge interest based upon any applicable RFR, Adjusted Daily Simple SONIA, the Term SOFR Reference Rate, Term SOFR, Adjusted Term SOFR, the Eurocurrency Rate or the Adjusted Eurocurrency Rate, such Lender shall promptly give notice thereof to the Administrative Agent and the Administrative Agent shall promptly give notice to the Borrower and the other Lenders (an "Illegality Notice"). Thereafter, until each affected Lender notifies the Administrative Agent and the Administrative Agent notifies the Borrower that the circumstances giving rise to such determination no longer exist, (i) any

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obligation of the Lenders to make RFR Loans or Eurocurrency Rate Loans, as applicable, in the affected Currency or Currencies, and any right of the Borrower to convert any Loan denominated in Dollars to a Term SOFR Loan or continue any Loan as an RFR Loan or a Eurocurrency Rate Loan, as applicable, in the affected Currency or Currencies shall be suspended and (ii) if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate". Upon receipt of an Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to the Administrative Agent), prepay or, if applicable, (A) convert all Term SOFR Loans to Base Rate Loans or (B) convert all RFR Loans or Eurocurrency Rate Loans denominated in an affected Alternative Currency to Base Rate Loans denominated in Dollars (in an amount equal to the Dollar Equivalent of such Alternative Currency) (in each case, if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate"), (I) with respect to Daily Simple SONIA Loans, on the Interest Payment Date therefor, if all affected Lenders may lawfully continue to maintain such Daily Simple SONIA Loans to such day, or immediately, if any Lender may not lawfully continue to maintain such Daily Simple SONIA Loans to such day or (II) with respect to Eurocurrency Rate Loans or Term SOFR Loans, on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such Eurocurrency Rate Loans or Term SOFR Loans, as applicable, to such day, or immediately, if any Lender may not lawfully continue to maintain such Eurocurrency Rate Loans or Term SOFR Loans, as applicable, to such day. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest (except with respect to any prepayment or conversion of a Daily Simple SONIA Loan) on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.9.

(c) Benchmark Replacement Setting.

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event with respect to any Benchmark, the Administrative Agent and the Borrower may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5<sup>th</sup>) Business Day after the Administrative Agent has posted such proposed amendment to all affected Lenders and the Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 5.8(c)(i) will occur prior to the applicable Benchmark Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(iii) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any

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Benchmark Replacement and (B) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative Agent will promptly notify the Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 5.8(c)(iv). Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 5.8(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 5.8(c).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if any then-current Benchmark is a term rate (including the Term SOFR Reference Rate or EURIBOR) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(v) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of RFR Loans or Eurocurrency Rate Loans, in each case, to be made, converted or continued during any Benchmark Unavailability Period denominated in the applicable Currency and, failing that, (I) in the case of any request for any affected Term SOFR Loans, if applicable, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (II) in the case of any request for any affected RFR Loan or Eurocurrency Rate Loan, in each case, in an Alternative Currency, if applicable, then such request shall be ineffective and (B)(I) any outstanding affected Term SOFR Loans, if applicable, will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period and (II) any outstanding affected RFR Loans or Eurocurrency Rate Loans, in each case, denominated in an Alternative Currency, at the Borrower's election, shall either (1) be converted into Base Rate Loans denominated in

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Dollars (in an amount equal to the Dollar Equivalent of such Alternative Currency) immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period or (2) be prepaid in full immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period; provided that, with respect to any Daily Simple SONIA Loan, if no election is made by the Borrower by the date that is three (3) Business Days after receipt by the Borrower of such notice, the Borrower shall be deemed to have elected clause (1) above; provided, further that, with respect to any Eurocurrency Rate Loan, if no election is made by the Borrower by the earlier of (x) the date that is three (3) Business Days after receipt by the Borrower of such notice and (y) the last day of the current Interest Period for the applicable Eurocurrency Rate Loan, the Borrower shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest (except with respect to any prepayment or conversion of a Daily Simple SONIA Loan) on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 5.9. During a Benchmark Unavailability Period with respect to any Benchmark or at any time that a tenor for any then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark that is the subject of such Benchmark Unavailability Period or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate.

(d) Illegality. If, in any applicable jurisdiction, the Administrative Agent, any Issuing Lender or any Lender determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Administrative Agent, any Issuing Lender or any Lender to (i) perform any of its obligations hereunder or under any other Loan Document, (ii) to fund or maintain its participation in any Loan or (iii) issue, make, maintain, fund or charge interest or fees with respect to any Extension of Credit, such Person shall promptly notify the Administrative Agent, then, upon the Administrative Agent notifying the Borrower, and until such notice by such Person is revoked, any obligation of such Person to issue, make, maintain, fund or charge interest or fees with respect to any such Extension of Credit shall be suspended, and to the extent required by Applicable Law, cancelled. Upon receipt of such notice, the Credit Parties shall, (A) repay that Person's participation in the Loans or other applicable Obligations on the last day of the Interest Period for each Loan or other Obligation occurring after the Administrative Agent has notified the Borrower or, if earlier, the date specified by such Person in the notice delivered to the Administrative Agent (being no earlier than the last day of any applicable grace period permitted by Applicable Law) and (B) take all reasonable actions requested by such Person to mitigate or avoid such illegality.

(e) Alternative Currencies and Alternative L/C Currencies. If, after the designation by the Revolving Credit Lenders of any currency as an Alternative Currency or the applicable Issuing Lender(s) of any currency as an Alternative L/C Currency, any change in currency controls or exchange regulations or any change in national or international financial, political or economic conditions are imposed in the country in which such currency is issued, and such change results in, in the reasonable opinion of the Administrative Agent (i) such currency no longer being readily available, freely transferable and convertible into Dollars, (ii) a Dollar Equivalent no longer being readily calculable with respect to such currency, (iii) such currency being impracticable for the Lenders to loan or the applicable Issuing Lender(s) to issue or extend a Letter of Credit or (iv) such currency no longer being a currency in which the Required Revolving Credit Lenders are willing

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to make Extensions of Credit or the applicable Issuing Lender(s) are willing to issue or extend Letters of Credit (each of clauses (i), (ii), (iii) and (iv), a “Disqualifying Event”), then the Administrative Agent shall promptly notify the Revolving Credit Lenders, the applicable Issuing Lender(s) and the Borrower, and such currency shall no longer be an Alternative Currency or an Alternative L/C Currency, as applicable, until such time as the Disqualifying Event(s) no longer exist. With respect to any applicable Revolving Credit Loans, within five (5) Business Days after receipt of such notice from the Administrative Agent, the Borrower shall repay all Revolving Credit Loans denominated in such currency to which the Disqualifying Event(s) apply or convert such Revolving Credit Loans into the Dollar Equivalent in Dollars, bearing interest at the Base Rate, subject to the other terms contained herein.

SECTION 5.9 Indemnity. The Borrower hereby indemnifies each of the Lenders against any loss, cost or expense (including any loss, cost or expense arising from the liquidation or reemployment of funds or from any fees payable) which may arise, be attributable to or result due to or as a consequence of (a) any failure by the Borrower to make any payment when due of any amount due hereunder in connection with an RFR Loan or a Eurocurrency Rate Loan, (b) any failure of the Borrower to borrow or continue an RFR Loan or a Eurocurrency Rate Loan or convert to an RFR Loan or a Eurocurrency Rate Loan on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation, (c) any failure of the Borrower to prepay any RFR Loan or Eurocurrency Rate Loan on a date specified therefor in any Notice of Prepayment (regardless of whether any such Notice of Prepayment may be revoked under Section 2.4(c) or Section 4.4(a) and is revoked in accordance therewith), (d) any payment, prepayment or conversion of any Daily Simple SONIA Loan on a date other than on the Interest Payment Date therefor (including as a result of an Event of Default) or Term SOFR Loan or Eurocurrency Rate Loan on a date other than the last day of the Interest Period therefor (including as a result of an Event of Default) or (e) the assignment of any Daily Simple SONIA Loan other than on the Interest Payment Date therefor or any Eurocurrency Rate Loan or Term SOFR 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 5.12(b). In the case of a Eurocurrency Rate Loan, the amount of such loss or expense shall be determined, in the applicable Lender’s sole discretion, based upon the assumption that such Lender funded its Commitment Percentage of the Eurocurrency Rate Loans in the London or other applicable offshore interbank market for such Currency, whether or not such Eurocurrency Rate Loan was in fact so funded, and using any reasonable attribution or averaging methods which such Lender deems appropriate and practical. A certificate of such Lender setting forth the basis for determining such amount or amounts necessary to compensate such Lender shall be forwarded to the Borrower through the Administrative Agent and shall be conclusively presumed to be correct save for manifest error. All of the obligations of the Credit Parties under this Section 5.9 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

SECTION 5.10 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the FRB for determining the maximum reserve

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requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as “Eurocurrency liabilities” in Regulation D of the FRB, as amended and in effect from time to time)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted Eurocurrency Rate) or any Issuing Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any Issuing Lender or (with respect to Eurocurrency Rate Loans) the London or other applicable offshore interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or 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, such Issuing Lender or such other Recipient of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, such Issuing Lender or such other Recipient hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender, such Issuing Lender or such other Recipient, the Borrower shall promptly pay to any such Lender, such Issuing Lender or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Lender or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any Issuing Lender determines that any Change in Law affecting such Lender or such Issuing Lender or any Lending Office of such Lender or such Lender’s or such Issuing Lender’s holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender’s or such Issuing Lender’s capital or liquidity requirements or on the capital of such Lender’s or such Issuing Lender’s holding company, if any, as a consequence of this Agreement, the Revolving Credit Commitment of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender’s or such Issuing Lender’s holding company could have achieved but for such Change in Law (taking into consideration such Lender’s or such Issuing Lender’s policies and the policies of such Lender’s or such Issuing Lender’s holding company with respect to capital adequacy and liquidity), then from time to time upon written request of such Lender or such Issuing Lender, the Borrower shall promptly pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender or such Lender’s or such Issuing Lender’s holding company for any such reduction suffered.

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(c) Exchange Indemnification Costs. The Borrower shall, upon demand from the Administrative Agent, pay to the Administrative Agent or any applicable Lender, the amount of (i) any loss or cost or increased cost incurred by the Administrative Agent or any applicable Lender, (ii) any reduction in any amount payable to or in the effective return on the capital to the Administrative Agent or any applicable Lender, or (iii) any currency exchange loss, that Administrative Agent or any Lender sustains as a result of any payment being made by the Borrower in a currency other than that originally extended to the Borrower or as a result of any other currency exchange loss incurred by the Administrative Agent or any applicable Lender under this Agreement.

(d) Certificates for Reimbursement. A certificate of a Lender, an Issuing Lender or such other Recipient setting forth the amount or amounts necessary to compensate such Lender, such Issuing Lender, such other Recipient or any of their respective holding companies, as the case may be, as specified in paragraphs (a) or (b) or (c) of this Section 5.10 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, such Issuing Lender or such other Recipient, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(e) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Lender or such other Recipient to demand compensation pursuant to this Section 5.10 shall not constitute a waiver of such Lender's or such Issuing Lender's or such other Recipient's right to demand such compensation; provided that the Borrower shall not be required to compensate any Lender or any Issuing Lender or any other Recipient pursuant to this Section 5.10 for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or such Issuing Lender or such other Recipient, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's or such Issuing Lender's or such other Recipient's intention to claim compensation therefor (except that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(f) Survival. All of the obligations of the Credit Parties under this Section 5.10 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

#### SECTION 5.11 Taxes.

(a) Defined Terms. For purposes of this Section 5.11, the term "Lender" includes any Issuing Lender and the term "Applicable Law" includes FATCA.

(b) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Credit Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law

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and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Credit Party shall be increased as necessary so that, after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.11), the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Credit Parties. The Credit Parties shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Credit Parties. The Credit Parties shall jointly and severally indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.11) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Recipient (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Credit Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 14.10(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 setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e). The agreements in paragraph (e) shall survive the resignation and/or replacement of the Administrative Agent.

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority pursuant to this Section 5.11, such Credit 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.

(g) Status of Lenders.

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(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.11(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from United States federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN-E establishing an exemption from, or reduction of, United States federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E establishing an exemption from, or reduction of, United States federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;

(3) 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

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certificate substantially in the form of **Exhibit H-1** to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN-E; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of **Exhibit H-2** or **Exhibit H-3**, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of **Exhibit H-4** on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in United States federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

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Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.11 (including by the payment of additional amounts pursuant to this Section 5.11), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.11 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) to the extent that such payment would place the indemnified party in a less favorable net after-Tax position than the indemnified party 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 paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) Survival. Each party's obligations under this Section 5.11 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

#### SECTION 5.12 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 5.10, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 5.11, then such Lender shall, at the request of the Borrower, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.10 or Section 5.11, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 5.10, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 5.11, and, in

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each case, such Lender has declined or is unable to designate a different Lending Office in accordance with Section 5.12(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 14.10), all of its interests, rights (other than its existing rights to payments pursuant to Section 5.10 or Section 5.11) and obligations under this Agreement and the related Loan Documents to an Eligible 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 paid to the Administrative Agent the assignment fee (if any) specified in Section 14.10;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and funded participations in Letters of Credit and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 5.9) 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 5.10 or payments required to be made pursuant to Section 5.11, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with Applicable Law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

(c) Miscellaneous. A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

#### SECTION 5.13 Incremental Loans.

(a) At any time following the Closing Date, the Borrower may by written notice to the Administrative Agent elect to request the establishment of:

(i) one or more incremental term loan commitments (any such incremental term loan commitment, an “Incremental Term Loan Commitment”) to make one or more additional term loan(s), in each case denominated in Dollars, including a borrowing of an additional term loan the principal amount of which will be added to the outstanding principal amount of the existing tranche of Term Loans with the latest maturity date (any such additional term loan, an “Incremental Term Loan”); or

(ii) one or more increases in the Revolving Credit Commitments (any such increase, an “Incremental Revolving Credit Commitment” and, together with the

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Incremental Term Loan Commitments, the “Incremental Loan Commitments”) to make revolving credit loans under the Revolving Credit Facility (any such increase, an “Incremental Revolving Credit Increase” and, together with the Incremental Term Loans, the “Incremental Loans”);

provided that (1) the total aggregate initial principal amount (as of the date of incurrence thereof) of all requested Incremental Loan Commitments (and the Incremental Loans made thereunder) shall not exceed the Incremental Facilities Limit and (2) the total aggregate initial principal amount (as of the date of incurrence thereof) of each requested Incremental Loan Commitment (and the Incremental Loans made thereunder) shall not be less than a minimum initial principal amount of \$25,000,000 or, if less, the remaining amount permitted pursuant to the foregoing clause (1). Each such notice shall specify the date (each, an “Increased Amount Date”) on which the Borrower proposes that any Incremental Loan Commitment shall be effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to Administrative Agent (or such later date as may be approved by the Administrative Agent). The Borrower may invite any Lender, any Affiliate of any Lender and/or any Approved Fund, and/or any other Person reasonably satisfactory to the Administrative Agent, to provide an Incremental Loan Commitment (any such Person, an “Incremental Lender”). Any proposed Incremental Lender offered or approached to provide all or a portion of any Incremental Loan Commitment may elect or decline, in its sole discretion, to provide such Incremental Loan Commitment. Any Incremental Loan Commitment shall become effective as of such Increased Amount Date; provided that, each of the following conditions has been satisfied or waived as of such Increased Amount Date:

(i) no Default or Event of Default shall exist on such Increased Amount Date before or after giving effect to (1) any Incremental Loan Commitment, (2) the making of any Incremental Loans pursuant thereto and (3) any Permitted Acquisition consummated in connection therewith, if any;

(ii) the Administrative Agent and the Lenders shall have received from the Borrower an Officer’s Compliance Certificate demonstrating, in form and substance reasonably satisfactory to the Administrative Agent, that the Borrower is in compliance with the financial covenants set forth in Article X, in each case based on the financial statements most recently delivered pursuant to Section 8.1(a) or 8.1(b), as applicable, both before and after giving effect (on a Pro Forma Basis) to (x) any Incremental Loan Commitment, (y) the making of any Incremental Loans pursuant thereto (with each Incremental Loan Commitment and the Revolving Credit Commitment being deemed to be fully funded) and (z) any Permitted Acquisition consummated in connection therewith, if any;

(iii) each of the representations and warranties contained in Article VII shall be true and correct in all material respects, except to the extent any such representation and warranty is qualified by materiality or reference to Material Adverse Effect, in which case, such representation and warranty shall be true, correct and complete in all respects, on such Increased Amount Date with the same effect as if made on and as of such date (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct as of such earlier date);

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(iv) the proceeds of any Incremental Loans shall be used for general corporate purposes of the Borrower and its Subsidiaries (including Permitted Acquisitions);

(v) each Incremental Loan Commitment (and the Incremental Loans made thereunder) shall constitute Obligations of the Borrower and shall be secured and guaranteed with the other Extensions of Credit on a pari passu basis;

(vi) (1) in the case of each Incremental Term Loan (the terms of which shall be set forth in the relevant Lender Joinder Agreement):

(B) such Incremental Term Loan will mature and amortize in a manner reasonably acceptable to the Administrative Agent, the Incremental Lenders making such Incremental Term Loan and the Borrower, but will not in any event have a shorter Weighted Average Life to Maturity than the remaining Weighted Average Life to Maturity of the Initial Term Loan or a maturity date earlier than the Term Loan Maturity Date;

(C) the Applicable Margin and pricing grid, if applicable for such Incremental Term Loan shall be determined by the Administrative Agent, the applicable Incremental Lenders and the Borrower on the applicable Increased Amount Date;

(D) any mandatory prepayment (other than scheduled amortization payments) of each Incremental Term Loan shall be made on a pro rata basis with all then existing Term Loans, except that the Borrower and the Incremental Lenders in respect of such Incremental Term Loan may, in their sole discretion, elect to prepay or receive, as applicable, any prepayments on a less than pro rata basis (but not on a greater than pro rata basis);

(E) any voluntary prepayment shall be applied as provided in Section 4.4(a); and

(F) except as provided above, all other terms and conditions applicable to any Incremental Term Loan, to the extent not consistent with the terms and conditions applicable to the Initial Term Loan, shall be reasonably satisfactory to the Administrative Agent and the Borrower (provided that such other terms and conditions, taken as a whole, shall not be materially more favorable to the Lenders under any Incremental Term Loans than such other terms and conditions, taken as a whole, under the Initial Term Loans);

(2) in the case of each Incremental Revolving Credit Increase (the terms of which shall be set forth in the relevant Lender Joinder Agreement):

(G) such Incremental Revolving Credit Increase shall mature on the Revolving Credit Maturity Date, shall bear interest and be entitled to fees, in each case at the rate applicable to the Revolving Credit Loans, and shall be subject to the same terms and conditions as the Revolving Credit Loans (except for interest rate

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margins, commitment fees and upfront fees); provided that if the interest rate margins and/or commitment fees in respect of any Incremental Revolving Credit Increase exceed the interest rate margins and/or commitment fees for any other Revolving Credit Commitments, then the interest rate margins and/or commitment fees, as applicable, for such other Revolving Credit Commitments shall be increased so that the interest rate margins and/or commitment fees, as applicable, are equal to the interest rate margins and/or commitment fees for such Incremental Revolving Credit Increase; provided, further, that in determining the interest rate margins applicable to the Incremental Revolving Credit Increase and the other Revolving Credit Commitments (x) upfront fees payable by the Borrower to the Lenders under the Incremental Revolving Credit Increase and the other Revolving Credit Commitments in the initial primary syndication thereof (with such upfront fees being equated to interest based on assumed four-year life to maturity) shall be included and the effects of any and all interest rate floors shall be included and (y) all customary arrangement or commitment fees payable to the Arrangers (or their respective affiliates) in connection with the other Revolving Credit Commitments or to one or more arrangers (or their affiliates) of any Incremental Revolving Credit Increase shall be excluded;

(H) the outstanding Revolving Credit Loans and Revolving Credit Commitment Percentages of Swingline Loans and L/C Obligations will be reallocated by the Administrative Agent on the applicable Increased Amount Date among the Revolving Credit Lenders (including the Incremental Lenders providing such Incremental Revolving Credit Increase) in accordance with their revised Revolving Credit Commitment Percentages (and the Revolving Credit Lenders (including the Incremental Lenders providing such Incremental Revolving Credit Increase) agree to make all payments and adjustments necessary to effect such reallocation and the Borrower shall pay any and all costs required pursuant to Section 5.9 in connection with such reallocation as if such reallocation were a repayment); and

(I) except as provided above, all of the other terms and conditions applicable to such Incremental Revolving Credit Increase shall, except to the extent otherwise provided in this Section 5.13, be identical to the terms and conditions applicable to the Revolving Credit Facility;

(vii) (1) any Incremental Lender making any Incremental Term Loan shall be entitled to the same voting rights as the existing Term Loan Lenders under the Term Loan Facility and (unless otherwise agreed by the applicable Incremental Lenders) each Incremental Term Loan shall receive proceeds of prepayments on the same basis as the Initial Term Loan (such prepayments to be shared pro rata on the basis of the original aggregate funded amount thereof among the Initial Term Loan and the Incremental Term Loans); and

(2) any Incremental Lender with an Incremental Revolving Credit Increase shall be entitled to the same voting rights as the existing Revolving Credit Lenders under the Revolving Credit Facility and any Extensions of Credit made in

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connection with each Incremental Revolving Credit Increase shall receive proceeds of prepayments on the same basis as the other Revolving Credit Loans made hereunder;

(ii) such Incremental Loan Commitments shall be effected pursuant to one or more Lender Joinder Agreements executed and delivered by the Borrower, the Administrative Agent and the applicable Incremental Lenders (which Lender Joinder Agreement may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 5.13); and

(iii) the Borrower shall deliver or cause to be delivered any customary legal opinions or other documents (including, without limitation, a resolution duly adopted by the board of directors (or equivalent governing body) of each Credit Party authorizing such Incremental Loan and/or Incremental Term Loan Commitment), as may be reasonably requested by Administrative Agent in connection with any such transaction.

(b) (i) The Incremental Term Loans shall be deemed to be Term Loans; provided that any such Incremental Term Loan that is not added to the outstanding principal balance of a pre-existing Term Loan shall be designated as a separate tranche of Term Loans for all purposes of this Agreement.

(ii) The Incremental Lenders shall be included in any determination of the Required Lenders or Required Revolving Credit Lenders, as applicable, and, unless otherwise agreed, the Incremental Lenders will not constitute a separate voting class for any purposes under this Agreement.

(c) (i) On any Increased Amount Date on which any Incremental Term Loan Commitment becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Term Loan Commitment shall make, or be obligated to make, an Incremental Term Loan to the Borrower in an amount equal to its Incremental Term Loan Commitment and shall become a Term Loan Lender hereunder with respect to such Incremental Term Loan Commitment and the Incremental Term Loan made pursuant thereto.

(iii) On any Increased Amount Date on which any Incremental Revolving Credit Increase becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Revolving Credit Commitment shall become a Revolving Credit Lender hereunder with respect to such Incremental Revolving Credit Commitment.

SECTION 5.14 Cash Collateral. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent, any Issuing Lender (with a copy to the Administrative Agent) or the Swingline Lender (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize the Fronting Exposure of such Issuing Lender and/or the Swingline Lender, as applicable, with respect to such Defaulting Lender (determined after giving effect to Section 5.15(a)(iv)) and any Cash Collateral provided by such Defaulting Lender) in an amount equal to the Minimum Collateral Amount.

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(d) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of each Issuing Lender and the Swingline Lender, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of L/C Obligations and Swingline Loans, to be applied pursuant to subsection (b) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent, the Issuing Lenders and the Swingline Lender as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(4) Application. Notwithstanding anything to the contrary contained in this Agreement or any other Loan Document, Cash Collateral provided under this Section 5.14 or Section 5.15 in respect of Letters of Credit and Swingline Loans shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of L/C Obligations and Swingline Loans (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(5) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce the Fronting Exposure of the Issuing Lenders and/or the Swingline Lender, as applicable, shall no longer be required to be held as Cash Collateral pursuant to this Section 5.14 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent, the Issuing Lenders and the Swingline Lender that there exists excess Cash Collateral; provided that, subject to Section 5.15, the Person providing Cash Collateral, the Issuing Lenders and the Swingline Lender may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

#### SECTION 5.15 Defaulting Lenders.

(e) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and Section 14.2.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article XII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 14.4

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shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lenders or the Swingline Lender hereunder; *third*, to Cash Collateralize the Fronting Exposure of the Issuing Lenders and the Swingline Lender with respect to such Defaulting Lender in accordance with Section 5.14; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan or funded participation in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans and funded participations under this Agreement and (B) Cash Collateralize the Issuing Lenders' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit and Swingline Loans issued under this Agreement, in accordance with Section 5.14; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lenders or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Lender or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Loans or funded participations in Swingline Loans or Letters of Credit in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Swingline Loans or Letters of Credit were issued at a time when the conditions set forth in Section 6.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and funded participations in Swingline Loans or Letters of Credit owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or funded participations in Swingline Loans or Letters of Credit owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Swingline Loans and L/C Obligations are held by the Lenders pro rata in accordance with the Revolving Credit Commitments under the applicable Revolving Credit Facility without giving effect to Section 5.15(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 5.15(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(i) No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

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(ii) Each Defaulting Lender shall be entitled to receive letter of credit commissions pursuant to Section 3.3 for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Revolving Credit Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 5.14.

(iii) With respect to any Commitment Fee or letter of credit commission not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (2) pay to each applicable Issuing Lender and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Lender's or the Swingline Lender's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Revolving Credit Commitment Percentages (calculated without regard to such Defaulting Lender's Revolving Credit Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, repay Swingline Loans in an amount equal to the Swingline Lenders' Fronting Exposure and (y) second, Cash Collateralize the Issuing Lenders' Fronting Exposure in accordance with the procedures set forth in Section 5.14.

(5) Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Issuing Lenders and the Swingline Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Lenders in accordance with the Commitments under the applicable Credit Facility (without giving effect to Section 5.15(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that

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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 6

### CONDITIONS OF CLOSING AND BORROWING

SECTION 5.14 Conditions to Closing and the Initial Extensions of Credit. The obligation of the Lenders to close this Agreement and to make the initial Loans or issue or participate in the initial Letters of Credit, if any, is subject to the satisfaction of each of the following conditions:

(4) Executed Loan Documents. This Agreement, a Revolving Credit Note in favor of each Revolving Credit Lender requesting a Revolving Credit Note, a Term Loan Note in favor of each Term Loan Lender requesting a Term Loan Note, a Swingline Note in favor of the Swingline Lender (in each case, if requested thereby), the Guaranty Agreement and the Security Documents, together with any other applicable Loan Documents, shall have been duly authorized, executed and delivered to the Administrative Agent by the parties thereto and shall be in full force and effect and no Default or Event of Default shall exist hereunder or thereunder.

(5) Closing Certificates; Etc. The Administrative Agent shall have received each of the following in form and substance reasonably satisfactory to the Administrative Agent:

(i) Officer's Certificate. A certificate from a Responsible Officer of the Borrower to the effect that (A) all representations and warranties of the Credit Parties contained in this Agreement and the other Loan Documents are true, correct and complete in all material respects (except to the extent any such representation and warranty is qualified by materiality or reference to Material Adverse Effect, in which case, such representation and warranty shall be true, correct and complete in all respects); (B) none of the Credit Parties is in violation of any of the covenants contained in this Agreement and the other Loan Documents; (C) after giving effect to the Transactions, no Default or Event of Default has occurred and is continuing; (D) since December 31, 2022, no event has occurred or condition arisen, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect; and (E) each of the Credit Parties, as applicable, has satisfied each of the conditions set forth in Section 6.1 and Section 6.2.

(ii) Certificates of Secretary and Organizational Documents. With respect to each Credit Party, a certificate of a Responsible Officer of each such Person certifying as to the incumbency and genuineness of the signature of each officer of such Person executing Loan Documents to which it is a party and certifying that attached thereto is a true, correct and complete copy of (A) the articles or certificate of incorporation or formation (or equivalent), as applicable, of such Person and all amendments thereto, certified as of a recent date by the appropriate Governmental Authority in its jurisdiction of incorporation, organization or formation (or equivalent), as applicable, (B) the bylaws or other governing document of such Person as in effect on the Closing Date,

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(C) resolutions duly adopted by the board of directors (or other governing body) of such Person authorizing and approving the transactions contemplated hereunder and the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party, and (D) each certificate required to be delivered pursuant to Section 6.1(b)(iii).

(iii) Certificates of Good Standing. With respect to each Credit Party, certificates as of a recent date of the good standing of each such Person under the laws of its jurisdiction of incorporation, organization or formation (or equivalent) and, to the extent requested by the Administrative Agent, each other jurisdiction where such Person is qualified to do business and, to the extent available, a certificate of the relevant taxing authorities of such jurisdictions certifying that such Person has filed required tax returns and owes no delinquent taxes.

(iv) Opinions of Counsel. Favorable opinions of counsel to the Credit Parties addressed to the Administrative Agent and the Lenders with respect to the Credit Parties, the Loan Documents and such other matters as the Administrative Agent shall request (which such opinions shall expressly permit reliance by permitted successors and assigns of the Administrative Agent and the Lenders).

(6) Personal Property Collateral.

(i) Filings and Recordings. The Administrative Agent shall have received all filings and recordations that are necessary to perfect the security interests of the Administrative Agent, on behalf of the Secured Parties, in the Collateral and the Administrative Agent shall have received evidence reasonably satisfactory to the Administrative Agent that upon such filings and recordations such security interests constitute valid and perfected first priority Liens thereon (subject to Permitted Liens).

(ii) Pledged Collateral. The Administrative Agent shall have received (A) original stock certificates or other certificates evidencing the Capital Stock pledged pursuant to the Security Documents, to the extent such Capital Stock is certificated, together with an undated stock power for each such certificate duly executed in blank by the registered owner thereof and (B) each original promissory note pledged, and required to be delivered to the Administrative Agent, pursuant to the Security Documents, together with an undated endorsement for each such promissory note duly executed in blank by the holder thereof.

(iii) Lien Search. The Administrative Agent shall have received the results of customary Lien searches, in form and substance reasonably satisfactory to the Administrative Agent, made against the Credit Parties under the Uniform Commercial Code (or applicable judicial docket, as applicable) as in effect in each jurisdiction in which filings or recordations under the Uniform Commercial Code should be made to evidence or perfect security interests in all assets of such Credit Party, indicating among other things that the assets of each such Credit Party are free and clear of any Lien (except for Permitted Liens).

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(iv) Property and Liability Insurance. The Administrative Agent shall have received, in each case in form and substance reasonably satisfactory to the Administrative Agent, evidence of property, business interruption and liability insurance covering each Credit Party (with appropriate endorsements naming the Administrative Agent as lender's loss payee on all policies for property hazard insurance and as additional insured on all policies for liability insurance), and if requested by the Administrative Agent, copies of such insurance policies.

(v) Intellectual Property. The Administrative Agent shall have received security agreements duly executed by the applicable Credit Parties for all federally registered copyrights, copyright applications, patents, patent applications, trademarks and trademark applications included in the Collateral, in each case in proper form for filing with the U.S. Patent and Trademark Office or U.S. Copyright Office, as applicable.

(vi) Other Collateral Documentation. The Administrative Agent shall have received any documents reasonably requested thereby or as required by the terms of the Security Documents to evidence its security interest in the Collateral (including, without limitation, any landlord waivers or collateral access agreements, notices and assignments of claims required under Applicable Laws, bailee or warehouseman letters or filings with the FCC or any other applicable Governmental Authority).

(7) Governmental and Third Party Approvals. The Credit Parties shall have received all material governmental, shareholder and third party consents and approvals necessary in connection with Credit Facility and all such governmental, shareholder and third party consents and approvals shall be in full force and effect.

(8) Financial Matters. The Administrative Agent shall have received, in each case in form and substance satisfactory thereto:

(i) Financial Projections. Projections prepared by management of the Borrower, of income statements and cash flow statements on an annual basis for each year after the Closing Date during the term of the Credit Facility (and except as disclosed promptly after discovery which will not be inconsistent with information provided to Wells Fargo Securities, LLC prior to April 13, 2023).

(ii) Financial Condition Certificate. A certificate, certified as accurate by the chief financial officer of the Borrower, that (A) after giving effect to the Transactions, each Credit Party and each Subsidiary thereof is each Solvent, (B) attached thereto are calculations evidencing compliance on a Pro Forma Basis after giving effect to the Transactions with the covenants contained in Article X and (C) the financial projections previously delivered to the Administrative Agent represent the good faith estimates (utilizing reasonable assumptions) of the financial condition and operations of the Borrower and its Subsidiaries.

(9) Payment at Closing. The Borrower shall have paid (A) to the Administrative Agent, the Arrangers and the Lenders the fees set forth or referenced in Section 5.3 and any other accrued and unpaid fees or commissions due hereunder, (B) all fees, charges and disbursements of counsel

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to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent accrued and unpaid prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent) and (C) to any other Person such amount as may be due thereto in connection with the transactions contemplated hereby, including all taxes, fees and other charges in connection with the execution, delivery, recording, filing and registration of any of the Loan Documents.

(10) Miscellaneous.

(i) Notice of Account Designation. The Administrative Agent shall have received a Notice of Account Designation specifying the account or accounts to which the proceeds of any Loans made on or after the Closing Date are to be disbursed.

(ii) Due Diligence. The Administrative Agent shall have completed, to its satisfaction, all legal, tax, environmental, business and other due diligence with respect to the business, assets, liabilities, operations and condition (financial or otherwise) of the Borrower and its Subsidiaries in scope and determination satisfactory to the Administrative Agent in its sole discretion.

(iii) Existing Indebtedness. All existing Indebtedness of the Borrower and its Subsidiaries under the Existing Credit Agreement shall be refinanced.

(iv) Patriot Act, etc. In each case at least five (5) Business Days prior to the Closing Date:

(A) Each Credit Party shall have provided to the Administrative Agent and the Lenders the documentation and other information requested by the Administrative Agent or any Lender in order to comply with requirements of any Anti-Money Laundering Laws, including, without limitation, the Patriot Act and any applicable “know your customer” rules and regulations.

(B) Each Credit Party or Subsidiary thereof that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have delivered to the Administrative Agent, and any Lender requesting the same, a Beneficial Ownership Certification in relation to such Credit Party or such Subsidiary, in each case at least five (5) Business Days prior to the Closing Date.

(v) Other Documents. All opinions, certificates and other instruments and all proceedings in connection with the transactions contemplated by this Agreement shall be satisfactory in form and substance to the Administrative Agent. The Administrative Agent shall have received copies of all other documents, certificates and instruments reasonably requested thereby, with respect to the transactions contemplated by this Agreement.

Without limiting the generality of the provisions of the last paragraph of Section 13.3(c), for purposes of determining compliance with the conditions specified in this Section 6.1, the Administrative Agent and

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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.

SECTION 6.14 Conditions to All Extensions of Credit. The obligations of the Lenders to make or participate in any Extensions of Credit (including the initial Extension of Credit) and/or any Issuing Lender to issue or extend any Letter of Credit are subject to the satisfaction of the following conditions precedent on the relevant borrowing, issuance or extension date:

(a) Continuation of Representations and Warranties. The representations and warranties contained in this Agreement and the other Loan Documents shall be true and correct in all material respects (except to the extent that any such representation and warranty is subject to a materiality or Material Adverse Effect qualifier, in which case it shall be true and correct in all respects) on and as of such borrowing, issuance or extension date with the same effect as if made on and as of such date, except for any representation and warranty made as of an earlier date, which representation and warranty shall remain true and correct in all material respects (except to the extent that any such representation and warranty is subject to a materiality or Material Adverse Effect qualifier, in which case it shall be true and correct in all respects) as of such earlier date.

(4) No Existing Default. No Default or Event of Default shall have occurred and be continuing (i) on the borrowing date with respect to such Loan or after giving effect to the Loans to be made on such date or (ii) on the issuance or extension date with respect to such Letter of Credit or after giving effect to the issuance or extension of such Letter of Credit on such date.

(5) Alternative Currency and Alternative L/C Currency. In the case of a Revolving Credit Loan to be denominated in an Alternative Currency or a Letter of Credit to be denominated in an Alternative L/C Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which (i) with respect to a Revolving Credit Loan to be denominated in an Alternative Currency, in the reasonable opinion of the Administrative Agent or the Required Lenders would make it impracticable for such Revolving Credit Loan to be denominated in the relevant Alternative Currency or (ii) with respect to a Letter of Credit to be denominated in an Alternative L/C Currency, in the reasonable opinion of the Administrative Agent, the applicable Issuing Lender or the Required Lenders would make it impracticable for such Letter of Credit to be denominated in the relevant Alternative L/C Currency.

(6) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan and (ii) no Issuing Lender shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(7) Notices. The Administrative Agent shall have received a Notice of Borrowing or Letter of Credit Application, as applicable, from the Borrower in accordance with Section 2.3(a), Section 3.2, Section 4.2 or Section 5.2, as applicable.

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Each Notice of Borrowing or Letter of Credit Application, as applicable, submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 6.2(a) and (b) have been satisfied on and as of the date of the applicable Extension of Credit.

SECTION 6.15 Post-Closing Conditions. The Borrower shall execute and deliver the documents, take the actions and complete the tasks set forth on Schedule 6.3, in each case within the corresponding time limits specified on such schedule.

## ARTICLE 7

### REPRESENTATIONS AND WARRANTIES OF THE CREDIT PARTIES

To induce the Administrative Agent and Lenders to enter into this Agreement and to induce the Lenders to make Extensions of Credit, the Credit Parties hereby represent and warrant to the Administrative Agent and the Lenders both before and after giving effect to the transactions contemplated hereunder, which representations and warranties shall be deemed made on the Closing Date and as otherwise set forth in Section 6.2, that:

SECTION 5.15 Organization; Power; Qualification. Each Credit Party and each Subsidiary thereof (a) is duly organized, validly existing and in good standing (to the extent the concept is applicable to such jurisdiction) under the laws of the jurisdiction of its incorporation or formation, (b) has the power and authority to own its Properties and to carry on its business as now being and hereafter proposed to be conducted and (c) is duly qualified and authorized to do business in each jurisdiction in which the character of its Properties or the nature of its business requires such qualification and authorization except in jurisdictions where the failure to be so qualified or in good standing could not reasonably be expected to result in a Material Adverse Effect. The jurisdictions in which each Credit Party and each Subsidiary thereof are organized and qualified to do business as of the Closing Date are described on Schedule 7.1. No Credit Party nor any Subsidiary thereof is an Affected Financial Institution or a Covered Party.

SECTION 7.13 Ownership. Each Subsidiary of the Borrower as of the Closing Date is listed on Schedule 7.2. All outstanding shares have been duly authorized and validly issued and are fully paid and nonassessable, with no personal liability attaching to the ownership thereof, and not subject to any preemptive or similar rights, except as described in Schedule 7.2. The shareholders or other owners, as applicable, of each of the Borrower's Subsidiaries which are not traded on a public exchange and the number of shares owned by each as of the Closing Date are described on Schedule 7.2. As of the Closing Date, there are no outstanding stock purchase warrants, subscriptions, options, securities, instruments or other rights of any type or nature whatsoever, which are convertible into, exchangeable for or otherwise provide for or permit the issuance of Capital Stock of any Credit Party or any Subsidiary thereof, except as described on Schedule 7.2.

SECTION 7.14 Authorization; Enforceability. Each Credit Party and each Subsidiary thereof has the right, power and authority and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Agreement and each of the other Loan Documents to which it is a party in accordance with their respective terms. This Agreement and each of the other Loan Documents have been duly executed and delivered by the duly authorized officers of each Credit Party and each Subsidiary thereof that is a party thereto, and each such

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document constitutes the legal, valid and binding obligation of each Credit Party and each Subsidiary thereof that is a party thereto, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal Debtor Relief Laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

SECTION 7.15 Compliance of Agreement, Loan Documents and Borrowing with Laws, Etc.

The execution, delivery and performance by each Credit Party and each Subsidiary thereof of the Loan Documents to which each such Person is a party, in accordance with their respective terms, the Extensions of Credit hereunder and the transactions contemplated hereby or thereby do not and will not, by the passage of time, the giving of notice or otherwise, (a) require any Governmental Approval or violate any Applicable Law relating to any Credit Party or any Subsidiary thereof where the failure to obtain such Governmental Approval or such violation could reasonably be expected to have a Material Adverse Effect, (b) conflict with, result in a breach of or constitute a default under the articles of incorporation, bylaws or other organizational documents of any Credit Party or any Subsidiary thereof, (c) conflict with, result in a breach of or constitute a default under any indenture, agreement or other instrument to which such Person is a party or by which any of its properties may be bound or any Governmental Approval relating to such Person, which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (d) result in or require the creation or imposition of any Lien upon or with respect to any property now owned or hereafter acquired by such Person other than Permitted Liens or (e) require any consent or authorization of, filing with, or other act in respect of, an arbitrator or Governmental Authority and no consent of any other Person is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement other than (i) consents, authorizations, filings or other acts or consents for which the failure to obtain or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (ii) consents or filings under the UCC and (iii) filings with the United States Copyright Office and/or the United States Patent and Trademark Office.

SECTION 7.16 Compliance with Law; Governmental Approvals. Each Credit Party and each Subsidiary thereof (a) has all Governmental Approvals required by any Applicable Law for it to conduct its business, each of which is in full force and effect, is final and not subject to review on appeal and is not the subject of any pending or, to its knowledge, threatened attack by direct or collateral proceeding, (b) is in compliance with each Governmental Approval applicable to it and in compliance with all other Applicable Laws relating to it or any of its respective properties and (c) has timely filed all material reports, documents and other materials required to be filed by it under all Applicable Laws with any Governmental Authority and has retained all material records and documents required to be retained by it under Applicable Law, except in each case of clauses (a), (b) or (c) above where the failure to have, comply or file could not reasonably be expected to have a Material Adverse Effect.

SECTION 7.17 Tax Returns and Payments. Each Credit Party and each Subsidiary thereof has duly filed or caused to be filed all federal, state, local and other tax returns required by Applicable Law to be filed, and has paid, or made adequate provision for the payment of, all federal, state, local and other taxes, assessments and governmental charges or levies upon it and its property, income, profits and assets which are due and payable (other than any amount the validity of which is currently being contested in good faith by appropriate proceedings and with

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respect to which reserves in conformity with GAAP have been provided for on the books of the relevant Credit Party). Such returns accurately reflect in all material respects all liability for taxes of any Credit Party or any Subsidiary thereof for the periods covered thereby. Except as set forth on Schedule 7.6, there is no ongoing audit or examination or, to the knowledge of each Credit Party and each Subsidiary thereof, other investigation by any Governmental Authority of the tax liability of any Credit Party or any Subsidiary thereof. No Governmental Authority has asserted any Lien or other claim against any Credit Party or any Subsidiary thereof with respect to unpaid taxes which has not been discharged or resolved (other than (a) any amount the validity of which is currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided for on the books of the relevant Credit Party and (b) Permitted Liens). The charges, accruals and reserves on the books of each Credit Party and each Subsidiary thereof in respect of federal, state, local and other taxes for all Fiscal Years and portions thereof since the organization of any Credit Party or any Subsidiary thereof are in the judgment of the Borrower adequate, and the Borrower does not anticipate any additional taxes or assessments for any of such years.

SECTION 7.18 Intellectual Property Matters. Each Credit Party and each Subsidiary thereof owns or possesses rights to use all material franchises, licenses, copyrights, copyright applications, patents, patent rights or licenses, patent applications, trademarks, trademark rights, service mark, service mark rights, trade names, trade name rights, copyrights and other rights with respect to the foregoing which are reasonably necessary to conduct its business. No event has occurred which permits, or after notice or lapse of time or both would permit, the revocation or termination of any such rights, and no Credit Party nor any Subsidiary thereof is liable to any Person for infringement under Applicable Law with respect to any such rights as a result of its business operations except as could not reasonably be expected to have a Material Adverse Effect.

SECTION 7.19 Environmental Matters.

(a) To the knowledge of each Credit Party and each Subsidiary thereof, the properties owned, leased or operated by each Credit Party and each Subsidiary thereof now or in the past do not contain, and to their knowledge have not previously contained, any Hazardous Materials in amounts or concentrations which (i) constitute or constituted a material violation of applicable Environmental Laws (except for amounts which have been remediated in accordance with Environmental Laws) or (ii) could reasonably be expected to give rise to material liability under applicable Environmental Laws;

(4) To the knowledge of each Credit Party and each Subsidiary thereof, each Credit Party and each Subsidiary thereof and such properties and all operations conducted in connection therewith are in material compliance, and have been in material compliance, with all applicable Environmental Laws, and there is no contamination at, under or about such properties or such operations which could reasonably be expected to materially interfere with the continued operation of such properties or materially impair the fair saleable value thereof;

(5) No Credit Party nor any Subsidiary thereof has received any written notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters, Hazardous Materials, or compliance with Environmental Laws, nor does any Credit Party or any Subsidiary thereof have knowledge or reason to believe that any such

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notice will be received or is being threatened, except where such violation, alleged violation, non-compliance, liability or potential liability which is the subject of such notice could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect;

(6) To the knowledge of each Credit Party and each Subsidiary thereof, Hazardous Materials have not been transported or disposed of to or from the properties owned, leased or operated by any Credit Party or any Subsidiary thereof in violation of, or in a manner or to a location which could give rise to material liability under, Environmental Laws, nor have any Hazardous Materials been generated, treated, stored or disposed of at, on or under any of such properties in violation of, or in a manner that could reasonably be expected to give rise to material liability under, any applicable Environmental Laws;

(7) No judicial proceedings or governmental or administrative action is pending, or, to the knowledge of each Credit Party and each Subsidiary thereof, threatened, under any Environmental Law to which any Credit Party or any Subsidiary thereof is or will be named as a potentially responsible party with respect to any properties or operations conducted in connection therewith, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to any Credit Party, any Subsidiary thereof or such properties or operations that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; and

(8) There has been no release, or to the knowledge of each Credit Party and each Subsidiary thereof, threat of release, of Hazardous Materials at or from properties owned, leased or operated by any Credit Party or any Subsidiary, now or in the past, in violation of or in amounts or in a manner that could give rise to liability under Environmental Laws that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 7.20 Employee Benefit Matters.

(b) As of the Closing Date, no Credit Party nor any ERISA Affiliate maintains or contributes to, or has any obligation under, any Employee Benefit Plans other than those identified on Schedule 7.9.

(4) Each Credit Party and each ERISA Affiliate is in compliance with all applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder with respect to all Employee Benefit Plans except for any required amendments for which the remedial amendment period as defined in Section 401(b) of the Code has not yet expired and except where a failure to so comply could not reasonably be expected to have a Material Adverse Effect. Each Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code has been determined by the IRS to be so qualified, and each trust related to such plan has been determined to be exempt under Section 501(a) of the Code except for such plans that have not yet received determination letters but for which the remedial amendment period for submitting a determination letter has not yet expired or for which no letter is required because such Employee Benefit Plan is a prototype plan. No liability has been incurred by any Credit Party or any ERISA Affiliate which remains unsatisfied for any taxes or penalties assessed with respect to any

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Employee Benefit Plan or any Multiemployer Plan except for a liability that could not reasonably be expected to have a Material Adverse Effect.

(5) As of the Closing Date, no Pension Plan has been terminated, nor has any Pension Plan become subject to funding based benefit restrictions under Section 436 of the Code, nor has any funding waiver from the IRS been received or requested with respect to any Pension Plan, nor has there been any failure to meet the minimum funding standards of Sections 412 or 430 of the Code, nor has any Credit Party or any ERISA Affiliate failed to make any contributions or to pay any amounts due and owing as required by Sections 412 or 430 of the Code, Section 302 of ERISA or the terms of any Pension Plan prior to the due dates of such contributions under Sections 412 or 430 of the Code or Section 302 of ERISA, nor has there been any event requiring any disclosure under Section 4041(c)(3)(C) or 4063(a) of ERISA with respect to any Pension Plan.

(6) Except where the failure of any of the following representations to be correct could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, no Credit Party nor any ERISA Affiliate has: (i) engaged in a nonexempt prohibited transaction described in Section 406 of the ERISA or Section 4975 of the Code, (ii) incurred any liability to the PBGC which remains outstanding other than the payment of premiums and there are no premium payments which are due and unpaid, (iii) failed to make a required contribution or payment to a Multiemployer Plan, or (iv) failed to make a required installment or other required payment under Sections 412 or 430 of the Code.

(7) No Termination Event has occurred or is reasonably expected to occur with respect to any Pension Plan or Multiemployer Plan, as applicable.

(8) Except where the failure of any of the following representations to be correct could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, no proceeding, claim (other than benefit claims in the ordinary course of business), lawsuit and/or investigation is existing or, to the knowledge of each Credit Party and each Subsidiary thereof, threatened concerning or involving any (i) employee welfare benefit plan (as defined in Section 3(1) of ERISA) currently maintained or contributed to by any Credit Party or any ERISA Affiliate, (ii) Pension Plan or (iii) Multiemployer Plan.

(9) No Credit Party nor any Subsidiary thereof is a party to any contract, agreement or arrangement that could, solely as a result of the delivery of this Agreement or the consummation of transactions contemplated hereby, result in the payment of any “excess parachute payment” within the meaning of Section 280G of the Code.

(10) The Borrower represents and warrants, as of the Closing Date, that the Borrower is not and will not be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

#### SECTION 7.21 Margin Stock.

(c) No Credit Party nor any Subsidiary thereof is engaged principally or as one of its activities in the business of extending credit for the purpose of “purchasing” or “carrying” any “margin stock” (as each such term is defined or used, directly or indirectly, in Regulation U of the

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FRB). No part of the proceeds of any of the Loans or Letters of Credit will be used for purchasing or carrying margin stock or for any purpose which violates, or which would be inconsistent with, the provisions of Regulation T, U or X of the FRB. If requested by any Lender (through the Administrative Agent) or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U 1 referred to in Regulation U.

(4) Following the application of the proceeds of each Extension of Credit, not more than twenty-five percent (25%) of the value of the assets (either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis) subject to the provisions of Section 11.2 or Section 11.5 or subject to any restriction contained in any agreement or instrument between any Credit Party and any Lender or any Affiliate of any Lender relating to Indebtedness in excess of the Threshold Amount will be “margin stock”.

SECTION 7.22 Government Regulation. No Credit Party nor any Subsidiary thereof is an “investment company” or a company “controlled” by an “investment company” (as each such term is defined or used in the Investment Company Act of 1940) and no Credit Party nor any Subsidiary thereof is, or after giving effect to any Extension of Credit will be, subject to regulation under the Interstate Commerce Act, or any other Applicable Law which limits its ability to incur or consummate the transactions contemplated hereby.

SECTION 7.23 Employee Relations. No Credit Party or any Subsidiary thereof is party to any collective bargaining agreement, nor has any labor union been recognized as the representative of its employees except as set forth on Schedule 7.12. The Borrower knows of no pending or threatened strikes, work stoppage or other collective labor disputes involving its employees or those of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

SECTION 7.24 Burdensome Provisions. The Credit Parties and their respective Subsidiaries do not presently anticipate that future expenditures needed to meet the provisions of any statutes, orders, rules or regulations of a Governmental Authority will be so burdensome as to have a Material Adverse Effect. No Subsidiary is party to any agreement or instrument or otherwise subject to any restriction or encumbrance that restricts or limits its ability to make dividend payments or other distributions in respect of its Capital Stock to the Borrower or any Subsidiary or to transfer any of its assets or properties to the Borrower or any other Subsidiary in each case other than existing under or by reason of the Loan Documents or Applicable Law.

SECTION 7.25 Financial Statements. The Current Financial Statements are complete and correct and fairly present in all material respects, on a Consolidated basis, the assets, liabilities and financial position of the Borrower and its Subsidiaries as at such dates, and the results of the operations and changes of financial position for the periods then ended (other than customary year-end adjustments for unaudited financial statements). All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP. Such financial statements show all material indebtedness and other material liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including material liabilities for taxes, material commitments, and Indebtedness, in each case, to the extent required to be disclosed under GAAP. The projections delivered pursuant to Section 6.1(e)(i) were prepared in good faith on the basis of

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the assumptions stated therein, which assumptions are believed to be reasonable in light of then existing conditions except that such financial projections and statements shall be subject to normal year end closing and audit adjustments (it being understood that projections are subject to significant uncertainties and contingencies).

SECTION 7.26 No Material Adverse Change. Since December 31, 2022, there has been no material adverse change in the properties, business, operations, condition (financial or otherwise), assets or liabilities (whether actual or contingent) of the Borrower and its Subsidiaries taken as a whole and no event has occurred or condition arisen, either individually or in the aggregate, that could reasonably be expected to have a Material Adverse Effect.

SECTION 7.27 Solvency. The Credit Parties, on a Consolidated basis, are Solvent.

SECTION 7.28 Titles to Properties. As of the Closing Date, the real property listed on Schedule 7.17 constitutes all of the real property that is owned, leased, subleased or used by any Credit Party or any of its Subsidiaries. Each Credit Party and each Subsidiary thereof has such title to the real property owned or leased by it as is necessary to the conduct of its business and valid and legal title to all of its personal property and assets, except those which have been disposed of by the Credit Parties and their Subsidiaries subsequent to such date which dispositions have been in the ordinary course of business or as otherwise expressly permitted hereunder.

SECTION 7.29 Insurance. The properties of each Credit Party and each Subsidiary thereof are insured with financially sound and reputable insurance companies not Affiliates of the Credit Parties and their Subsidiaries, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in locations where the Credit Parties and their Subsidiaries operate.

SECTION 7.30 Liens. None of the properties and assets of any Credit Party or any Subsidiary thereof is subject to any Lien, except Permitted Liens. No Credit Party or any Subsidiary thereof has signed any financing statement or any security agreement authorizing any secured party thereunder to file any financing statement, except to perfect those Permitted Liens.

SECTION 7.31 Indebtedness and Guaranty Obligations. The Credit Parties and their respective Subsidiaries have performed and are in compliance with all of the material terms of such Indebtedness and Guaranty Obligations and all instruments and agreements relating thereto, and no default or event of default, or event or condition which with notice or lapse of time or both would constitute such a default or event of default on the part of any of the Credit Parties or any of their respective Subsidiaries exists with respect to any such Indebtedness or Guaranty Obligation, which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

SECTION 7.32 Litigation. There are no actions, suits or proceedings pending nor, to the knowledge of each Credit Party and each Subsidiary thereof, threatened against or in any other way relating adversely to or affecting any Credit Party or any Subsidiary thereof or any of their respective properties in any court or before any arbitrator of any kind or before or by any Governmental Authority that (a) has or could reasonably be expected to have a Material Adverse Effect, or (b) materially adversely affects any transaction contemplated hereby.

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SECTION 7.33 Absence of Defaults. No event has occurred or is continuing (a) which constitutes a Default or an Event of Default, or (b) which constitutes, or which with the passage of time or giving of notice or both would constitute, a default or event of default by any Credit Party or any Subsidiary thereof under any judgment, decree or order to which any Credit Party or any Subsidiary thereof is a party or by which any Credit Party or any Subsidiary thereof or any of their respective properties may be bound or which would require any Credit Party or any Subsidiary thereof to make any payment thereunder prior to the scheduled maturity date therefore that, in any case under this clause (b), could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 7.34 Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(d) None of (i) the Borrower, any Subsidiary, any of their respective directors, officers, or, to the knowledge of the Borrower or such Subsidiary, any of their respective employees or Affiliates, or (ii) to the knowledge of the Borrower or any Subsidiary, any agent or representative of the Borrower or such Subsidiary that will act in any capacity in connection with or benefit from the Credit Facility, (A) is a Sanctioned Person or currently the subject or target of any Sanctions, (B) is controlled by or is acting on behalf of a Sanctioned Person, (C) has its assets located in a Sanctioned Country, (D) is under investigation for an alleged violation of, or received notice from or made a voluntary disclosure to any governmental entity regarding a possible violation of, any Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions by a Governmental Authority that enforces Sanctions or any Anti-Corruption Laws or Anti-Money Laundering Laws, (E) directly or indirectly derives revenues from investments in, or transactions with, Sanctioned Persons, (F) has taken any action, directly or indirectly, that would result in a violation by such Persons of any Anti-Corruption Laws, or (G) has violated any Anti-Money Laundering Law.

(4) Each of the Borrower and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Anti-Corruption Laws, Anti-Money Laundering Law and Sanctions.

(5) Each of the Borrower and its Subsidiaries, and to the knowledge of the Borrower and each Subsidiary thereof, each director, officer, employee, agent and Affiliate of Borrower and each such Subsidiary, is in compliance with all Anti-Corruption Laws and Anti-Money Laundering Laws in all material respects and applicable Sanctions.

(6) No proceeds of any Extension of Credit have been used, directly or indirectly, by the Borrower or any of its Subsidiaries or, to the knowledge of the Borrower or any of its Subsidiaries, any of its or their respective directors, officers, employees and agents (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, including any payments (directly or indirectly) to a Sanctioned Person or a Sanctioned Country or (iii) in any manner that would result in the violation of any Anti-Money Laundering Laws, Anti-Corruption Laws or any Sanctions applicable to any party hereto.

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SECTION 7.35 Investment Bankers' and Similar Fees. No Credit Party has any obligation to any Person in respect of any finders', brokers', investment banking or other similar fee in connection with any of the Transactions other than the closing and other fees payable pursuant to this Agreement or otherwise payable to the Arrangers.

SECTION 7.36 Disclosure. No financial statement, material report, material certificate or other material information furnished (whether in writing or orally) by or on behalf of any Credit Party or any Subsidiary thereof to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), taken together as a whole, contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, pro forma financial information, estimated financial information and other projected or estimated information, such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that forward looking and estimated information, including projections, are subject to significant uncertainties and contingencies). As of the Closing Date, all of the information included in the Beneficial Ownership Certification is true and correct.

## ARTICLE 8

### FINANCIAL INFORMATION AND NOTICES

Until all of the Obligations (other than contingent indemnification obligations not then due) have been paid and satisfied in full in cash, all Letters of Credit have been terminated or expired (or been Cash Collateralized) and the Commitments terminated, each Credit Party will, and will cause each of its Subsidiaries to:

SECTION 5.16 Financial Statements and Projections. Deliver to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(4) Quarterly Financial Statements. As soon as practicable and in any event within forty-five (45) days (or, if earlier, on the date of any required public filing thereof) after the end of the first three fiscal quarters of each Fiscal Year (commencing with the fiscal quarter ended June 30, 2023), an unaudited Consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as of the close of such fiscal quarter and unaudited Consolidated and consolidating statements of income, retained earnings and cash flows and a report containing management's discussion and analysis of such financial statements for the fiscal quarter then ended and that portion of the Fiscal Year then ended, including the notes thereto, all in reasonable detail setting forth in comparative form the corresponding figures as of the end of and for the corresponding period in the preceding Fiscal Year and prepared by the Borrower in accordance with GAAP and, if applicable, containing disclosure of the effect on the financial position or results of operations of any change in the application of accounting principles and practices during the period, and certified by the chief financial officer of the Borrower to present fairly in all material respects the financial condition of the Borrower and its Subsidiaries on a Consolidated and consolidating basis as of their respective dates and the results of operations of the Borrower and its Subsidiaries for

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the respective periods then ended, subject to normal year end adjustments and the absence of footnotes.

(5) Annual Financial Statements. As soon as practicable and in any event within one hundred twenty (120) days (or, if earlier, on the date of any required public filing thereof) after the end of each Fiscal Year (commencing with the fiscal year ended December 31, 2023), an audited Consolidated and consolidating balance sheet of the Borrower and its Subsidiaries as of the close of such Fiscal Year and audited Consolidated and consolidating statements of income, retained earnings and cash flows and a report containing management's discussion and analysis of such financial statements for the Fiscal Year then ended, including the notes thereto, all in reasonable detail setting forth in comparative form the corresponding figures as of the end of and for the preceding Fiscal Year and prepared in accordance with GAAP and, if applicable, containing disclosure of the effect on the financial position or results of operations of any change in the application of accounting principles and practices during the year. Such annual financial statements shall be audited by an independent certified public accounting firm of recognized national standing acceptable to the Administrative Agent, and accompanied by a report and opinion thereon by such certified public accountants prepared in accordance with generally accepted auditing standards that is not subject to any "going concern" or similar qualification or exception or any qualification as to the scope of such audit or with respect to accounting principles followed by the Borrower or any of its Subsidiaries not in accordance with GAAP.

(6) Annual Business Plan and Budget. As soon as practicable after the end of each Fiscal Year and in any event within forty-five (45) days after the end of such Fiscal Year, a business plan and operating and capital budget of the Borrower and its Subsidiaries for the ensuing four (4) fiscal quarters, such plan to be prepared in accordance with GAAP and to include, on a quarterly basis, the following: a quarterly operating and capital budget, a projected income statement, statement of cash flows and balance sheet, calculations demonstrating projected compliance with the financial covenants set forth in Article X and a report containing management's discussion and analysis of such budget with a reasonable disclosure of the key assumptions and drivers with respect to such budget, accompanied by a certificate from a Responsible Officer of the Borrower to the effect that such budget contains good faith estimates (utilizing assumptions believed to be reasonable at the time of delivery of such budget) of the financial condition and operations of the Borrower and its Subsidiaries for such period.

SECTION 8.14 Officer's Compliance Certificate. At each time financial statements are delivered pursuant to Sections 8.1(a) or (b) and at such other times as the Administrative Agent shall reasonably request, deliver to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice) a duly completed Officer's Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Borrower and a report containing management's discussion and analysis of such financial statements.

SECTION 8.15 Other Reports. Deliver to the Administrative Agent (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(a) Promptly upon receipt thereof, copies of all reports, if any, submitted to any Credit Party, any Subsidiary thereof or any of their respective boards of directors by their respective

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independent public accountants in connection with their auditing function, including, without limitation, any management report and any management responses thereto;

(4) Promptly upon the request thereof, such other information and documentation required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations (including, without limitation, the Patriot Act), as from time to time reasonably requested by the Administrative Agent or any Lender; and

(5) Such other information regarding the operations, business affairs and financial condition of any Credit Party or any Subsidiary thereof as the Administrative Agent or any Lender may reasonably request (including, without limitation, any investor slide decks).

SECTION 8.16 Notice of Litigation and Other Matters. Promptly (but in no event later than ten (10) days after any Responsible Officer of any Credit Party obtains knowledge thereof) notify the Administrative Agent in writing of (which shall promptly make such information available to the Lenders in accordance with its customary practice):

(b) the commencement of all proceedings and investigations by or before any Governmental Authority and all actions and proceedings in any court or before any arbitrator against or involving any Credit Party or any Subsidiary thereof or any of their respective properties, assets or businesses that if adversely determined could reasonably be expected to result in a Material Adverse Effect;

(4) any notice of any violation received by any Credit Party or any Subsidiary thereof from any Governmental Authority including, without limitation, any notice of violation of Environmental Laws which in any such case could reasonably be expected to have a Material Adverse Effect;

(5) any labor controversy that has resulted in, or threatens to result in, a strike or other work action against any Credit Party or any Subsidiary thereof which in any such case could reasonably be expected to have a Material Adverse Effect;

(6) any attachment, judgment, lien, levy or order exceeding the Threshold Amount that may be assessed against or threatened against any Credit Party or any Subsidiary thereof;

(7) the occurrence of (i) any Default or (ii) any Event of Default;

(8) (i) any unfavorable determination letter from the IRS regarding the qualification of an Employee Benefit Plan under Section 401(a) of the Code (along with a copy thereof), (ii) all notices received by any Credit Party or any ERISA Affiliate of the PBGC’s intent to terminate any Pension Plan or to have a trustee appointed to administer any Pension Plan, (iii) all notices received by any Credit Party or any ERISA Affiliate from a Multiemployer Plan sponsor concerning the imposition or amount of withdrawal liability pursuant to Section 4202 of ERISA and (iv) the Borrower obtaining knowledge or reason to know that any Credit Party or any ERISA Affiliate has filed or intends to file a notice of intent to terminate any Pension Plan under a distress termination within the meaning of Section 4041(c) of ERISA;

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(9) any event which makes any of the representations set forth in Article VII that is subject to materiality or Material Adverse Effect qualifications inaccurate in any respect or any event which makes any of the representations set forth in Article VII that is not subject to materiality or Material Adverse Effect qualifications inaccurate in any material respect;

(10) promptly upon the request thereof, such other information and documentation required by bank regulatory authorities under applicable Anti-Money Laundering Laws (including, without limitation, any applicable “know your customer” rules and regulations and the Patriot Act), as from time to time reasonably requested by the Administrative Agent or any Lender;

(11) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Exchange Act, or with any national securities exchange, and not otherwise required to be delivered to the Administrative Agent pursuant hereto; and

(12) promptly, and in any event within five (5) Business Days after receipt thereof by any Credit Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Credit Party or any Subsidiary thereof.

Each notice pursuant to Section 8.4 (other than Sections 8.4(h) through (j)) shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 8.4(e) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

Documents required to be delivered pursuant to Section 8.1(a) or (b) or Section 8.4(i) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower’s website on the Internet at the website address listed in Section 14.1; or (ii) on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the Officer’s Compliance Certificates required by Section 8.2 to the Administrative Agent. Except for such Officer’s Compliance Certificates, the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers will make available to the Lenders and the Issuing Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials

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on the Platform and (b) certain of the Lenders may be “public-side” Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower or its securities) (each, a “Public Lender”). The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof; (x) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Lenders and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 14.11); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Investor;” and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Investor.”

SECTION 8.17 Accuracy of Information. All written information, reports, statements and other papers and data furnished by or on behalf of any Credit Party or any Subsidiary thereof to the Administrative Agent or any Lender whether pursuant to this Article VIII or any other provision of this Agreement, shall, at the time the same is so furnished, comply with the representations and warranties set forth in Section 7.26.

## ARTICLE 9

### AFFIRMATIVE COVENANTS

Until all of the Obligations (other than contingent indemnification obligations not then due) have been paid and satisfied in full in cash, all Letters of Credit have been terminated or expired (or been Cash Collateralized) and the Commitments terminated, each Credit Party will, and will cause each of its Subsidiaries to:

SECTION 5.17 Preservation of Corporate Existence and Related Matters. Except as permitted by Section 11.4, preserve and maintain its separate corporate existence or equivalent form and all rights, franchises, licenses and privileges necessary to the conduct of its business, and qualify and remain qualified as a foreign corporation or other entity and authorized to do business in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Effect.

SECTION 9.13 Maintenance of Property and Licenses.

(a) Protect and preserve all Properties necessary in and material to its business, including copyrights, patents, trade names, service marks and trademarks; maintain in good working order and condition, ordinary wear and tear excepted, all buildings, equipment and other tangible real and personal property; and from time to time make or cause to be made all repairs, renewals and replacements thereof and additions to such Property necessary for the conduct of its business, so that the business carried on in connection therewith may be conducted in a commercially reasonable manner, in each case, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

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(4) Maintain, in full force and effect in all material respects, each and every material license, permit, certification, qualification, approval or franchise issued by any Governmental Authority (each a “License”) required for each of them to conduct their respective businesses as presently conducted, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 9.14 Insurance. Maintain insurance with financially sound and reputable insurance companies against at least such risks and in at least such amounts as are customarily maintained by similar businesses and as may be required by Applicable Law and as are required by any Security Document (including, without limitation, hazard and business interruption insurance).

All such insurance shall (a) provide that no cancellation or material modification thereof shall be effective until at least 30 days after receipt by the Administrative Agent of written notice thereof (provided that if, after the use of commercially reasonable efforts by the Credit Parties to obtain such provision, the applicable insurance broker will not agree to such provision and provides evidence reasonably satisfactory to the Administrative Agent that it will not agree to such provision under similar circumstances, then (1) such insurance shall provide that no cancellation or material modification thereof shall be effective until at least 30 days after receipt by the Borrower of written notice thereof and (2) the Borrower shall agree to provide to the Administrative Agent prompt written notice thereof), (b) name the Administrative Agent as an additional insured party thereunder and (c) in the case of each casualty insurance policy, name the Administrative Agent as lender’s loss payee. On the Closing Date and from time to time thereafter deliver to the Administrative Agent upon its request information in reasonable detail as to the insurance then in effect, stating the names of the insurance companies, the amounts and rates of the insurance, the dates of the expiration thereof and the properties and risks covered thereby.

SECTION 9.15 Accounting Methods and Financial Records. Maintain a system of accounting, and keep proper books, records and accounts (which shall be true and complete in all material respects) as may be required or as may be necessary to permit the preparation of financial statements in accordance with GAAP and in compliance with the regulations of any Governmental Authority having jurisdiction over it or any of its properties.

SECTION 9.16 Payment of Taxes and Other Obligations. Pay and perform (a) all taxes, assessments and other governmental charges that may be levied or assessed upon it or any of its Property and (b) all other Indebtedness, obligations and liabilities in accordance with customary trade practices; provided, that the Borrower or such Subsidiary may contest any item described in clause (a) or (b) of this Section 9.5 in good faith so long as adequate reserves are maintained with respect thereto in accordance with GAAP.

SECTION 9.17 Compliance with Laws and Approvals. Observe and remain in compliance with all Applicable Laws and maintain in full force and effect all Governmental Approvals, in each case applicable to the conduct of its business except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

SECTION 9.18 Environmental Laws. In addition to and without limiting the generality of Section 9.6, (a) comply with, and require such compliance by all tenants and subtenants with all applicable Environmental Laws and obtain and comply with and maintain, and require that all tenants and subtenants, if any, obtain and comply with and maintain, any and all licenses,

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approvals, notifications, registrations or permits required by applicable Environmental Laws, (b) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws, and promptly comply with all lawful orders and directives of any Governmental Authority regarding Environmental Laws, and (c) defend, indemnify and hold harmless the Administrative Agent and the Lenders, and their respective parents, Subsidiaries, Affiliates, employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature known or unknown, contingent or otherwise, arising out of, or in any way relating to the presence of Hazardous Materials, or the violation of, noncompliance with or liability under any Environmental Laws applicable to the operations of the Borrower or any such Subsidiary, or any orders, requirements or demands of Governmental Authorities related thereto, including, without limitation, reasonable attorney's and consultant's fees, investigation and laboratory fees, response costs, court costs and litigation expenses, except to the extent that any of the foregoing directly result from the gross negligence or willful misconduct of the party seeking indemnification therefor, as determined by a court of competent jurisdiction by final nonappealable judgment.

SECTION 9.19 Compliance with ERISA. In addition to and without limiting the generality of Section 9.7, (a) except where the failure to so comply could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) comply with applicable provisions of ERISA, the Code and the regulations and published interpretations thereunder with respect to all Employee Benefit Plans, (ii) not take any action or fail to take action the result of which could reasonably be expected to result in a liability to the PBGC or to a Multiemployer Plan, (iii) not participate in any prohibited transaction that could result in any civil penalty under ERISA or Tax under the Code and (iv) operate each Employee Benefit Plan in such a manner that will not incur any tax liability under Section 4980B of the Code or violate Section 601 through Section 609 of ERISA and (b) furnish to the Administrative Agent upon the Administrative Agent's request such additional information about any Employee Benefit Plan as may be reasonably requested by the Administrative Agent.

SECTION 9.20 Compliance with Agreements. Comply in all material respects with each term, condition and provision of all leases, agreements and other instruments entered into in the conduct of its business; except (a) where such non-compliance could not reasonably be expected to have a Material Adverse Effect and (b) that the Borrower or any such Subsidiary may contest any such lease, agreement or other instrument in good faith through applicable proceedings so long as adequate reserves are maintained in accordance with GAAP.

SECTION 9.21 Visits and Inspections; Lender Meetings.

(b) Permit representatives of the Administrative Agent or any Lender, from time to time upon prior reasonable notice and at such times during normal business hours, at the Borrower's expense, to visit and inspect its properties; inspect, audit and make extracts from its books, records and files, including, but not limited to, management letters prepared by independent accountants; and discuss with its principal officers, and its independent accountants, its business, assets, liabilities, financial condition, results of operations and business prospects; provided that so long as no Event of Default has occurred and is continuing, the Administrative Agent and the Lenders shall be limited to one (1) visit in the aggregate during any Fiscal Year (which visits shall

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be coordinated with the Administrative Agent). Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent or any Lender may do any of the foregoing, at the Borrower's expense, at any time without advance notice.

(4) Upon the request of the Administrative Agent or the Required Lenders, participate in a meeting of the Administrative Agent and Lenders once during each Fiscal Year, which meeting will be held at the Borrower's corporate offices (or such other location as may be agreed to by the Borrower and the Administrative Agent) at such time as may be agreed by the Borrower and the Administrative Agent.

#### SECTION 9.22 Additional Subsidiaries.

(c) Additional Domestic Subsidiaries. Notify the Administrative Agent prior to the creation or acquisition (including by division) of any Domestic Subsidiary and promptly thereafter (and in any event within thirty (30) days after such creation or acquisition, as such time period may be extended by the Administrative Agent in its sole discretion) cause such Domestic Subsidiary to (i) become a Subsidiary Guarantor by delivering to the Administrative Agent a duly executed supplement to the Guaranty Agreement or such other document as the Administrative Agent shall deem appropriate for such purpose, (ii) grant a security interest in all Collateral (subject to the exceptions specified in the Collateral Agreement) owned by such Domestic Subsidiary by delivering to the Administrative Agent a duly executed supplement to each Security Document or such other document as the Administrative Agent shall deem appropriate for such purpose and comply with the terms of each Security Document, (iii) deliver to the Administrative Agent such opinions, documents and certificates referred to in Section 6.1 as may be reasonably requested by the Administrative Agent, (iv) if such Capital Stock is certificated, deliver to the Administrative Agent such original certificated Capital Stock or other certificates and stock or other transfer powers evidencing the Capital Stock of such Domestic Subsidiary, (v) deliver to the Administrative Agent such updated Schedules to the Loan Documents as requested by the Administrative Agent with respect to such Domestic Subsidiary, and (vi) deliver to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent, all in form, content and scope reasonably satisfactory to the Administrative Agent.

(4) Additional Foreign Subsidiaries. Notify the Administrative Agent at the time that any Person becomes a First Tier Foreign Subsidiary, and promptly thereafter (and in any event within forty-five (45) days after such notification, as such time period may be extended by the Administrative Agent in its sole discretion), cause (i) the applicable Credit Party to deliver to the Administrative Agent Security Documents pledging sixty-five percent (65%) of the total outstanding voting Capital Stock (and one hundred percent (100%) of the non-voting Capital Stock) of any such new First Tier Foreign Subsidiary and a consent thereto executed by such new First Tier Foreign Subsidiary (including, without limitation, if applicable, original stock certificates (or the equivalent thereof pursuant to the Applicable Laws and practices of any relevant foreign jurisdiction) evidencing the Capital Stock of such new First Tier Foreign Subsidiary, together with an appropriate undated stock or other transfer power for each certificate duly executed in blank by the registered owner thereof), (ii) such Person to deliver to the Administrative Agent such opinions, documents and certificates referred to in Section 6.1 as may be reasonably requested by the Administrative Agent, (iii) such Person to deliver to the Administrative Agent such updated Schedules to the Loan Documents as requested by the Administrative Agent with

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regard to such Person and (iv) such Person to deliver to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent, all in form, content and scope reasonably satisfactory to the Administrative Agent.

(5) Merger Subsidiaries. Notwithstanding the foregoing, to the extent any new Subsidiary is created solely for the purpose of consummating a merger transaction pursuant to a Permitted Acquisition, and such new Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such merger transaction, such new Subsidiary shall not be required to take the actions set forth in Section 9.11(a) or (b), as applicable, until the consummation of such Permitted Acquisition (at which time, the surviving entity of the respective merger transaction shall be required to so comply with Section 9.11(a) or (b), as applicable, within ten (10) Business Days of the consummation of such Permitted Acquisition, as such time period may be extended by the Administrative Agent in its sole discretion).

(6) Exclusions. The provisions of this Section 9.11 shall not apply to assets as to which the Administrative Agent shall reasonably determine in its sole discretion that the costs and burdens of obtaining a security interest therein or perfection thereof outweigh the value of the security afforded thereby.

#### SECTION 9.23 Use of Proceeds.

(d) Initial Term Loan. The Borrower shall use the proceeds of the Initial Term Loan to (i) refinance certain Indebtedness of the Borrower and its Subsidiaries, including, without limitation, the Existing Credit Agreement, and (ii) pay fees and expenses incurred in connection with the Transactions.

(4) Revolving Credit Loans, Swingline Loans or any Letter of Credit. The Borrower shall use the proceeds of the Revolving Credit Loans, Swingline Loans or any Letter of Credit to (i) refinance certain Indebtedness of the Borrower and its Subsidiaries, including, without limitation, the Existing Credit Agreement, and (ii) for working capital and general corporate purposes of the Borrower and its Subsidiaries, including the payment of certain fees and expenses incurred in connection with the Transactions.

(5) Incremental Term Loans and Incremental Revolving Credit Increases. The Borrower shall use the proceeds of any Incremental Term Loan and any Incremental Revolving Credit Increase as permitted pursuant to Section 5.13, as applicable.

(6) Anti-Corruption Laws and Sanctions. The Borrower will not request any Extension of Credit, and the Borrower shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Extension of Credit, directly or indirectly, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

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SECTION 9.24 Non-Consolidation. Maintain (a) entity records and books of account separate from those of any other entity which is an Affiliate of such entity, (b) not commingle its funds or assets with those of any other entity which is an Affiliate of such entity (except pursuant to cash management systems reasonably acceptable to the Administrative Agent) and (c) provide that its board of directors (or equivalent governing body) will hold all appropriate meetings to authorize and approve such entity's actions, which meetings will be separate from those of any other entity which is an Affiliate of such entity. For the purposes of this Section 9.13, "Affiliate" shall not include the Borrower or any Subsidiary thereof.

SECTION 9.25 [Reserved].

SECTION 9.26 [Reserved].

SECTION 9.27 Compliance with Anti-Corruption Laws; Beneficial Ownership Regulation, Anti-Money Laundering Laws and Sanctions. (a) Maintain in effect and enforce policies and procedures designed to promote and achieve compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with all Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions, (b) notify the Administrative Agent and each Lender that previously received a Beneficial Ownership Certification of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein and (c) promptly upon the reasonable request of the Administrative Agent or any Lender, provide the Administrative Agent or directly to such Lender, as the case may be, any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

SECTION 9.28 Further Assurances. Execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), which may be required under any Applicable Law, or which the Administrative Agent or the Required Lenders may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created or intended to be created by the Security Documents or the validity or priority of any such Lien, all at the expense of the Credit Parties. The Borrower also agrees to provide to the Administrative Agent, from time to time upon the reasonable request by the Administrative Agent, 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.

## ARTICLE 10

### FINANCIAL COVENANTS

Until all of the Obligations (other than contingent indemnification obligations not then due) have been paid and satisfied in full in cash, all Letters of Credit have been terminated or expired (or been Cash Collateralized) and the Commitments terminated, the Borrower and its Subsidiaries on a Consolidated basis will not:

SECTION 5.18 Consolidated Total Net Leverage Ratio. As of the last day of any fiscal quarter, permit the Consolidated Total Net Leverage Ratio to be greater than the 4.00 to 1.00.

Notwithstanding the foregoing, in connection with any Permitted Acquisition with respect to which the Permitted Acquisition Consideration exceeds \$100,000,000, the Borrower may, at its election, in

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connection with such Permitted Acquisition and upon prior written notice to the Administrative Agent, increase the required Consolidated Total Net Leverage Ratio pursuant to this Section 10.1 to 4.50 to 1.00, which such increase shall be applicable (i) with respect to a Permitted Acquisition that is not a Limited Conditionality Acquisition, for the fiscal quarter in which such Permitted Acquisition is consummated and the three (3) consecutive quarterly test periods thereafter or (ii) with respect to a Permitted Acquisition that is a Limited Conditionality Acquisition, for purposes of determining compliance on a Pro Forma Basis with this Section 10.1 on the LCA Test Date, for the fiscal quarter in which such Permitted Acquisition is consummated and for the three (3) consecutive quarterly test periods after which such Permitted Acquisition is consummated (each, a "Leverage Ratio Increase"); provided that (A) such increase shall apply solely with respect to compliance with this Section 10.1 and any determination of the Consolidated Total Net Leverage Ratio for purposes of the definition of Permitted Acquisition and any incurrence test with respect to any Indebtedness used to finance a Permitted Acquisition and shall not apply to any other incurrence test set forth in this Agreement, (B) there shall be at least two full fiscal quarters following the cessation of each such Leverage Ratio Increase during which no Leverage Ratio Increase shall then be in effect and (C) the Borrower shall not be permitted to effect a Leverage Ratio Increase more than three (3) times during the term of this Agreement.

SECTION 10.13 Consolidated Interest Coverage Ratio. As of the last day of any fiscal quarter, permit the Consolidated Interest Coverage Ratio to be less than 3.00 to 1.00.

## ARTICLE 11

### NEGATIVE COVENANTS

Until all of the Obligations (other than contingent indemnification obligations not then due) have been paid and satisfied in full in cash, all Letters of Credit have been terminated or expired (or been Cash Collateralized) and the Commitments terminated, the Credit Parties will not, and will not permit any of their respective Subsidiaries to:

SECTION 5.19 Limitations on Indebtedness. Create, incur, assume or suffer to exist any Indebtedness except:

- (4) the Obligations (including the Guaranty Obligations with respect thereto);
- (5) unsecured intercompany Indebtedness owed by:
  - (i) any Credit Party to any other Credit Party;
  - (ii) any Credit Party to any Subsidiary that is not a Credit Party;
  - (iii) any Subsidiary that is not a Credit Party to any Credit Party:
    - (A) existing on the Closing Date (as set forth on Schedule 11.1(b)(iii)); and
    - (B) incurred after the Closing Date in an aggregate principal amount not to exceed at any time outstanding (1) \$150,000,000 less (2) the amount of Guaranty Obligations incurred pursuant to Section 11.1(i) on the applicable date of determination less (3) the amount of Investments made in the form of Permitted Acquisitions pursuant to Section 11.3(e)(ii) during the term of this Agreement on the applicable date of determination (which amount, for clarity, is subject to

modification in the manner set forth in the proviso to Section 11.3(e)(ii) less (4) the amount of Investments made pursuant to Section 11.3(g) during the term of this Agreement on the applicable date of determination; and

(iv) any Subsidiary that is not a Credit Party to any other Subsidiary that is not a Credit Party;

(6) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or other similar instrument drawn against insufficient funds in the ordinary course of business;

(7) Indebtedness of a Person existing at the time such Person became a Subsidiary or assets were acquired from such Person, to the extent that (i) such Indebtedness was not incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or the acquisition of such assets, (ii) neither the Borrower nor any of its Subsidiaries (other than such Person or any other Person that such Person merges with or that acquires the assets of such Person) shall have any liability or other obligation with respect to such Indebtedness and (iii) the aggregate amount of such Indebtedness does not exceed \$10,000,000 at any time outstanding;

(8) Indebtedness incurred in connection with Capital Leases and purchase money Indebtedness, and any refinancing of the foregoing, in an aggregate amount not to exceed \$25,000,000 at any time outstanding;

(9) Indebtedness and obligations owing under Hedge Agreements entered into in order to manage existing or anticipated interest rate, exchange rate or commodity price risks and not for speculative purposes;

(10) Guaranty Obligations of the Borrower or any of its Subsidiaries with respect to Indebtedness permitted pursuant to subsections (a), (e) and (f) of this Section 11.1;

(11) (i) Indebtedness of the Borrower or any of its Subsidiaries incurred in connection with Facility Capital Expenditures made on its own behalf in an aggregate amount not to exceed \$50,000,000 at any time outstanding and (ii) to the extent that such Indebtedness is incurred by a Credit Party, Guaranty Obligations of any other Credit Party with respect to such Indebtedness (it being agreed and acknowledged by all parties hereto that, except to the extent permitted under subsection (i) below, to the extent that such Indebtedness is incurred by a Subsidiary that is not a Credit Party, no Credit Party shall be permitted to guaranty such Indebtedness);

(12) Guaranty Obligations of any Credit Party with respect to Indebtedness of any Subsidiary that is not a Credit Party in an aggregate amount not to exceed at any time outstanding (A) \$150,000,000 less (B) the amount of Investments made in the form of Permitted Acquisitions pursuant to Section 11.3(e)(ii) during the term of this Agreement on the applicable date of determination (which amount, for clarity, is subject to modification in the manner set forth in the proviso to Section 11.3(e)(ii) less (C) the amount of Investments made in the form of Indebtedness pursuant to Section 11.3(f)(iv) during the term of this Agreement on the applicable date of determination less (D) the amount of Investments made pursuant to Section 11.3(g) during the term of this Agreement on the applicable date of determination;

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(13) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, in connection with acquisitions or dispositions, otherwise permitted hereunder, of any assets of a Credit Party;

(14) unsecured Indebtedness of the Borrower and its Subsidiaries; provided, that in the case of each incurrence of such Indebtedness:

(i) no Event of Default shall have occurred and be continuing or would be caused by the incurrence of such Indebtedness;

(ii) the Consolidated Total Net Leverage Ratio (calculated on a Pro Forma Basis, as of the four (4) consecutive fiscal quarter period most recently ended prior to the incurrence of such additional Indebtedness for which financial statements have been delivered to the Administrative Agent, after giving effect to the issuance of such Indebtedness and use the proceeds thereof) shall be at least 0.25 below the Consolidated Total Net Leverage Ratio then required to be maintained pursuant to Section 10.1;

(iii) the Borrower shall be in compliance with the financial covenants set forth in Article X on a Pro Forma Basis, as of the four (4) consecutive fiscal quarter period most recently ended prior to the incurrence of such additional Indebtedness (or in the case of any additional Indebtedness, the proceeds of which will finance a Limited Conditionality Acquisition, the date determined pursuant to Section 1.14) for which financial statements have been delivered to the Administrative Agent, after giving effect to the issuance of such Indebtedness and use the proceeds thereof;

(iv) such Indebtedness does not mature, or require any principal amortization, mandatory prepayment, put right or sinking fund obligation prior to the date that is 180 days after the then latest scheduled maturity date of the Loans and the Revolving Credit Commitments; provided that (x) any Indebtedness consisting of a customary bridge facility shall be deemed to satisfy this requirement so long as such Indebtedness automatically converts into long-term debt which satisfies this clause (iv) and (y) reasonable and customary prepayment, redemption, repurchase or defeasance obligations in connection with a change of control, asset sale or the exercise of remedies after an event of default shall not disqualify such Indebtedness from satisfying the requirements of this clause (iv); and

(i) the terms and conditions of such Indebtedness reflect market terms (taken as a whole) at the time of issuance and (other than pricing, fees, rate floors, premiums and optional prepayment or redemption provisions), taken as a whole, are not materially more restrictive (as determined by Borrower in good faith) on the Borrower and its Subsidiaries than the terms and conditions of this Agreement, taken as a whole; provided that, for the avoidance of doubt, such Indebtedness shall not include any financial covenants that are more restrictive in any respect than the financial covenants in Article X;

(15) unsecured Indebtedness of the Borrower or any Subsidiary thereof under foreign letters of credit in an aggregate principal amount not to exceed \$20,000,000 at any time outstanding; and

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(16) additional Indebtedness not otherwise permitted pursuant to this Section 11.1 in an aggregate principal amount not to exceed \$25,000,000 at any time outstanding.

SECTION 11.14 Limitations on Liens. Create, incur, assume or suffer to exist, any Lien on or with respect to any of its Property, whether now owned or hereafter acquired, except:

(b) Liens created pursuant to the Loan Documents (including, without limitation, Liens in favor of the Swingline Lender and/or the Issuing Lenders, as applicable, on Cash Collateral granted pursuant to the Loan Documents);

(4) Liens in existence on the Closing Date and described on Schedule 11.2; provided that the scope of any such Lien shall not be increased, or otherwise expanded, to cover any additional property or type of asset, as applicable, beyond that in existence on the Closing Date;

(5) Liens for taxes, assessments and other governmental charges or levies (excluding any Lien imposed pursuant to any of the provisions of ERISA or Environmental Laws) (i) not yet due or as to which the period of grace (not to exceed thirty (30) days), if any, related thereto has not expired or (ii) which are being contested in good faith and by appropriate proceedings if adequate reserves are maintained to the extent required by GAAP;

(6) the claims of materialmen, mechanics, carriers, warehousemen, processors or landlords for labor, materials, supplies or rentals incurred in the ordinary course of business, (i) which are not overdue for a period of more than thirty (30) days or (ii) which are being contested in good faith and by appropriate proceedings if adequate reserves are maintained to the extent required by GAAP;

(7) Liens consisting of deposits or pledges made in the ordinary course of business in connection with, or to secure payment of, obligations under workers' compensation, unemployment insurance and other types of social security or similar legislation, or to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business, in each case, so long as no foreclosure sale or similar proceeding has been commenced with respect to any portion of the Collateral on account thereof;

(8) Liens constituting encumbrances in the nature of zoning restrictions, easements and rights or restrictions of record on the use of real property, which in the aggregate are not substantial in amount and which could not reasonably be expected to have a Material Adverse Effect;

(9) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to personal property leased pursuant to operating leases entered into in the ordinary course of business of the Borrower and its Subsidiaries;

(10) Liens securing Capital Lease Indebtedness and purchase money Indebtedness and any refinancing of the foregoing permitted under Section 11.1(e); provided that (i) such Liens shall be created substantially simultaneously with the acquisition or lease of the related Property, (ii) such Liens do not at any time encumber any Property other than the property financed by such Indebtedness, (iii) the amount of Indebtedness secured thereby is not increased and (iv) the

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principal amount of Indebtedness secured by any such Lien shall at no time exceed one hundred percent (100%) of the original purchase price or lease payment amount of such Property at the time it was acquired, or refinanced, as applicable;

(11) (i) Liens of a collecting bank arising in the ordinary course of business under Section 4-210 of the Uniform Commercial Code in effect in the relevant jurisdiction and (ii) Liens of any depository bank in connection with statutory, common law and contractual rights of set-off and recoupment with respect to any deposit account of the Borrower or any Subsidiary thereof;

(12) (i) contractual or statutory Liens of landlords to the extent relating to the property and assets relating to any lease agreements with such landlord, and (ii) contractual Liens of suppliers (including sellers of goods) or customers to the extent limited to the property or assets relating to such contract;

(13) Liens on tangible property or tangible assets of any Subsidiary of the Borrower which are in existence at the time that such Subsidiary of the Borrower is acquired pursuant to a Permitted Acquisition (provided that (i) such Liens (A) are not incurred in connection with, or in anticipation of, such Permitted Acquisition and (B) do not attach to any other property or assets of any Subsidiary thereof and (ii) the Indebtedness secured by such Liens is permitted under Section 11.1 of this Agreement);

(14) Liens securing judgments not giving rise to an Event of Default; provided, that the judgment secured thereby has been paid, discharged or vacated or the extension thereof has been stayed pending appeal within thirty (30) days after entry or filing of such judgment or appeal or surety bond;

(15) (i) any interest or title of a licensor, sublicensor, lessor or sublessor with respect to any assets under any license or lease agreement entered into in the ordinary course of business and (ii) licenses, sublicenses, leases or subleases with respect to any assets granted to third Persons in the ordinary course of business; provided that, in each of the foregoing clauses (i) and (ii), the same do not interfere in any material respect with the business of the Borrower and its Subsidiaries taken as a whole;

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

(17) Liens securing Facility Capital Expenditures Indebtedness permitted under Section 11.1(h); provided that (i) such Liens shall be created substantially simultaneously with the acquisition of the property (other than the real property) financed by such Indebtedness, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, (iii) the amount of Indebtedness secured thereby is not increased and (iv) the principal amount of Indebtedness secured by any such Lien shall at no time exceed the fair market value of the property financed by such Indebtedness at the time such property was acquired;

(18) inchoate Liens arising in the ordinary course of business under statutory provisions of Applicable Law with respect to obligations (i) not yet due or as to which the period of grace (not to exceed thirty (30) days), if any, related thereto has not expired or (ii) which are being

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contested in good faith and by appropriate proceedings if adequate reserves are maintained to the extent required by GAAP;

(19) deposits made in the ordinary course of business with public utilities or to Governmental Authorities as required by such public utilities or Governmental Authorities in connection with the supply of services in the ordinary course of business to any Credit Party, in each case, so long as no foreclosure sale or similar proceeding has been commenced with respect to any portion of the Collateral on account thereof; and

(20) Liens on real or personal property (other than on Collateral) securing Indebtedness permitted under Section 11.1(n).

SECTION 11.15 Limitations on Investments. Purchase, own, invest in or otherwise acquire, directly or indirectly, any Capital Stock, interests in any partnership or joint venture (including, without limitation, the creation or capitalization of any Subsidiary), evidence of Indebtedness or other obligation or security, substantially all or a portion of the business or assets of any other Person or any other investment or interest whatsoever in any other Person, or make or permit to exist, directly or indirectly, any loans, advances or extensions of credit to, or any investment in cash or by delivery of Property in, any Person (all the foregoing, "Investments") except:

(c) (i) equity Investments existing on the Closing Date in Subsidiaries existing on the Closing Date, (ii) Investments existing on the Closing Date (other than Investments in Subsidiaries existing on the Closing Date) and described on Schedule 11.3 and (iii) equity Investments made after the Closing Date in Subsidiary Guarantors;

(4) Investments in cash and Cash Equivalents;

(5) Investments by the Borrower or any of its Subsidiaries in the form of Capital Expenditures permitted pursuant to this Agreement;

(6) purchases of assets in the ordinary course of business;

(7) Investments by the Borrower or any Subsidiary thereof in the form of:

(i) Permitted Acquisitions to the extent that any Person or Property acquired in such acquisition becomes a part of a Subsidiary Guarantor or becomes (whether or not such Person is a Wholly-Owned Subsidiary) a Subsidiary Guarantor in the manner contemplated by Section 9.11; and

(ii) Permitted Acquisitions to the extent that any Person or Property acquired in such acquisition does not become a Subsidiary Guarantor or a part of a Subsidiary Guarantor in an aggregate amount during the term of this Agreement not to exceed (A) \$150,000,000 (excluding any portion thereof paid with the Net Cash Proceeds from any Equity Issuance by the Borrower other than any Equity Issuance related to any Disqualified Capital Stock) less (B) the amount of Guaranty Obligations incurred pursuant to Section 11.1(i) on the applicable date of determination less (C) the amount of Investments made in the form of Indebtedness pursuant to Section 11.3(f)(iv) during the term of this Agreement on the applicable date of determination less (D) the amount of Investments made pursuant

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to Section 11.3(g) during the term of this Agreement on the applicable date of determination;

(8) Investments in the form of Indebtedness permitted pursuant to (i) Section 11.1(b)(i), (ii) Section 11.1(b)(ii), (iii) Section 11.1(b)(iii)(A), (iv) Section 11.1(b)(iii)(B) and (v) Section 11.1(b)(iv);

(9) Investments in any Subsidiary that is not a Subsidiary Guarantor in an aggregate amount during the term of this Agreement not to exceed (i) \$150,000,000 less (ii) the amount of Guaranty Obligations incurred pursuant to Section 11.1(i) on the applicable date of determination less (iii) the amount of Investments made in the form of Permitted Acquisitions pursuant to Section 11.3(e)(ii) during the term of this Agreement on the applicable date of determination (which amount, for clarity, is subject to modification in the manner set forth in the proviso to Section 11.3(e)(ii)) less (iv) the amount of Investments made in the form of Indebtedness pursuant to Section 11.3(f)(iv) during the term of this Agreement on the applicable date of determination; and

(10) other Investments not to exceed \$50,000,000 in the aggregate in any Fiscal Year and \$150,000,000 in the aggregate for all such Investments during this term of this Agreement.

For purposes of determining the amount of any Investment outstanding for purposes of this Section 11.3, such amount shall be deemed to be the amount of such Investment when made, purchased or acquired less any amount realized in respect of such Investment upon the sale, collection or return of capital (not to exceed the original amount invested).

SECTION 11.16 Limitations on Fundamental Changes. Merge, consolidate or enter into any similar combination with any other Person or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution) (including, in each case, pursuant to division), except:

(d) (i) any Wholly-Owned Subsidiary of the Borrower may be merged, amalgamated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving entity) or (ii) any Wholly-Owned Subsidiary of the Borrower may be merged, amalgamated or consolidated with or into any other Wholly-Owned Subsidiary (provided that, if either of such Wholly-Owned Subsidiaries is a Subsidiary Guarantor, (A) the Subsidiary Guarantor shall be the continuing or surviving entity or (B) simultaneously with such transaction, the continuing or surviving entity shall become a Subsidiary Guarantor and the Borrower shall comply with Section 9.11 in connection therewith);

(4) any Subsidiary may dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding up or otherwise) to the Borrower or any Subsidiary Guarantor; provided that, with respect to any such disposition by any Non-Guarantor Subsidiary, the consideration for such disposition shall not exceed the fair value of such assets;

(5) any Wholly-Owned Subsidiary of the Borrower may merge with or into the Person such Wholly-Owned Subsidiary was formed to acquire in connection with a Permitted Acquisition (provided that (i) a Subsidiary Guarantor shall be the continuing or surviving entity or (ii) simultaneously with such transaction, the continuing or surviving entity shall become a Subsidiary Guarantor and the Borrower shall comply with Section 9.11 in connection therewith);

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(6) any Person may merge into the Borrower or any of its Wholly-Owned Subsidiaries in connection with a Permitted Acquisition; provided that (i) in the case of a merger involving the Borrower or a Subsidiary Guarantor, the continuing or surviving Person shall be the Borrower or such Subsidiary Guarantor and (ii) the continuing or surviving Person shall be the Borrower or a Wholly-Owned Subsidiary of the Borrower; and

(7) any Asset Disposition permitted by Section 11.5 may be consummated.

SECTION 11.17 Limitations on Asset Dispositions. Make any Asset Disposition (including, without limitation, the sale of any receivables and leasehold interests) except:

(e) the sale of inventory in the ordinary course of business;

(4) the sale of obsolete, worn-out or surplus assets no longer used or usable in the business of the Borrower or any of its Subsidiaries;

(5) the transfer of assets to the Borrower or any Subsidiary pursuant to any transaction permitted pursuant to Section 11.4;

(6) the Borrower or any Subsidiary may write-off, discount, sell or otherwise dispose of defaulted or past due receivables and similar obligations in the ordinary course of business and not as part of an accounts receivable financing transaction;

(7) dispositions of Investments in cash and Cash Equivalents;

(8) any Credit Party may transfer assets to any other Credit Party;

(9) licenses and sublicenses of intellectual property rights in the ordinary course of business not interfering, individually or in the aggregate, in any material respect with the conduct of the business of the Borrower and its Subsidiaries taken as a whole; and

(10) leases, subleases, licenses or sublicenses of real or personal property granted by any Borrower or any of its Subsidiaries to others in the ordinary course of business not interfering in any material respect with the business of the Borrower and its Subsidiaries taken as a whole;

(11) Asset Dispositions in connection with Insurance and Condemnation Events; provided that the requirements of Section 4.4(b) are complied with in connection therewith;

(12) the sale of the equipment pursuant to the Permitted Equipment Sale-Leaseback Transactions; provided that the fair market value of any such equipment sold during any Fiscal Year shall not exceed \$25,000,000 in the aggregate; and

(13) the sale or other disposition of assets by the Borrower or any Subsidiary not otherwise permitted under this Section 11.5 so long as the net book value of all assets sold or otherwise disposed of in any Fiscal Year does not exceed \$25,000,000.

SECTION 11.18 Limitations on Restricted Payments. Declare or pay any dividend on, or make any payment or other distribution on account of, or purchase, redeem, retire or otherwise

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acquire (directly or indirectly), or set apart assets for a sinking or other analogous fund for the purchase, redemption, retirement or other acquisition of, any class of Capital Stock of any Credit Party or any Subsidiary thereof, or make any distribution of cash, property or assets to the holders of shares of any Capital Stock of any Credit Party or any Subsidiary thereof (all of the foregoing, the “Restricted Payments”); provided that:

(f) the Borrower or any Subsidiary thereof may pay dividends in shares of its own Qualified Capital Stock;

(4) any Subsidiary of the Borrower may pay cash dividends to the Borrower or any Subsidiary Guarantor or ratably to all holders of its outstanding Qualified Capital Stock; and

(5) the Borrower or any Subsidiary thereof may make Restricted Payments, provided all of the following conditions are satisfied:

(i) no Default or Event of Default has occurred and is continuing or would arise as a result of such Restricted Payment;

(ii) at the time of such Restricted Payment, the Borrower is in compliance with the financial covenants set forth in Article X on a Pro Forma Basis as of the four (4) consecutive fiscal quarter period most recently ended prior to the making of such Restricted Payment for which financial statements have been delivered to the Administrative Agent after giving effect to such Restricted Payment; and

(iii) if the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis after giving effect to such Restricted Payment) is equal to or greater than 1.75 to 1.00, the aggregate amount of all such Restricted Payments pursuant to this clause (iii) and all Restricted Junior Indebtedness Payments made pursuant to Section 11.9(b)(iv) shall not exceed \$50,000,000 in any Fiscal Year.

SECTION 11.19 Transactions with Affiliates. Directly or indirectly enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property, the rendering of any service or the payment of any management, advisory or similar fees, with (a) any officer, director, holder of any Capital Stock in, or other Affiliate of, the Borrower or any of its Subsidiaries or (b) any Affiliate of any such officer, director or holder, other than:

(g) transactions permitted by Sections 11.1, 11.3, 11.4, 11.5, 11.6 and 11.12;

(4) transactions in the ordinary course of business on terms as favorable as would be obtained by it on a comparable arm’s-length transaction with an independent, unrelated third party as determined in good faith by the board of directors (or equivalent governing body) of the Borrower;

(5) employment and severance arrangements (including stock option plans and employee benefit plans and arrangements) with their respective officers and employees in the ordinary course of business; and

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(6) payment of customary fees and reasonable out of pocket costs to, and indemnities for the benefit of, directors, officers and employees of the Borrower and its Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and its Subsidiaries.

SECTION 11.20 Certain Accounting Changes; Organizational Documents.

(h) Change its Fiscal Year end, or make (without the consent of the Administrative Agent) any material change in its accounting treatment and reporting practices except as required by GAAP; or

(4) Amend, modify or change its articles of incorporation (or corporate charter or other similar organizational documents) or amend, modify or change its bylaws (or other similar documents) in any manner which would materially and adversely affect the rights or interests of the Lenders.

SECTION 11.21 Limitation on Payments and Modifications of Junior Indebtedness.

(i) Amend, modify, waive or supplement (or permit the modification, amendment, waiver or supplement of) any of the terms or provisions of any Junior Indebtedness in any respect which would materially and adversely affect the rights or interests of the Administrative Agent and Lenders hereunder; or

(4) Cancel, forgive, make any payment or prepayment on, or redeem or acquire for value (including, without limitation, (i) by way of depositing with any trustee with respect thereto money or securities before due for the purpose of paying when due and (ii) at the maturity thereof) any Junior Indebtedness (each a "Restricted Junior Indebtedness Payment"), except:

(i) refinancings, refundings, renewals, extensions or exchange of any Junior Indebtedness to the extent incurred pursuant to Section 11.1(d) and by any subordination agreement applicable thereto;

(ii) so long as no Event of Default then exists or would result therefrom, mandatory repayments, repurchases, redemptions or defeasances of Junior Indebtedness (in each case, except to the extent prohibited by the subordination terms thereof or the definitive documentation, including, without limitation, any subordination agreements, applicable thereto);

(iii) the payment of interest, expenses and indemnities in respect of Junior Indebtedness (except to the extent prohibited by the subordination terms thereof or the definitive documentation, including, without limitation, any subordination agreements, applicable thereto); and

(iv) Restricted Junior Indebtedness Payments; provided that if the Consolidated Total Net Leverage Ratio (determined on a Pro Forma Basis after giving effect to such Restricted Junior Indebtedness Payment) is equal to or greater than 1.75 to 1.00, the aggregate amount of all such Restricted Junior Indebtedness Payments pursuant to this

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clause (iv) and all Restricted Payments made pursuant to Section 11.6(c)(iii) shall not exceed \$50,000,000 in any Fiscal Year.

SECTION 11.22 No Further Negative Pledges; Restrictive Agreements.

(j) Enter into, assume or be subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or requiring the grant of any security for such obligation if security is given for some other obligation, except (i) pursuant to this Agreement and the other Loan Documents, (ii) pursuant to any document or instrument governing capital lease Indebtedness and purchase money Indebtedness to the extent such Indebtedness is incurred pursuant to Section 11.1(e); provided, that any such restriction contained therein relates only to the asset or assets acquired in connection therewith, (iii) restrictions contained in the organizational documents of any Credit Party as of the Closing Date and (iv) restrictions in connection with any Permitted Lien or any document or instrument governing any Permitted Lien (provided, that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien).

(4) Create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Credit Party or any Subsidiary thereof to (i) pay dividends or make any other distributions to any Credit Party or any Subsidiary on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, (ii) pay any Indebtedness or other obligation owed to any Credit Party, (iii) make loans or advances to any Credit Party, (iv) sell, lease or transfer any of its properties or assets to any Credit Party or (v) act as a Guarantor pursuant to the Loan Documents or any renewals, refinancings, exchanges, refundings or extension thereof, except (in respect of any of the matters referred to in clauses (i) through (v) above) for such encumbrances or restrictions existing under or by reason of (A) this Agreement and the other Loan Documents, (B) Applicable Law, (C) any document or instrument governing capital lease Indebtedness and purchase money Indebtedness to the extent such Indebtedness is incurred pursuant to Section 11.1(e) (provided, that any such restriction contained therein relates only to the asset or assets acquired in connection therewith), (D) any Permitted Lien or any document or instrument governing any Permitted Lien (provided, that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien), (E) obligations under any provision of any agreement or other instrument governing Indebtedness that are binding on a Person that becomes a Subsidiary of the Borrower, so long as (1) such obligations are not entered into in contemplation of such Person becoming a Subsidiary, (2) such Indebtedness is otherwise permitted to be incurred or assumed under this Agreement and (3) such obligations are not applicable to any Person, or the properties or assets of any Person, other than the Person that becomes a Subsidiary of the Borrower and (F) customary net worth provisions contained in leases and other agreements entered into by the Borrower or any of its Subsidiaries in the ordinary course of business.

SECTION 11.23 Nature of Business. With respect to the Borrower and its Subsidiaries, engage in any business other than the business conducted by the Borrower and its Subsidiaries as of the Closing Date and business activities reasonably related or ancillary thereto.

SECTION 11.24 Sale Leasebacks. Directly or indirectly become or remain liable as lessee or as guarantor or other surety with respect to any lease, whether an operating lease or a Capital

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Lease, of any Property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) which any Credit Party or any Subsidiary thereof has sold or transferred or is to sell or transfer to a Person which is not another Credit Party or Subsidiary of a Credit Party or (b) which any Credit Party or any Subsidiary of a Credit Party intends to use for substantially the same purpose as any other Property that has been sold or is to be sold or transferred by such Credit Party or such Subsidiary to another Person which is not another Credit Party or Subsidiary of a Credit Party in connection with such lease; provided, however, the Permitted Equipment Sale-Leaseback Transactions shall not be subject to the restrictions set forth in this Section 11.12.

## ARTICLE 12

### DEFAULT AND REMEDIES

SECTION 5.20 Events of Default. Each of the following shall constitute an Event of Default, whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment or order of any court or any order, rule or regulation of any Governmental Authority or otherwise:

(4) Default in Payment of Principal of Loans and Reimbursement Obligations. The Borrower shall default in any payment of principal of any Loan or Reimbursement Obligation when and as due (whether at maturity, by reason of acceleration or otherwise).

(5) Other Payment Default. The Borrower or any other Credit Party shall default in the payment when and as due (whether at maturity, by reason of acceleration or otherwise) of interest on any Loan or Reimbursement Obligation or the payment of any other Obligation, and such default shall continue for a period of five (5) Business Days.

(6) Misrepresentation. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Credit Party or any Subsidiary thereof in this Agreement, in any other Loan Document, or in any document delivered in connection herewith or therewith that is subject to materiality or Material Adverse Effect qualifications, shall be incorrect or misleading in any respect when made or deemed made or any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Credit Party or any Subsidiary thereof in this Agreement, any other Loan Document, or in any document delivered in connection herewith or therewith that is not subject to materiality or Material Adverse Effect qualifications, shall be incorrect or misleading in any material respect when made or deemed made.

(7) Default in Performance of Certain Covenants. Any Credit Party shall default in the performance or observance of any covenant or agreement contained in Sections 8.4(e), 9.1 (with respect to the Borrower), 9.10, 9.12 or Articles X or XI.

(8) Default in Performance of Other Covenants and Conditions. (i) Any Credit Party or any Subsidiary thereof shall default in the performance or observance of any term, covenant, condition or agreement contained Sections 6.3, 8.1, 8.2, 9.1 (other than with respect to the Borrower), 9.11, 9.15 or 9.17 and such default shall continue for a period of five (5) days or (ii) any Credit Party or any Subsidiary thereof shall default in the performance or observance of any term, covenant, condition or agreement contained in this Agreement (other than as specifically provided for in this Section 12.1) or any other Loan Document and such default shall continue for

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a period of thirty (30) days after the earlier of (A) the Administrative Agent's delivery of written notice thereof to the Borrower and (B) a Responsible Officer of any Credit Party having obtained knowledge thereof.

(9) Indebtedness Cross-Default. Any Credit Party or any Subsidiary thereof shall (i) default in the payment of any Indebtedness (other than the Loans or any Reimbursement Obligation) the aggregate outstanding amount, or with respect to any Hedge Agreement, the Hedge Termination Value, of which is in excess of the Threshold Amount beyond the period of grace if any, provided in the instrument or agreement under which such Indebtedness was created, or (ii) default in the observance or performance of any other agreement or condition relating to any Indebtedness (other than the Loans or any Reimbursement Obligation) the aggregate outstanding amount, or with respect to any Hedge Agreement, the Hedge Termination Value, of which is in excess of the Threshold Amount or contained in any instrument or agreement evidencing, securing or relating thereto or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice and/or lapse of time, if required, any such Indebtedness to (A) become due, or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity (any applicable grace period having expired) or (B) be cash collateralized.

(10) Change in Control. Any Change in Control shall occur.

(11) Voluntary Bankruptcy Proceeding. Any Credit Party or any Subsidiary thereof shall (i) commence a voluntary case under any Debtor Relief Laws, (ii) file a petition seeking to take advantage of any Debtor Relief Laws, (iii) consent to or fail to contest in a timely and appropriate manner any petition filed against it in an involuntary case under any Debtor Relief Laws, (iv) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of a substantial part of its property, domestic or foreign, (v) admit in writing its inability to pay its debts as they become due, (vi) make a general assignment for the benefit of creditors, or (vii) take any corporate action for the purpose of authorizing any of the foregoing.

(12) Involuntary Bankruptcy Proceeding. A case or other proceeding shall be commenced against any Credit Party or any Subsidiary thereof in any court of competent jurisdiction seeking (i) relief under any Debtor Relief Laws, or (ii) the appointment of a trustee, receiver, custodian, liquidator or the like for any Credit Party or any Subsidiary thereof or for all or any substantial part of their respective assets, domestic or foreign, and such case or proceeding shall continue without dismissal or stay for a period of sixty (60) consecutive days, or an order granting the relief requested in such case or proceeding (including, but not limited to, an order for relief under such federal bankruptcy laws) shall be entered.

(13) Failure of Agreements. Any material provision of this Agreement or any provision of any other Loan Document shall cease to be valid and binding on any Credit Party or any Subsidiary thereof party thereto or any such Person shall so state in writing, or any Loan Document shall for any reason cease to create a valid and perfected first priority Lien (subject to Permitted

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Liens) on, or security interest in, any of the Collateral purported to be covered thereby, in each case other than in accordance with the express terms hereof or thereof.

(14) Termination Event. The occurrence of any of the following events: (i) any Credit Party or any ERISA Affiliate fails to make full payment when due of all amounts which, under the provisions of any Pension Plan or Sections 412 or 430 of the Code, any Credit Party or any ERISA Affiliate is required to pay as contributions thereto, (ii) a failure to meet minimum funding standards in excess of the Threshold Amount occurs or exists, whether or not waived, with respect to any Pension Plan, (iii) a Termination Event or (iv) any Credit Party or any ERISA Affiliate as employers under one or more Multiemployer Plans makes a complete or partial withdrawal from any such Multiemployer Plan and the plan sponsor of such Multiemployer Plans notifies such withdrawing employer that such employer has incurred a withdrawal liability requiring payments in an amount exceeding the Threshold Amount.

(15) Judgment. A final judgment or order for the payment of money which causes the aggregate amount of all such final judgments or orders (net of any amounts paid or fully covered by independent third party insurance as to which the relevant insurance company does not dispute coverage) to exceed the Threshold Amount shall be entered against any Credit Party or any Subsidiary thereof by any court and such judgment or order shall continue without having been discharged, vacated or stayed for a period of thirty (30) consecutive days after the entry thereof.

SECTION 12.14 Remedies. Upon the occurrence and during the continuance of an Event of Default, with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower:

(a) Acceleration; Termination of Credit Facility.

(i) Terminate the Revolving Credit Commitment and declare the principal of and interest on the Loans and the Reimbursement Obligations at the time outstanding, and all other amounts owed to the Lenders and to the Administrative Agent under this Agreement or any of the other Loan Documents (including, without limitation, all L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented or shall be entitled to present the documents required thereunder) and all other Obligations, to be forthwith due and payable, whereupon the same shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are expressly waived by each Credit Party, anything in this Agreement or the other Loan Documents to the contrary notwithstanding, and terminate the Credit Facility and any right of the Borrower to request borrowings or Letters of Credit thereunder; provided, that upon the occurrence of an Event of Default specified in Section 12.1(h) or (i), the Credit Facility shall be automatically terminated and all Obligations shall automatically become due and payable without presentment, demand, protest or other notice of any kind, all of which are expressly waived by each Credit Party, anything in this Agreement or in any other Loan Document to the contrary notwithstanding; and

(ii) Exercise on behalf of the Lenders all of its other rights and remedies under this Agreement, the other Loan Documents and Applicable Law, in order to satisfy all of the Obligations.

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(5) Letters of Credit. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to the preceding paragraph, demand that the Borrower deposit in a Cash Collateral account opened by the Administrative Agent an amount equal to 105% of the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts held in such Cash Collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay the other Secured Obligations in accordance with Section 10.3. After all such Letters of Credit shall have expired or been fully drawn upon, the Reimbursement Obligation shall have been satisfied and all other Secured Obligations shall have been paid in full, the balance, if any, in such Cash Collateral account shall be returned to the Borrower.

(6) Rights of Collection. Exercise on behalf of the Secured Parties all of its other rights and remedies under this Agreement, the other Loan Documents and Applicable Law, in order to satisfy all of the Secured Obligations.

SECTION 12.15Rights and Remedies Cumulative; Non-Waiver; etc.

(b) The enumeration of the rights and remedies of the Administrative Agent and the Lenders set forth in this Agreement is not intended to be exhaustive and the exercise by the Administrative Agent and the Lenders of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder or under the other Loan Documents or that may now or hereafter exist at law or in equity or by suit or otherwise. No delay or failure to take action on the part of the Administrative Agent or any Lender in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a waiver of any Event of Default. No course of dealing between the Borrower, the Administrative Agent and the Lenders or their respective agents or employees shall be effective to change, modify or discharge any provision of this Agreement or any of the other Loan Documents or to constitute a waiver of any Event of Default.

(4) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 12.2 for the benefit of all the Lenders and the Issuing Lenders; provided that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Issuing Lender or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as Issuing Lender or the Swingline Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 14.4 (subject to the terms of Section 5.6), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any Debtor Relief Law; and provided further, that if at any time there is no Person acting as Administrative Agent

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hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 12.2 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 5.6, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

SECTION 12.16 Crediting of Payments and Proceeds. In the event that the Obligations have been accelerated pursuant to Section 12.2 or the Administrative Agent or any Lender has exercised any remedy set forth in this Agreement or any other Loan Document, all payments received on account of the Secured Obligations and all net proceeds from the enforcement of the Secured Obligations shall be applied by the Administrative Agent as follows:

First, to payment of that portion of the Secured Obligations constituting fees, indemnities, expenses and other amounts, including attorney fees, payable to the Administrative Agent in its capacity as such, each Issuing Lender in its capacity as such and the Swingline Lender in its capacity as such (ratably among the Administrative Agent, the Issuing Lenders and Swingline Lender in proportion to the respective amounts described in this clause First payable to them);

Second, to payment of that portion of the Secured Obligations constituting fees (other than Commitment Fees and Letter of Credit commissions payable to the Revolving Credit Lenders), indemnities and other amounts (other than principal and interest) payable to the Lenders, the Issuing Lenders and the Swingline Lender under the Loan Documents, including attorney fees, ratably among the Lenders, the Issuing Lenders and the Swingline Lender in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Secured Obligations constituting accrued and unpaid Commitment Fees, Letter of Credit commissions payable to the Revolving Credit Lenders and interest on the Loans and Reimbursement Obligations, ratably among the Lenders, the Issuing Lenders and the Swingline Lender in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Secured Obligations constituting unpaid principal of the Loans, Reimbursement Obligations and payment obligations then owing under Secured Hedge Agreements and Secured Cash Management Agreements (ratably among the Lenders, the Issuing Lenders, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth payable to them);

Fifth, to the Administrative Agent for the account of the Issuing Lenders, to Cash Collateralize any L/C Obligations then outstanding; and

Last, the balance, if any, after all of the Secured Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Applicable Law.

Notwithstanding the foregoing, Secured Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be, following such acceleration or exercise of remedies and at least three (3) Business Days prior to the application of the proceeds thereof. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article XIII for itself and its Affiliates as if a "Lender" party hereto.

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SECTION 12.17 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 Credit 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 (but not obligated), by intervention in such proceeding or otherwise:

(c) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Secured 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 Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lenders and the Administrative Agent under Sections 3.3, 5.3 and 14.3) allowed in such judicial proceeding; and

(4) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 3.3, 5.3 and 14.3.

SECTION 12.18 Credit Bidding.

(d) The Administrative Agent, on behalf of itself and Secured Parties, shall have the right, exercisable at the discretion of the Required Lenders, to credit bid and purchase for the benefit of the Administrative Agent and the Secured Parties all or any portion of Collateral at any sale thereof conducted by the Administrative Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC, at any sale thereof conducted under the provisions of the United States Bankruptcy Code, including Section 363 thereof, or a sale under a plan of reorganization, or at any other sale or foreclosure conducted by the Administrative Agent (whether by judicial action or otherwise) in accordance with Applicable Law. Such credit bid or purchase may be completed through one or more acquisition vehicles formed by the Administrative Agent to make such credit bid or purchase and, in connection therewith, the Administrative Agent is authorized, on behalf of itself and the other Secured Parties, to adopt documents providing for the governance of the acquisition vehicle or vehicles, and assign the applicable Secured Obligations to any such acquisition vehicle in exchange for Capital Stock and/or debt issued by the applicable acquisition vehicle (which shall be deemed to be held for the ratable account of the applicable Secured Parties on the basis of the Secured Obligations so assigned by each Secured Party); provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Capital Stock thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this

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Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 14.2.

(4) Each Lender hereby agrees, on behalf of itself and each of its Affiliates that is a Secured Party, that, except as otherwise provided in any Loan Document or with the written consent of the Administrative Agent and the Required Lenders, it will not take any enforcement action, accelerate obligations under any of the Loan Documents, or exercise any right that it might otherwise have under Applicable Law to credit bid at foreclosure sales, UCC sales or other similar dispositions of Collateral.

## ARTICLE 13

### THE ADMINISTRATIVE AGENT

#### SECTION 5.21 Appointment and Authority.

(a) Each of the Lenders and each of the Issuing Lenders hereby irrevocably designates, appoints and authorizes Wells Fargo to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Arrangers, the Lenders, the Issuing Lenders and their respective Related Parties, and neither the Borrower nor any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law; instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(4) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its capacity as a potential Hedge Bank or Cash Management Bank) and each of the Issuing Lenders hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such Issuing Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Credit Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto (including, without limitation, to enter into additional Loan Documents or supplements to existing Loan Documents on behalf of the Secured Parties). 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 this Article XIII for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of Articles XIII and XIV (including Section 14.3, 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 13.14 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

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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, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial advisory, underwriting, capital markets or other 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 or to provide notice or consent of the Lenders with respect thereto.

SECTION 13.15 Exculpatory Provisions.

(b) The Administrative Agent, the Arranger, the Sustainability Structuring Agent (to the extent applicable) and their respective Related Parties shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder and thereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) and their respective Related Parties:

(i) shall not be subject to any agency, trust fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that 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, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(iii) shall not, have any duty to disclose, and shall not be liable for the failure to disclose to any Lender, any Issuing Lender or any other Person, any credit or other information relating concerning the business, prospects, operations, properties, assets, financial or other condition or creditworthiness of the Borrower or any of its Subsidiaries or Affiliates that is communicated to, obtained by or otherwise in the possession of the Person serving as the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) or their respective Related Parties in any capacity, except for notices, reports and other documents that are required to be furnished by the Administrative Agent to the Lenders pursuant to the express provisions of this Agreement; and

(iv) shall not be required to account to any Lender or any Issuing Lender for any sum or profit received by the Administrative Agent for its own account.

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(5) The Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) and their respective Related Parties shall not be liable for any action taken or not taken by it under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent or the Sustainability Structuring Agent, as applicable, shall believe in good faith shall be necessary, under the circumstances as provided in Section 14.2 and Section 12.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default and indicating that such notice is a “Notice of Default” is given to the Administrative Agent by the Borrower, a Lender or an Issuing Lender.

(6) The Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) and their respective Related Parties shall not be responsible for or have any duty or obligations to any Lender or Participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith (including any report provided to it by an Issuing Lender pursuant to Section 3.9), (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, (vi) the satisfaction of any condition set forth in Article VI or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or (vii) the utilization of any Issuing Lender’s L/C Commitment (it being understood and agreed that each Issuing Lender shall monitor compliance with its own L/C Commitment without any further action by the Administrative Agent).

SECTION 13.16 Reliance by the Administrative Agent. The Administrative Agent shall be entitled to rely upon, shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, consent, communication, 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, including any certification pursuant to Section 13.9. 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 be fully protected in relying 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, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Lender 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.

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Each Lender or Issuing Lender that has signed this Agreement or a signature page to an Assignment and Assumption or any other Loan Document pursuant to which it is to become a Lender or Issuing Lender hereunder shall be deemed to have consented to, approved and accepted and shall be deemed satisfied with each document or other matter required thereunder to be consented to, approved or accepted by such Lender or Issuing Lender or that is to be acceptable or satisfactory to such Lender or Issuing Lender.

SECTION 13.17 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 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 Facility as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

SECTION 13.18 Resignation of Administrative Agent.

(c) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank or financial institution reasonably experienced in serving as administrative agent on syndicated bank facilities with an office in the United States, or an Affiliate of any such bank or financial institution with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender.

Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(4) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by Applicable Law, by notice in writing to the Borrower and such Person, remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

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(5) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable), (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Lenders under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments or other amounts owed to the retiring or removed Administrative Agent, 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 each Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. 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 removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. 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 or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 14.3 shall continue in effect for the benefit of such retiring or removed 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 or removed Administrative Agent was acting as Administrative Agent or relating to its duties as Administrative Agent that are carried out following its retirement or removal, including, without limitation, any actions taken with respect to acting as collateral agent or otherwise holding any Collateral on behalf of any of the Secured Parties or in respect of any actions taken in connection with the transfer of agency to a replacement or successor Administrative Agent.

(6) Any resignation by, or removal of, Wells Fargo as Administrative Agent pursuant to this Section 13.6 shall also constitute its resignation as an Issuing Lender and the Swingline Lender. 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 Lender, if in its sole discretion it elects to, and Swingline Lender, (b) the retiring Issuing Lender and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor Issuing Lender, if in its sole discretion it elects to, 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 Lender to effectively assume the obligations of the retiring Issuing Lender with respect to such Letters of Credit.

SECTION 13.19 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and each Issuing Lender expressly acknowledges that none of the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) or any of their respective Related Parties has made any representations or warranties to it and that no act taken or failure to act by the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) or any of their respective Related Parties, including any consent to, and acceptance of any assignment or

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review of the affairs of the Borrower and its Subsidiaries or Affiliates shall be deemed to constitute a representation or warranty of the Administrative Agent, the Arranger or any of their respective Related Parties to any Lender, any Issuing Lender or any other Secured Party as to any matter, including whether the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) or any of their respective Related Parties have disclosed material information in their (or their respective Related Parties') possession. Each Lender and each Issuing Lender expressly acknowledges, represents and warrants to the Administrative Agent, the Arranger and the Sustainability Structuring Agent (if applicable) that (a) the Loan Documents set forth the terms of a commercial lending facility, (b) it is engaged in making, acquiring, purchasing or holding commercial loans in the ordinary course and is entering into this Agreement and the other Loan Documents to which it is a party as a Lender for the purpose of making, acquiring, purchasing and/or holding the commercial loans set forth herein as may be applicable to it, and not for the purpose of making, acquiring, purchasing or holding any other type of financial instrument, (c) it is sophisticated with respect to decisions to make, acquire, purchase or hold the commercial loans applicable to it and either it or the Person exercising discretion in making its decisions to make, acquire, purchase or hold such commercial loans is experienced in making, acquiring, purchasing or holding commercial loans, (d) it has, independently and without reliance upon the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable), any other Lender or any of their respective Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and appraisal of, and investigations into, the business, prospects, operations, property, assets, liabilities, financial and other condition and creditworthiness of the Borrower and its Subsidiaries, all applicable bank or other regulatory Applicable Laws relating to the Transactions and the transactions contemplated by this Agreement and the other Loan Documents and (e) it has made its own independent decision to enter into this Agreement and the other Loan Documents to which it is a party and to extend credit hereunder and thereunder. Each Lender and each Issuing Lender also acknowledges that (i) it will, independently and without reliance upon the Administrative Agent, the Arranger, the Sustainability Structuring Agent (if applicable) or any other Lender or any of their respective Related Parties (A) continue to make its own credit analysis, appraisals and 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 based on such documents and information as it shall from time to time deem appropriate and its own independent investigations and (B) continue to make such investigations and inquiries as it deems necessary to inform itself as to the Borrower and its Subsidiaries and (ii) it will not assert any claim in contravention of this Section 13.7.

SECTION 13.20 No Other Duties, etc. Anything herein to the contrary notwithstanding, none of the syndication agents, documentation agents, co-agents, bookrunners, lead managers, arrangers, lead arrangers or co-arrangers listed on the cover page or signature pages 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, a Lender or an Issuing Lender hereunder, but each such Person shall have the benefit of the indemnities and exculpatory provisions hereof.

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SECTION 13.21 Collateral and Guaranty Matters.

(d) Each of the Lenders (including in its or any of its Affiliate's capacities as a potential Hedge Bank or Cash Management Bank) irrevocably authorize the Administrative Agent, at its option and in its discretion:

(i) to release any Lien on any Collateral granted to or held by the Administrative Agent, for the ratable benefit of the Secured Parties, under any Loan Document (A) upon the termination of the Revolving Credit Commitment and payment in full of all Secured Obligations (other than (1) contingent indemnification obligations and (2) obligations and liabilities under Secured Cash Management Agreements or Secured Hedge Agreements as to which arrangements satisfactory to the applicable Cash Management Bank or Hedge Bank shall have been made) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and each applicable Issuing Lender shall have been made), (B) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition to a Person other than a Credit Party permitted under the Loan Documents, as certified by the Borrower, or (C) if approved, authorized or ratified in writing in accordance with Section 14.2; provided that any release of all or substantially of the Collateral shall be subject to Section 14.2(j);

(ii) to subordinate any Lien on any Collateral granted to or held by the Administrative Agent under any Loan Document to the holder of any Permitted Lien; provided that any release of all or substantially of the Collateral shall be subject to Section 14.2(j); and

(iii) to release any Subsidiary Guarantor from its obligations under any Loan Documents if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents, as certified by the Borrower; provided that any release of Subsidiary Guarantors comprising all or substantially of the credit support for the Secured Obligations shall be subject to Section 14.2(i).

(5) Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Subsidiary Guarantor from its obligations under the Guaranty Agreement pursuant to this Section 13.9. In each case as specified in this Section 13.9, the Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate its interest in such item, or to release such Subsidiary Guarantor from its obligations under the Guaranty Agreement, in each case in accordance with the terms of the Loan Documents and this Section 13.9 as certified by the Borrower. In the case of any such sale, transfer or disposal of any property constituting Collateral in a transaction constituting an Asset Disposition permitted pursuant to Section 11.5 to a Person other than a Credit Party, the Liens created by any of the Security Documents on such property shall be automatically released without need for further action by any person; provided that (i) such transaction is entered into for a bona fide business purpose (as determined in good faith by the Borrower) and, for the

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avoidance of doubt, not for the primary purpose of causing such release and (ii) such assets were not transferred to an Affiliate of the Borrower (other than for purposes of a bona fide joint venture arrangement on terms that are not less favorable than arm's-length terms).

(6) The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

SECTION 13.22 Secured Hedge Agreements and Secured Cash Management Agreements.

No Cash Management Bank or Hedge Bank that obtains the benefits of Section 12.4 or any Collateral by virtue of the provisions hereof or of any Security Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral), or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of any Guarantee or any Security Document, other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. The Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Cash Management Agreements and Secured Hedge Agreements.

SECTION 13.23 Erroneous Payments.

(e) Each Lender, each Issuing Lender, each other Secured Party and any other party hereto hereby severally agrees that if (i) the Administrative Agent notifies (which such notice shall be conclusive absent manifest error) such Lender or Issuing Lender or any other Secured Party (or the Lender Affiliate of a Secured Party) or any other Person that has received funds from the Administrative Agent or any of its Affiliates, either for its own account or on behalf of a Lender, Issuing Lender or other Secured Party (each such recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion that any funds received by such Payment Recipient were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Payment Recipient) or (ii) any Payment Recipient receives any payment from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, as applicable, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, as applicable, or (z) that such Payment Recipient otherwise becomes aware was transmitted or received in error or by mistake (in whole or in part) then, in each case, an error in payment shall be presumed to have been made (any such amounts specified in clauses (i) or (ii) of this Section 13.11(a), whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise; individually and collectively, an "Erroneous Payment"), then, in each case, such Payment Recipient is deemed to have knowledge of such error at the time of its receipt of such Erroneous Payment; provided that nothing in this Section shall require the

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Administrative Agent to provide any of the notices specified in clauses (i) or (ii) above. Each Payment Recipient agrees that it shall not assert any right or claim to any Erroneous Payment, and hereby waives any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payments, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(4) Without limiting the immediately preceding clause (a), each Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly notify the Administrative Agent in writing of such occurrence.

(5) In the case of either clause (a)(i) or (a)(ii) above, such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and upon demand from the Administrative Agent such Payment Recipient shall (or, shall cause any Person who received any portion of an Erroneous Payment on its behalf to), promptly, but in all events no later than two Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in Same Day Funds and in the currency so received, together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent at the Overnight Rate.

(6) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (c), from any Lender that is a Payment Recipient or an Affiliate of a Payment Recipient (such unrecovered amount as to such Lender, an “Erroneous Payment Return Deficiency”), then at the sole discretion of the Administrative Agent and upon the Administrative Agent’s written notice to such Lender (i) such Lender shall be deemed to have made a cashless assignment of the full face amount of the portion of its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the “Erroneous Payment Impacted Class”) to the Administrative Agent or, at the option of the Administrative Agent, the Administrative Agent’s applicable lending affiliate in an amount that is equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the “Erroneous Payment Deficiency Assignment”) plus any accrued and unpaid interest on such assigned amount, without further consent or approval of any party hereto and without any payment by the Administrative Agent or its applicable lending affiliate as the assignee of such Erroneous Payment Deficiency Assignment. The parties hereto acknowledge and agree that (1) any assignment contemplated in this clause (d) shall be made without any requirement for any payment or other consideration paid by the applicable assignee or received by the assignor, (2) the provisions of this clause (d) shall govern in the event of any conflict with the terms and conditions of Section 14.10 and (3) the Administrative Agent may reflect such assignments in the Register without further consent or action by any other Person.

(7) Each party hereto hereby agrees that (x) in the event an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent (1) shall be subrogated to

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all the rights of such Payment Recipient with respect to such amount and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Payment Recipient from any source, against any amount due to the Administrative Agent under this Section 13.11 or under the indemnification provisions of this Agreement, (y) the receipt of an Erroneous Payment by a Payment Recipient shall not for the purpose of this Agreement be treated as a payment, prepayment, repayment, discharge or other satisfaction of any Obligations owed by the Borrower or any other Credit Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Credit Party for the purpose of making a payment on the Obligations and (z) to the extent that an Erroneous Payment was in any way or at any time credited as payment or satisfaction of any of the Obligations, the Obligations or any part thereof that were so credited, and all rights of the Payment Recipient, as the case may be, shall be reinstated and continue in full force and effect as if such payment or satisfaction had never been received.

(8) Each party's obligations under this Section 13.11 shall survive the resignation or replacement of the Administrative Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

(9) Nothing in this Section 13.11 will constitute a waiver or release of any claim of the Administrative Agent hereunder arising from any Payment Recipient's receipt of an Erroneous Payment.

#### ARTICLE 14

#### MISCELLANEOUS

##### SECTION 5.22 Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

If to the Borrower:	Merit Medical Systems, Inc. 1600 West Merit Parkway South Jordan, UT 84095 Attention of: Brian Lloyd, General Counsel Telephone: (801) 208-4236 Email: brian.lloyd@merit.com
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With copies to: Parr Brown Gee & Loveless, PC  
101 South 200 East, Suite 700  
Salt Lake City, UT 84111  
Attention of: Lamont Richardson  
Telephone: (801) 532-7840  
Email: lrichardson@parrbrown.com

If to Wells Fargo as  
Administrative  
Agent:

Wells Fargo Bank, National Association  
MAC D1109-019  
1525 West W.T. Harris Blvd.  
Charlotte, NC 28262  
Attention of: Syndication Agency Services  
Telephone No.: (704) 590-2706  
Facsimile No.: (844) 879-5899  
Email: Agencyservices.requests@wellsfargo.com

With copies to:

Wells Fargo Bank, National Association  
MAC D1130-297  
301 South Tryon Street, 29<sup>th</sup> Floor  
Charlotte, NC 28282  
Attention of: Yinghua Zhang  
Telephone No.: (434) 409-4832  
E-mail: yinghua.zhang@wellsfargo.com

If to any Lender:

To the address of such Lender set forth on the Register with respect to deliveries of notices and other documentation that may contain material non-public information

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(4) Electronic Communications. Notices and other communications to the Lenders and the Issuing Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any Issuing Lender pursuant to Article II or III if such Lender or such Issuing Lender, as applicable, has notified the Administrative Agent that is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. 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) and (ii) notices

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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; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or other communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(5) Administrative Agent's Office. The Administrative Agent hereby designates its office located at the address set forth above, or any subsequent office which shall have been specified for such purpose by written notice to the Borrower and Lenders, as the Administrative Agent's Office referred to herein, to which payments due are to be made and at which Loans will be disbursed and Letters of Credit requested.

(6) Change of Address, Etc. Each of the Borrower, the Administrative Agent, any Issuing Lender or the Swingline Lender may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto. Any Lender may change its address or facsimile number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, each Issuing Lender and the Swingline Lender.

(7) Platform.

(i) Each Credit Party, each Lender and each Issuing Lender agrees that the Administrative Agent may, but shall not be obligated to, make the Borrower Materials available to the Issuing Lenders and the other Lenders by posting the Borrower Materials on the Platform.

(ii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the accuracy or completeness of the Borrower Materials or the adequacy of the Platform, and expressly disclaim liability for errors or omissions in the Borrower Materials. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Borrower Materials or the Platform. Although the Platform is secured pursuant to generally-applicable security procedures and policies implemented or modified by the Administrative Agent and its Related Parties, each of the Lenders, the Issuing Lenders and the Borrower acknowledges and agrees that distribution of information through an electronic means is not necessarily secure in all respects, the Administrative Agent, the Arranger and their respective Related Parties (collectively, the "Agent Parties") are not responsible for approving or vetting the representatives, designees or contacts of any Lender or Issuing Lender that are provided access to the Platform and that there may be confidentiality and other risks associated with such form of distribution. Each of the Borrower, each Lender and each Issuing Lender party hereto understands and accepts such risks. In no event shall the Agent Parties have any liability to any Credit Party, any Lender or any other Person or entity for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Credit Party's or the Administrative Agent's transmission of communications through the Internet (including

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the Platform), except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided that in no event shall any Agent Party have any liability to any Credit Party, any Lender, any Issuing Lender or any other Person for indirect, special, incidental, consequential or punitive damages, losses or expenses (as opposed to actual damages, losses or expenses).

SECTION 14.14 Amendments, Waivers and Consents. Except as set forth below or as specifically provided in any Loan Document (including Section 5.8(c)), any term, covenant, agreement or condition of this Agreement or any of the other Loan Documents may be amended or waived by the Lenders, and any consent given by the Lenders, if, but only if, such amendment, waiver or consent is in writing and approved by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) and delivered to the Administrative Agent and, in the case of an amendment, signed by the Borrower; provided, that no amendment, waiver or consent shall:

(b) amend, modify or waive (i) Section 6.2 or any other provision of this Agreement if the effect of such amendment, modification or waiver is to require the Revolving Credit Lenders (pursuant to, in the case of any such amendment to a provision hereof other than Section 6.2, any substantially concurrent request by the Borrower for a borrowing of Revolving Credit Loans or issuance of Letters of Credit) to make Revolving Credit Loans when such Revolving Credit Lenders would not otherwise be required to do so, (ii) the amount of the Swingline Commitment or (iii) the amount of the L/C Sublimit, in each case without the prior written consent of the Required Revolving Credit Lenders;

(4) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 12.2) or increase the amount of Loans of any Lender, in any case, without the written consent of such Lender;

(5) waive, extend or postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby;

(6) reduce the principal of, or the rate of interest specified herein on, any Loan or Reimbursement Obligation, or (subject to clause (iv) of the proviso set forth in the paragraph below) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby; provided that only the consent of the Required Lenders shall be necessary (i) to waive any obligation of the Borrower to pay interest at the rate set forth in Section 5.1(b) during the continuance of an Event of Default or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Obligation or to reduce any fee payable hereunder;

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(7) change Section 5.6 or Section 12.4 in a manner that would alter the pro rata sharing of payments or order of application required thereby without the written consent of each Lender directly and adversely affected thereby;

(8) change Section 4.4(b)(iv) in a manner that would alter the order of application of amounts prepaid pursuant thereto without the written consent of each Lender directly and adversely affected thereby;

(9) except as otherwise permitted by this Section 14.2, change any provision of this Section 14.2 or reduce the percentages specified in the definitions of “Required Lenders,” or “Required Revolving Credit Lenders” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender directly affected thereby;

(10) consent to the assignment or transfer by any Credit Party of such Credit Party’s rights and obligations under any Loan Document to which it is a party (except as permitted pursuant to Section 11.4), in each case, without the written consent of each Lender;

(11) release (i) all of the Subsidiary Guarantors or (ii) Subsidiary Guarantors comprising substantially all of the credit support for the Secured Obligations, in any case, from any Guaranty Agreement, in each case without the written consent of each Lender;

(12) release or subordinate all or substantially all of the Collateral or release or subordinate any Security Document (or any Lien created thereby) which would have the effect of releasing all or substantially all of the Collateral, in each case without the written consent of each Lender;

(13) amend the definition of “Alternative Currency”, the definition of “Alternative L/C Currency” or Section 1.13 without the written consent of each Revolving Credit Lender and each Issuing Lender; or

(14) (i) subordinate any of the Obligations in right of payment or otherwise adversely affect the priority of payment of any of such Obligations or (ii) subordinate any of the Liens securing the Obligations, in each case without the consent of each of the Lenders directly affected thereby;

provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by each affected Issuing Lender in addition to the Lenders required above, affect the rights or duties of such Issuing Lender under this Agreement or any Letter of Credit Documents relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swingline Lender in addition to the Lenders required above, affect the rights or duties of the Swingline Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; (iv) each Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto; (v) each Letter of Credit Document may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto; provided that a copy of such amended Letter of Credit Document shall be promptly delivered to the Administrative Agent upon such amendment or waiver; (vi) any waiver,

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amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or agreements in writing entered into by the Borrower and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section 14.2 if such Class of Lenders were the only Class of Lenders hereunder at the time, (vii) the Administrative Agent and the Borrower shall be permitted to amend any provision of the Loan Documents (and such amendment shall become effective without any further action or consent of any other party to any Loan Document) if the Administrative Agent and the Borrower shall have jointly identified an obvious error or any error, ambiguity, defect or inconsistency or omission of a technical or immaterial nature in any such provision and (viii) the Administrative Agent (and, if applicable, the Borrower) may, without the consent of any Lender, enter into amendments or modifications to this Agreement or any of the other Loan Documents or to enter into additional Loan Documents in order to implement any Benchmark Replacement or any Conforming Changes or otherwise effectuate the terms of Section 5.8(c) in accordance with the terms of Section 5.8(c). Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that (A) the Revolving Credit Commitment of such Lender may not be increased or extended without the consent of such Lender, and (B) any amendment, waiver, or consent hereunder which requires the consent of all Lenders or each affected Lender that by its terms disproportionately and adversely affects any such Defaulting Lender relative to other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding anything in this Agreement to the contrary, each Lender hereby irrevocably authorizes the Administrative Agent on its behalf, and without further consent of any Lender (but with the consent of the Borrower and the Administrative Agent), to (x) amend and restate this Agreement and the other Loan Documents if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement and the other Loan Documents and (y) enter into amendments or modifications to this Agreement (including, without limitation, amendments to this Section 14.2) or any of the other Loan Documents or to enter into additional Loan Documents as the Administrative Agent reasonably deems appropriate in order to effectuate the terms of Section 5.13 (including, without limitation, as applicable, (1) to permit the Incremental Term Loans and the Incremental Revolving Credit Increases to share ratably in the benefits of this Agreement and the other Loan Documents, (2) to include the Incremental Term Loan Commitments and the Incremental Revolving Credit Increase, as applicable, or outstanding Incremental Term Loans and outstanding Incremental Revolving Credit Increase, as applicable, in any determination of (i) Required Lenders or Required Revolving Credit Lenders, as applicable or (ii) similar required lender terms applicable thereto); provided that no amendment or modification shall result in any increase in the amount of any Lender's Commitment or any increase in any Lender's Commitment Percentage, in each case, without the written consent of such affected Lender and (3) to make amendments to any outstanding tranche of Term Loans to permit any proposed Incremental Term Loan Commitments and Incremental Term Loans to be "fungible" (including, without limitation, for purposes of the Code) with such tranche of Term Loans, including, without limitation, increases in the Applicable Margin or any fees payable to such outstanding tranche of Term Loans or providing such outstanding tranche of Term Loans with the benefit of any call protection or covenants that are applicable to the proposed Incremental Term Loan Commitments or Incremental Term Loans; provided that any such amendments or modifications to such outstanding tranche of Term Loans shall not directly adversely affect the Lenders holding such tranche of Term Loans without their consent.

SECTION 14.15 Expenses; Indemnity.

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(c) Costs and Expenses. The Borrower and any other Credit Party, jointly and severally, shall pay (i) all reasonable out of pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the Credit Facility, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out of pocket expenses incurred by any Issuing Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out of pocket expenses incurred by the Administrative Agent, any Lender or any Issuing Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or any Issuing Lender), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or any Issuing Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section 14.3, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(4) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, and shall pay or reimburse any such Indemnitee for, any and all losses, claims (including, without limitation, any Environmental Claims or civil penalties or fines assessed by OFAC), damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless, each Indemnitee from, and shall pay or reimburse any such Indemnitee for, all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Credit Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Lender 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 actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Credit Party or any Subsidiary thereof, or any Environmental Claim related in any way to any Credit Party or any Subsidiary, (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Credit Party or any Subsidiary thereof, and regardless of whether any Indemnitee is a party thereto, or (v) any claim (including, without limitation, any Environmental Claims or civil penalties or fines assessed by the OFAC), investigation, litigation or other proceeding (whether or not the Administrative Agent or any Lender is a party thereto) and the prosecution and defense thereof, arising out of or in any way connected with the Loans, this Agreement, any other Loan Document, or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby,

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including without limitation, reasonable attorneys and consultant's fees, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (A) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (B) result from a claim brought by any Credit Party or any Subsidiary thereof against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if such Credit Party or such Subsidiary has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 14.3(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(5) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under clause (a) or (b) of this Section 14.3 to be paid by it to the Administrative Agent (or any sub-agent thereof), any Issuing Lender, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Lender, the Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time, or if the Total Credit Exposure has been reduced to zero, then based on such Lender's share of the Total Credit Exposure immediately prior to such reduction) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided that with respect to such unpaid amounts owed to any Issuing Lender or the Swingline Lender solely in its capacity as such, only the Revolving Credit Lenders shall be required to pay such unpaid amounts, such payment to be made severally among them based on such Revolving Credit Lenders' Revolving Credit Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought or, if the Revolving Credit Commitment has been reduced to zero as of such time, determined immediately prior to such reduction); provided, further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), such Issuing Lender or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such Issuing Lender or the Swingline Lender in connection with such capacity. The obligations of the Lenders under this clause (c) are subject to the provisions of Section 5.7.

(6) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Law, the Borrower and each other Credit Party shall not assert, and hereby waives, 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 referred to in clause (b) above 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.

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(7) Payments. All amounts due under this Section 14.3 shall be payable promptly after demand therefor.

(8) Survival. Each party's obligations under this Section 14.3 shall survive the termination of the Loan Documents and payment of the obligations hereunder.

SECTION 14.16 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Lender, the Swingline Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such Issuing Lender, the Swingline Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Credit Party against any and all of the obligations of the Borrower or such Credit Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, such Issuing Lender or the Swingline Lender or any of their respective Affiliates, irrespective of whether or not such Lender, such Issuing Lender, the Swingline Lender or any such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Credit Party may be contingent or unmatured or are owed to a branch or office of such Lender, such Issuing Lender, the Swingline Lender or such Affiliate different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender or any Affiliate thereof shall exercise any such right of setoff, (x) all amounts so setoff shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 5.15 and, pending such payment, shall be segregated by such Defaulting Lender or such Affiliate thereof from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lenders, the Swingline Lender and the Lenders, and (y) such Defaulting Lender or such Affiliate thereof shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender or such Affiliate thereof as to which it exercised such right of setoff. The rights of each Lender, each Issuing Lender, the Swingline Lender and their respective Affiliates under this Section 14.4 are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Lender, the Swingline Lender or their respective Affiliates may have. Each Lender, each Issuing Lender and the Swingline Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 14.17 Governing Law; Jurisdiction, Etc.

(d) Governing Law. This Agreement and the other Loan Documents and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, construed and enforced in accordance with, the law of the State of New York.

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(4) Submission to Jurisdiction. The Borrower and each other Credit Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Lender, any Issuing Lender, the Swingline Lender, or any Related Party of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by Applicable Law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Lender, any Issuing Lender or the Swingline Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or any other Credit Party or its properties in the courts of any jurisdiction.

(5) Waiver of Venue. The Borrower and each other Credit Party irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section 14.5. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(6) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 14.1. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by Applicable Law.

SECTION 14.18 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 14.6.

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SECTION 14.19Reversal of Payments. To the extent any Credit Party makes a payment or payments to the Administrative Agent for the ratable benefit of any of the Secured Parties or to any Secured Party directly or the Administrative Agent or any Secured Party receives any payment or proceeds of the Collateral or any Secured Party exercises its right of setoff, which payments or proceeds (including any proceeds of such setoff) or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any Debtor Relief Law, other Applicable Law or equitable cause, then, to the extent of such payment or proceeds repaid, the Secured Obligations or part thereof intended to be satisfied shall be revived and continued in full force and effect as if such payment or proceeds had not been received by the Administrative Agent, and each Lender and each Issuing Lender severally agrees to pay to the Administrative Agent upon demand its applicable ratable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent plus interest thereon at a per annum rate equal to the applicable Overnight Rate from time to time in effect, in the applicable Currency of such payment, payments or proceeds.

SECTION 14.20Injunctive Relief; Punitive Damages.

(e) The Borrower recognizes that, in the event the Borrower fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, any remedy of law may prove to be inadequate relief to the Lenders. Therefore, the Borrower agrees that the Lenders, at the Lenders' option, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

(4) The Administrative Agent, the Lenders and the Borrower (on behalf of itself and the other Credit Parties) hereby agree that no such Person shall have a remedy of punitive or exemplary damages against any other party to a Loan Document and each such Person hereby waives any right or claim to punitive or exemplary damages that they may now have or may arise in the future in connection with any Dispute, whether such Dispute is resolved through arbitration or judicially; provided that, notwithstanding the foregoing, nothing in this subsection (b) shall limit the obligations of the Borrower under Section 14.3(b).

SECTION 14.21Accounting Matters. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

SECTION 14.22Successors and Assigns; Participations.

(f) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and

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assigns permitted hereby, except that neither the Borrower nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section 14.10, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section 14.10 or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (e) of this Section 14.10 (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section 14.10 and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(4) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and the Loans at the time owing to it); provided that, in each case with respect to any Credit Facility, any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Loans at the time owing to it (in each case with respect to any Credit Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section 14.10 in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section 14.10, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Credit Facility or the Term Loan Facility, as applicable, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided that the Borrower shall be deemed to have given its consent five (5) Business Days after the date written notice thereof has been delivered by the assigning Lender (through the Administrative Agent) unless such consent is expressly refused by the Borrower prior to such fifth (5th) Business Day;

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(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section 14.10 and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided, that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) the Revolving Credit Facility if such assignment is to a Person that is not a Lender with a Revolving Credit Commitment, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (ii) the Term Loans to a Person who is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consents of each Issuing Lender and the Swingline Lender shall be required for any assignment in respect of the Revolving Credit Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 for each assignment; provided that (A) only one such fee will be payable in connection with simultaneous assignments to two or more related Approved Funds by a Lender and (B) the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of its Subsidiaries or Affiliates or (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).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person).

(vii) Certain Additional Payments. 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

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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 (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Lender, the Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Revolving Credit Commitment Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section 14.10, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 5.8, 5.9, 5.10, 5.11 and 14.3 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section 14.10 (other than a purported assignment to a natural Person or the Borrower or any of the Borrower's Subsidiaries or Affiliates, which shall be null and void).

(5) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in Charlotte, North Carolina, a copy of each Assignment and Assumption and each Lender Joinder Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amounts of (and stated interest on) the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender (but only to the extent of entries in the Register that are applicable to such Lender), at any reasonable time and from time to time upon reasonable prior notice.

(6) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person) or the Borrower or any of the Borrower's Subsidiaries or

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Affiliates) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Lenders, the Swingline Lender 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. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 14.3(c) with respect to any payments made by such Lender to its Participant(s).

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 to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 14.2(b), (c), (d) or (e) that directly and adversely affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 5.9, 5.10 and 5.11 (subject to the requirements and limitations therein, including the requirements under Section 5.11(g) (it being understood that the documentation required under Section 5.11(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 14.10; provided that such Participant (A) agrees to be subject to the provisions of Section 5.12 as if it were an assignee under paragraph (b) of this Section 14.10; and (B) shall not be entitled to receive any greater payment under Sections 5.10 or 5.11, with respect to any participation, than its participating Lender would have been entitled to receive, 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. Each Lender that sells a participation agrees, at the Borrower’s request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 5.12(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 14.4 as though it were a Lender; provided that such Participant agrees to be subject to Section 5.6 and Section 14.4 as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts of (and stated interest on) each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) or Proposed Section 1.163 5(b) of the United States Treasury Regulations (or, in each case, any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(7) Certain Pledges. 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 without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

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**SECTION 14.23 Confidentiality.** Each of the Administrative Agent, the Lenders and the Issuing Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Related Parties in connection with the Credit Facility, this Agreement, the transactions contemplated hereby or in connection with marketing of services by such Affiliate or Related Party to the Borrower or any of its Subsidiaries (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by, or required to be disclosed to, any regulatory or similar authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners) or in accordance with the Administrative Agent's, any Issuing Lender's or any Lender's regulatory compliance policy if the Administrative Agent, the Issuing Lender or such Lender, as applicable, deems such disclosure to be necessary for the mitigation of claims by those authorities against the Administrative Agent, such Issuing Lender or such Lender, as applicable, or any of its Related Parties (in which case, the Administrative Agent, such Issuing Lender or such Lender, as applicable, shall use commercially reasonable efforts to, except with respect to any audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority, promptly notify the Borrower, in advance, to the extent practicable and otherwise permitted by Applicable Law), (c) as to the extent required by Applicable Laws or regulations or in any legal, judicial, administrative proceeding or other compulsory process, (d) to any other party hereto, (e) in connection with the exercise of any remedies under this Agreement, under any other Loan Document or under any Secured Hedge Agreement or Secured Cash Management Agreement, or any action or proceeding relating to this Agreement, any other Loan Document or any Secured Hedge Agreement or Secured Cash Management Agreement, or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 14.11, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Credit Facility or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Credit Facility, (h) with the consent of the Borrower, (i) deal terms and other information customarily reported to Thomson Reuters, other bank market data collectors and similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of the Loan Documents, (j) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 14.11 or (ii) becomes available to the Administrative Agent, any Lender, any Issuing Lender or any of their respective Affiliates from a third party that is not, to such Person's knowledge, subject to confidentiality obligations to the Borrower, (k) to the extent that such information is independently developed by such Person, or (l) for purposes of establishing a "due diligence" defense. For purposes of this Section 14.11, "Information" means all information received from any Credit Party or any Subsidiary thereof relating to any Credit Party or any Subsidiary thereof or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Lender on a nonconfidential basis prior to disclosure by any Credit Party or any Subsidiary thereof; provided

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that, in the case of information received from a Credit Party or any Subsidiary thereof after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 14.11 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 14.24Performance of Duties. Each of the Credit Party's obligations under this Agreement and each of the other Loan Documents shall be performed by such Credit Party at its sole cost and expense.

SECTION 14.25All Powers Coupled with Interest. All powers of attorney and other authorizations granted to the Lenders, the Administrative Agent and any Persons designated by the Administrative Agent or any Lender pursuant to any provisions of this Agreement or any of the other Loan Documents shall be deemed coupled with an interest and shall be irrevocable so long as any of the Obligations remain unpaid or unsatisfied, any of the Commitments remain in effect or the Credit Facility has not been terminated.

SECTION 14.26Survival.

(g) All representations and warranties set forth in Article VII and all representations and warranties contained in any certificate, or any of the Loan Documents (including, but not limited to, any such representation or warranty made in or in connection with any amendment thereto) shall constitute representations and warranties made under this Agreement. All representations and warranties made under this Agreement shall be made or deemed to be made at and as of the Closing Date (except those that are expressly made as of a specific date), shall survive the Closing Date and shall not be waived by the execution and delivery of this Agreement, any investigation made by or on behalf of the Lenders or any borrowing hereunder.

(4) Notwithstanding any termination of this Agreement, the indemnities to which the Administrative Agent and the Lenders are entitled under the provisions of this Article XIV and any other provision of this Agreement and the other Loan Documents shall continue in full force and effect and shall protect the Administrative Agent and the Lenders against events arising after such termination as well as before.

SECTION 14.27Titles and Captions. Titles and captions of Articles, Sections and subsections in, and the table of contents of, this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

SECTION 14.28Severability of Provisions. Any provision of this Agreement or any other Loan Document which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction. In the event that any provision is held to be so prohibited or unenforceable in any jurisdiction, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such provision to

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preserve the original intent thereof in such jurisdiction (subject to the approval of the Required Lenders).

SECTION 14.29 Counterparts; Integration; Effectiveness; Electronic Execution.

(h) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, any Issuing Lender, the Swingline Lender and/or any Arranger, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 6.1, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Agreement.

(4) Electronic Execution. The words “execute,” “execution,” “signed,” “signature,” “delivery” and words of like import in or related to this Agreement, any other Loan Document or any document, amendment, approval, consent, waiver, modification, information, notice, certificate, report, statement, disclosure, or authorization to be signed or delivered in connection with this Agreement or any other Loan Document or the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Administrative Agent, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the parties of a manually signed paper which has been converted into electronic form (such as scanned into PDF format), or an electronically signed paper converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided that without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept such Electronic Signature from any party hereto, the Administrative Agent and the other parties hereto shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of the executing party without further verification and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by an original manually executed counterpart thereof. Without limiting the generality of the foregoing, each party hereto hereby (A) agrees that, for all purposes, including without

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limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders and any of the Credit Parties, electronic images of this Agreement or any other Loan Document (in each case, including with respect to any signature pages thereto) shall have the same legal effect, validity and enforceability as any paper original, and (B) waives any argument, defense or right to contest the validity or enforceability of the Loan Documents based solely on the lack of paper original copies of any Loan Documents, including with respect to any signature pages thereto.

SECTION 14.30 Term of Agreement. This Agreement shall remain in effect from the Closing Date through and including the date upon which all Obligations (other than contingent indemnification obligations not then due) arising hereunder or under any other Loan Document shall have been indefeasibly and irrevocably paid and satisfied in full, all Letters of Credit have been terminated or expired (or been Cash Collateralized or otherwise satisfied in a manner acceptable to each applicable Issuing Lender) and the Revolving Credit Commitment has been terminated. No termination of this Agreement shall affect the rights and obligations of the parties hereto arising prior to such termination or in respect of any provision of this Agreement which survives such termination.

SECTION 14.31 USA Patriot Act. The Administrative Agent and each Lender hereby notifies the Borrower that pursuant to the requirements of the Patriot Act or any other Anti-Money Laundering Laws, each of them is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender to identify each Credit Party in accordance with the Patriot Act or such Anti-Money Laundering Law.

SECTION 14.32 Amendment and Restatement; No Novation. This Agreement constitutes an amendment and restatement of the Existing Credit Agreement, effective from and after the Closing Date. The execution and delivery of this Agreement shall not constitute a novation of any indebtedness or other obligations owing to the Lenders or the Administrative Agent under the Existing Credit Agreement based on facts or events occurring or existing prior to the execution and delivery of this Agreement. On the Closing Date, the credit facilities described in the Existing Credit Agreement, shall be amended, supplemented, modified and restated in their entirety by the facilities described herein, and all loans and other obligations of the Borrower outstanding as of such date under the Existing Credit Agreement, shall be deemed to be loans and obligations outstanding under the corresponding facilities described herein, without any further action by any Person, except that the Administrative Agent shall make such transfers of funds as are necessary in order that the outstanding balance of such Loans, together with any Loans funded on the Closing Date, reflect the respective Revolving Credit Commitment of the Lenders hereunder.

SECTION 14.33 Inconsistencies with Other Documents; Independent Effect of Covenants.

(i) In the event there is a conflict or inconsistency between this Agreement and any other Loan Document, the terms of this Agreement shall control; provided that any provision of the Security Documents which imposes additional burdens on the Borrower or any of its Subsidiaries or further restricts the rights of the Borrower or any of its Subsidiaries or gives the Administrative Agent or Lenders additional rights shall not be deemed to be in conflict or inconsistent with this Agreement and shall be given full force and effect.

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(4) The Borrower expressly acknowledges and agrees that each covenant contained in Articles VIII, IX, X or XI hereof shall be given independent effect. Accordingly, the Borrower shall not engage in any transaction or other act otherwise permitted under any covenant contained in Articles VIII, IX, X or XI, before or after giving effect to such transaction or act, the Borrower shall or would be in breach of any other covenant contained in Articles VIII, IX, X or XI.

SECTION 14.34 No Advisory or Fiduciary Responsibility.

(j) In connection with all aspects of each transaction contemplated hereby, each Credit Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that (i) the facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof), (ii) in connection with the process leading to such transaction, each of the Administrative Agent, the Arrangers and the Lenders is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower or any of its Affiliates, stockholders, creditors or employees or any other Person, (iii) none of the Administrative Agent, the Arrangers or the Lenders has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether the Administrative Agent, the Arrangers or any Lender has advised or is currently advising the Borrower or any of its Affiliates on other matters) and none of the Administrative Agent, the Arrangers or the Lenders has any obligation to the Borrower or any of its Affiliates with respect to the financing transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents, (iv) the Administrative Agent, the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from, and may conflict with, those of the Borrower and its Affiliates, and none of the Administrative Agent, the Arrangers or the Lenders has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship and (v) the Administrative Agent, the Arrangers and the Lenders have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Credit Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate.

(4) Each Credit Party acknowledges and agrees that the Administrative Agent, any Arranger, any Lender and any Affiliate thereof may lend money to, invest in, and generally engage in any kind of business with, any of the Borrower, any Affiliate thereof or any other person or entity that may do business with or own securities of any of the foregoing, all as if the Administrative Agent, such Arranger, such Lender, or such Affiliate thereof were not the Administrative Agent, an Arranger, a Lender or an Affiliate thereof (or an agent or any other person with any similar role under the Credit Facilities) and without any duty to account therefor to the Administrative Agent, any Arranger, any other Lender, the Borrower or any Affiliate of the

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foregoing. The Administrative Agent, any Arranger, any Lender and any Affiliate thereof may accept fees and other consideration from the Borrower or any Affiliate thereof for services in connection with this Agreement, the Credit Facility or otherwise without having to account for the same to the Administrative Agent, any Arranger, any other Lender, the Borrower or any Affiliate of the foregoing.

SECTION 14.35 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(k) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(4) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

SECTION 14.36 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 any Lender 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 or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, 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 or any Lender 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 such

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Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, 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 14.37 Certain ERISA Matters.

(l) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit or the Commitments or this Agreement;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

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(5) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that none of the Administrative Agent, each Arranger and their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 14.38 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and, each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(m) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(4) As used in this Section 14.26, the following terms have the following meanings:

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

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“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

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

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

#### SECTION 14.39 Sustainability Adjustments Amendment.

(n) Prior to the twelve month anniversary of the Closing Date, the Borrower, in consultation with the Administrative Agent and the Sustainability Structuring Agent, may in its sole discretion establish specified key performance indicators with respect to certain environmental, social and governance (“ESG”) goals, or identify certain external ESG ratings, of the Borrower and its Subsidiaries (such indicators or ratings, “KPI Metrics”), which KPI Metrics shall be subject to thresholds or targets (in either case, such thresholds or targets, “SPTs”). The Administrative Agent and the Borrower (each acting reasonably and in consultation with the Sustainability Structuring Agent) may propose an amendment to this Agreement (such amendment, an “ESG Amendment”) solely for the purpose of incorporating the KPI Metrics, the SPTs and other related provisions (the “ESG Pricing Provisions”) into this Agreement. Any such ESG Amendment shall become effective upon (i) receipt by the Lenders of a lender presentation in regard to the KPI Metrics and SPTs from the Borrower no later than fifteen (15) Business Days before the proposed effective date of such proposed ESG Amendment, (ii) the posting of such proposed ESG Amendment to all Lenders and the Borrower, (iii) the identification, and engagement at the Borrower’s cost and expense, of a sustainability metric auditor, which shall be a qualified external reviewer of nationally recognized standing, independent of the Borrower and its Affiliates and (iv) the receipt by the Administrative Agent of executed signature pages and consents to such ESG Amendment from the Borrower, the Administrative Agent and the Lenders comprising the Required Lenders. Upon the effectiveness of any such ESG Amendment, based on the Borrower’s performance against the KPI Metrics and SPTs, certain adjustments (increase, decrease or no adjustment) (such adjustments, the “ESG Applicable Margin Adjustments”) to the otherwise applicable Applicable Margin may be made; provided, that the amount of such ESG Applicable Margin Adjustments shall not exceed an increase and/or decrease of (A) 1.00 basis point per annum for the Applicable Margin with respect to the Commitment Fee or (B) 5.00 basis points per annum for the Applicable Margin (other than the Commitment Fee), in each case in the aggregate for all KPI Metrics (the provisions of this proviso, the “Sustainability Adjustment Limitations”). For the avoidance of doubt, the ESG Applicable Margin Adjustments shall not be cumulative year-over-year and shall apply on an annual basis only. The KPI Metrics, the

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Borrower's performance against the KPI Metrics, and any related ESG Applicable Margin Pricing Adjustments resulting therefrom, will be determined based on certain Borrower certificates, reports and other documents, in each case, setting forth the KPI Metrics in a manner that is aligned with the Sustainability Linked Loan Principles (as last published in March 2022 by the Loan Market Association, Asia Pacific Loan Market Association and Loan Syndications & Trading Association, and as further amended, revised or updated from time to time), including with respect to the calculation, certification and measurement thereof. Following the effectiveness of an ESG Amendment, any modification to the ESG Pricing Provisions shall be subject only to the consent of the Borrower, the Administrative Agent and the Required Lenders so long as such modification does not have the effect of increasing the Sustainability Adjustment Limitations set forth in the ESG Amendment.

(o) Each party to this Agreement hereby agrees that the Credit Facility is not and shall not be a sustainability-linked loan unless and until the effectiveness of any ESG Amendment.

(p) Other than increasing the Sustainability Adjustment Limitations (which, for the avoidance of doubt, shall be subject to the consent of "each Lender directly and adversely affected thereby" in accordance with Section 14.2(d)), this Section 14.27 shall supersede any other clause or provision in Section 14.2 to the contrary, including any provision of Section 14.2 requiring the consent of "each Lender directly and adversely affected thereby" for reductions in interest rates.

[Signature pages to follow]

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

MERIT MEDICAL SYSTEMS, INC., as Borrower

By: /s/ Fred P. Lampropoulos  
Name: Fred P. Lampropoulos  
Title: Chief Executive officer

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AGENTS AND LENDERS:

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Administrative Agent, Swingline Lender, Issuing Lender  
and Lender

By: /s/ Yinghua Zhang \_\_\_\_\_  
Name: Yinghua Zhang  
Title: Senior Vice President

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BANK OF AMERICA N.A., as Lender

By: /s/ Kenneth Wong

Name: Kenneth Wong

Title: Senior Vice President

HSBC BANK USA, NATIONAL ASSOCIATION, as  
Lender

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By: /s/ Jay Fort  
Name: Jay Fort  
Title: Director

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By: /s/ Tom Priedeman

Name: Tom Priedeman

Title: Senior Vice President

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TRUIST BANK, as Lender

By: /s/ Katie Lundin

Name: Katie Lundin

Title: Director

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TD Bank, N.A., as Lender

By: /s/ Megan O'Neill

Name: Megan O'Neill

Title: Vice President

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By: /s/ David Tholt

Name: David Tholt

Title: Senior Vice President

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REGIONS BANK, as Lender

By: /s/ Brian Walsh

Name: Brian Walsh

Title: Director

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**ASSET PURCHASE AGREEMENT**

**BY AND BETWEEN**

**MERIT MEDICAL SYSTEMS, INC.**

**AND**

**ANGIODYNAMICS, INC.**

Dated as of June 8, 2023

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is dated as of June 8, 2023, by and between MERIT MEDICAL SYSTEMS, INC., a Utah corporation (“Purchaser”), and ANGIODYNAMICS, INC., a Delaware corporation (“Seller”). The capitalized terms used in this Agreement are defined in Exhibit A hereto, unless otherwise defined herein.

### RECITALS

**WHEREAS**, Seller is engaged in, among other things, manufacture and commercialization of the dialysis catheter and tract sealant system products identified on Exhibit B hereto (together, the “Products”); and

**WHEREAS**, Seller desires to sell to Purchaser, and Purchaser desires to purchase from Seller, the Purchased Assets (including the Products), on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual representations, warranties, covenants and promises contained herein, the adequacy and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE 1

#### THE TRANSACTIONS

1.1 Purchased Assets. Subject to the terms and conditions of this Agreement, at the Closing Seller shall sell, transfer, convey, assign and deliver to Purchaser, and Purchaser shall purchase from Seller, all of its right, title and interest in, to and under the following assets, free and clear of any Encumbrances (collectively, the “Purchased Assets”):

(1) Purchased Inventory. All inventories, including raw materials, works in process, semi-finished and finished products, stores, replacement and spare parts, packaging materials, operating supplies, inventory on consignment, and other inventories, in transit or deposited in warehouse, in each case to the extent primarily related to the Products, including, without limitation, the items set forth on Schedule 1.1(a) (collectively, the “Purchased Inventory”);

(2) Intellectual Property. The Purchased Intellectual Property;

(3) Contracts. The Contracts identified on Schedule 1.1(c) and Licenses identified on Schedule 4.8(c)(ii) (collectively, the “Assigned Contracts”);

(4) Contract Claims. All claims and other rights arising under the Assigned Contracts from and after the Closing (other than the Accounts Receivable) and all rights under or pursuant to warranties, representations, covenants, indemnities or guarantees made by suppliers, manufacturers or contractors in connection with products or services provided to Seller from third parties to the extent primarily related to the Products and arising from and after the Closing, including any rights to credits or claims for refunds or reimbursements (but excluding (i) cash security or other deposits and (ii) Tax assets) from third parties to the extent primarily related to the Products;

(5) Governmental Approvals. The Governmental Approvals and Permits (and pending applications therefor), filings and notifications that are necessary for the manufacturing, marketing, distribution and sale of the Products in all countries in which such Products are used, made, marketed,

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distributed or sold (although the transfer of some such Governmental Approvals and Permits will occur after the Closing pursuant to other Transaction Agreements) identified on Schedule 1.1(e);

(6) Books and Records. All information, including customer and supplier lists and details (including information reasonably necessary to enable Purchaser to fulfill any supplier due diligence obligations related to the Products with respect to conflict minerals and supply chain management), product and pricing information, account histories, research data and commercial data, on whatever medium (including paper and electronic media) and all books of account, general, financial, quality system, regulatory and tax records (other than minute books, organizational documents, stock records and similar records of Seller), in each case to the extent primarily relating to the Products or the other Purchased Assets and in Seller's possession (collectively, the "Books and Records"); *provided, however*, that if any Books and Records contain any information of Seller or any of its Subsidiaries not primarily related to the Products or the other Purchased Assets, Seller may elect to redact those portions of such Books and Records to the extent the redaction solely pertains to information not related to the Products or Purchased Assets or, in Seller's sole and absolute discretion, Seller may deliver unredacted copies of such Books and Records containing information not related to the Products or the other Purchased Assets but such information shall be subject to the confidentiality provisions of this Agreement, shall remain the property of Seller, and Purchaser shall have no rights with respect to such information;

(7) Equipment and Machinery. All equipment and machinery (including all tooling and molds) identified on Schedule 1.1(g), and the spare parts related to such equipment and machinery; *provided*, that the expense of moving any such equipment shall be borne by Purchaser;

(8) Sales, Promotional and Training Items. All sales and promotional literature and other sales-related materials, all labels and product inserts, all training videos and other training-related materials, and all patient forms, testimonials, and other patient-related materials, in each case in any medium (including paper and electronic media) to the extent used, formerly used or held for use in connection with the Products ("Promotional Material");

(9) Goodwill. All goodwill of Seller of every kind and description to the extent primarily related to the Products or Purchased Assets, together with the exclusive right of Purchaser to represent itself as carrying on the Products in succession to Seller;

(10) Claims. All of Seller's rights, causes of action, claims, defenses, counterclaims, rights of offset, deposits, prepayments, refunds, judgments, deductions, accounting rights, and demands of whatever nature, known or unknown, to the extent primarily related to the Products, the other Purchased Assets or the Assumed Liabilities; and

(11) Other Assets. The other assets of Seller identified on Schedule 1.1(k).

1.2 Excluded Assets. Notwithstanding any other provision of this Agreement, the Purchased Assets shall not include, and Seller hereby retains and shall not sell, transfer, convey, assign or deliver to Purchaser, any property or assets of Seller not expressly set forth in Section 1.1 hereof (collectively, the "Excluded Assets"), including without limitation, the following property and assets:

(1) any cash, checks, money orders, marketable securities, short-term instruments and other cash equivalents, funds in time and demand deposits or similar accounts (whether or not arising from the Products);

(2) any accounts receivable of Seller, including any accounts receivable of the Products as of the Closing (collectively, the "Accounts Receivable");

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- (3) the Seller Licensed Intellectual Property;
- (4) any Intellectual Property Rights other than the Purchased Intellectual Property and Third Party Intellectual Property;
- (5) any software, laptops, desktops, computer peripherals or related computer hardware;
- (6) all Tax losses and credits, Tax loss and credit carry forwards and other Tax attributes, recoveries, all deposits or advance payments with respect to Taxes, and any claims, rights and interest in and to any refund, credit or reduction of Taxes (i) relating to the Purchased Assets for a Pre-Closing Tax Period and (ii) relating to the other assets of Seller for all periods;
- (7) all Tax Returns and other Tax records of Seller not relating solely to the Purchased Assets and the Assumed Liabilities;
- (8) any claims under insurance policies maintained by Seller;
- (9) all Contracts (included all Shared Contracts as provided in Section 1.6) other than the Assigned Contracts;
- (10) any assets related to any business or product lines of Seller other than the Products or the Purchased Assets;
- (11) all real property interests held by Seller (including leases of real property and leasehold interests);
- (12) all Employee Plans and assets related thereto;
- (13) Seller's ownership or other equity interests in any Person;
- (14) other than the Books and Records, all information, including customer and supplier lists and details, product and pricing information, account histories, research data and commercial data, on whatever medium (including paper and electronic media) and all books of account, general, financial, quality system, regulatory and tax records of Seller or any of its Subsidiaries not primarily related to the Purchased Assets;
- (15) all rights of Seller under this Agreement and any other Transaction Agreement; and
- (16) without limiting the generality of the foregoing, the other assets of Seller identified on Schedule 1.2(p).

1.3 Assumed Liabilities. Following the Closing, in accordance with and pursuant to the terms of this Agreement, Purchaser shall, pay, perform and discharge when due, and neither Seller nor any of its Affiliates shall have any responsibility or obligations with respect to the following Liabilities (collectively, the "Assumed Liabilities");

- (1) all Liabilities to the extent arising out of, resulting from or related to the Products or the Purchased Assets after the Closing or Purchaser's use or operation of the Products or the Purchased Assets after the Closing, including to the extent arising out of or relating to the design, testing, marketing, labeling, manufacture, distribution, use or sale of any Products after the Closing;
-

(2) all Liabilities under the Assigned Contracts arising after the Closing, except to the extent such Liabilities arise out of or relate to any breach by Seller of, or failure to comply with, prior to the Closing, any covenant or obligation in any such Assigned Contract;

(3) all Liabilities related to Product warranty claims (i) with respect to Products sold prior to the Closing or (ii) arising with respect to or related to any return, refund or Recall with respect to Products manufactured prior to the Closing, including all Liabilities for any credits, rebate or other amounts payable in respect of any return of Products sold prior to the Closing (regardless of whether the applicable warranty is express or implied and whether made before or after the Closing to the extent not resolved as of the Closing), in each case of clauses (i) and (ii), in an aggregate amount up to Seventy-Five Thousand Dollars (\$75,000) (the “Assumed Pre-Closing Warranty and Recall Liabilities Amount”);

(4) all Liabilities related to Product warranty claims (i) with respect to Products sold after the Closing, or (ii) arising with respect to or related to any return, refund or Recall with respect to Products manufactured after the Closing, including all Liabilities for any credits, rebate or other amounts payable in respect of any returned Products sold after the Closing;

(5) all obligations of Purchaser under this Agreement or any other Transaction Agreement; and

(6) all Liabilities for Taxes arising out of, related to, or with respect to the Purchased Assets or the Assumed Liabilities that are attributable to a Post-Closing Tax Period, including the portion of any Straddle Period beginning after the Closing Date.

1.4 Excluded Liabilities. Notwithstanding anything to the contrary in this Agreement, Seller shall retain, and shall be responsible for paying, performing and discharging when due, and Purchaser shall not assume or have any responsibility for, any Liabilities of Seller other than the Assumed Liabilities, including without limitation, the following Liabilities (collectively, the “Excluded Liabilities”):

(1) all Liabilities to the extent arising out of, resulting from or related to the Products or the Purchased Assets prior to the Closing or Seller’s use or operation of the Products or the Purchased Assets prior to the Closing, including to the extent arising out of or relating to the design, testing, marketing, labeling, manufacture, distribution, use or sale of any Products prior the Closing (other than the Assumed Pre-Closing Warranty and Recall Liabilities Amount);

(2) all Liabilities, whether arising before, on or after the Closing arising out of, resulting from or related to the Excluded Assets;

(3) all Liabilities related to Product warranty claims (i) with respect to Products sold prior to the Closing or (ii) arising with respect to or related to any return, refund or Recall with respect to Products manufactured prior to the Closing, including all Liabilities for any credits, rebate or other amounts payable in respect of any return of Products sold prior to the Closing, in each case of clauses (i) and (ii), to the extent the aggregate amount of such Liabilities exceeds the Assumed Pre-Closing Warranty and Recall Liabilities Amount;

(4) all Liabilities of Seller for borrowed money;

(5) all outstanding accounts payable under the Assigned Contracts arising prior to the Closing Date;

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(6) all Liabilities under any Assigned Contract (i) arising prior to the Closing or (ii) that arise after the Closing and arise out of or relate to any breach by Seller of, or failure to comply with, prior to the Closing, any covenant or obligation in any such Assigned Contract;

(7) all Liabilities of Seller and its Affiliates for Taxes related to the Purchased Assets, the Products or the Assumed Liabilities that are attributable to a Pre-Closing Tax Period and all liabilities for Taxes that are otherwise transferred to Purchaser by operation of law under this Agreement that are attributable to a Pre-Closing Tax Period; and all Liabilities for Transfer Taxes pursuant to Section 9.2;

(8) all Liabilities arising under or in connection with any Employee Plan including but not limited to (A) any Liability for severance payments, commissions, bonuses, continuing welfare plan coverage or similar remuneration or benefits payable to employees of Seller or its Affiliates; and (B) any liability imposed on Purchaser or any of its Affiliates by a Governmental Authority or any other Person resulting from successor liability or similar concepts;

(9) all Liabilities in any way related to the employment or retention of any employees, former employees, directors or independent contractors of Seller; and

(10) all obligations of Seller under this Agreement or any other Transaction Agreement.

#### 1.5 Non-Assignable Assets.

(1) Notwithstanding the foregoing, if any Assigned Contract or other Purchased Asset, including any Governmental Approval identified on Schedule 1.1(e), is not assignable or transferable (each, a “Non-Assignable Asset”) without the Consent of, or waiver by, a third party or action by a Governmental Authority (each, an “Assignment Consent”), either as a result of the provisions thereof or applicable Legal Requirements, and any such Assignment Consent is not obtained on or prior to the Closing Date, this Agreement and the related instruments of transfer shall not constitute an assignment or transfer of such Non-Assignable Asset, and such Non-Assignable Asset shall not be included in the Purchased Assets.

Instead, for a period of three (3) years after the Closing, each of the parties hereto shall use commercially reasonable efforts to obtain all such Assignment Consents after the Closing Date; *provided, however*, that in connection therewith neither party nor any of its Affiliates shall be required to pay any sums of money (other than customary filing and application fees typically paid by a transferee) or make any concession therefor or otherwise agree to any action that would adversely affect such party or its Affiliates, or such party’s or its Affiliates’ businesses or operations. After any such Assignment Consents are obtained Seller shall assign to Purchaser or its designee such Non-Assignable Assets for no additional consideration.

Following any such assignment, such assets shall be deemed Purchased Assets for purposes of this Agreement. The fact of a failure to obtain any Consent, including an Assignment Consent shall not, in and of itself, result in a breach of this Agreement.

(2) For a period of three (3) years after the Closing and subject to payment of the Purchase Price by Purchaser pursuant to Section 2.1, the parties shall and shall cause their respective controlled Affiliates to, cooperate with each other in any commercially reasonable arrangement designed to provide Purchaser or its designee with all of the rights, benefits, burdens and obligations of the Non-Assignable Assets after the Closing as if the appropriate Assignment Consents had been obtained (including enforcement for the benefit of Purchaser of any and all rights of Seller or any of its Affiliates against any other party arising out of any breach or cancellation of any such Non-Assignable Assets by such other party and, if requested by Purchaser, acting as an agent on behalf of Purchaser or as Purchaser shall otherwise reasonably require), including by granting subleases or other rights and establishing arrangements whereby Purchaser or its designee shall undertake the obligation to perform under Assigned Contracts.

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1.6 Shared Contracts. For a period of three (3) years after the Closing and subject to payment of the Purchase Price by Purchaser pursuant to Section 2.1, Seller shall use commercially reasonable efforts to cause the counterparty to each Shared Contract set forth on Schedule 1.6 to consent to the partial assignment of those rights of Seller under such Shared Contract related to a Product, or to otherwise reasonably cooperate with Purchaser in Purchaser's efforts to enter into a new contract with such counterparty on substantially the same terms as exist under such Shared Contract, in each case at Purchaser's sole cost and expense, in which case such partial assignment shall be deemed an Assigned Contract; *provided, however*, that in connection therewith in no event shall Seller or any of its Affiliates be required to pay any sums of money or make any concession therefor or otherwise agree to any action that would adversely affect in any material respect Seller or its Affiliates, or Seller's or its Affiliates' businesses or operations, including its relationship with such counterparty to the Shared Contract. The portion related to the Products of each such Shared Contract for which the parties have received consent to such partial assignment shall thereafter be deemed to be an Assigned Contract hereunder and, if applicable, Seller shall wholly assign, or partially assign, such portion to Purchaser as of the Closing. Any Shared Contract for which the arrangements described in this Section 1.6 have not been entered into shall be a Non-Assignable Asset subject to Section 1.5.

## ARTICLE 2

### CONSIDERATION FOR TRANSFER

2.1 Purchase Price and Assumption of Assumed Liabilities. As full consideration for the sale, transfer, conveyance, assignment and delivery to Purchaser of the Purchased Assets by Seller, Purchaser shall (i) deliver to Seller at the Closing an amount equal to One Hundred Million Dollars (\$100,000,000) (the "Purchase Price") and (ii) assume at the Closing and, in due course in accordance with the terms applicable thereto, pay, perform and discharge the Assumed Liabilities. The Purchase Price shall be paid by wire transfer of immediately available funds to the wire transfer address of Seller as provided to Purchaser prior to the Closing Date.

2.2 Withholding Taxes. Purchaser or any of its designated Affiliates shall be entitled to deduct and withhold (without duplication) from the Purchase Price or other payments required to be made in accordance with this Agreement, such amounts as Purchaser is required to deduct and withhold with respect to the making of such payment under any provision of federal, state, local or foreign Tax Legal Requirement. Any such withheld Taxes shall be treated as having been paid to Seller as part of the Purchase Price.

## ARTICLE 3

### CLOSING AND CLOSING DELIVERIES

3.1 Closing; Time and Place. The closing of the Transactions (the "Closing") shall occur remotely by the exchange of documents and signatures (or their electronic counterparts) on the date hereof following the satisfaction or waiver of the conditions to closing set forth in Article 8, or at such other date, time or place as the parties may agree (the "Closing Date"). The Closing shall be effective as of 12:01 a.m. mountain time on the Closing Date.

3.2 Deliveries by Seller. At the Closing, Seller shall deliver, or cause to be delivered, to Purchaser, each of the following items, duly executed and delivered by Seller as applicable:

(1) General Assignment and Bill of Sale. General Assignment and Bill of Sale covering all of the applicable Purchased Assets, substantially in the form attached hereto as Exhibit C (the "General Assignment and Bill of Sale");

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(2) Purchaser Assignment and Assumption Agreements. A Purchaser Assignment and Assumption Agreement between Seller and Purchaser enforceable in various jurisdictions, substantially in the form attached hereto as Exhibit D (“Purchaser Assignment and Assumption Agreements”);

(3) Intellectual Property Assignments. (i) A patent assignment (the “Patent Assignment”) substantially in the form of Exhibit E hereto, for all of the Patents listed on Schedule 4.8(a) and (ii) a trademark assignment (the “Trademark Assignment”), substantially in the form of Exhibit F attached hereto, for all of the Trademarks listed on Schedule 4.8(a);

(4) Transition Services Agreement. A transition services agreement, substantially in the form attached hereto as Exhibit G (the “Transition Services Agreement”), obligating Seller and certain of its Affiliates to provide certain transition services to Purchaser and certain of its Affiliates after the Closing;

(5) Contract Manufacturing Agreement. A contract manufacturing agreement, substantially in the form attached hereto as Exhibit H (the “Contract Manufacturing Agreement”) obligating Seller to supply Purchaser certain products;

(6) Intellectual Property License Agreement. The license agreement governing Seller Licensed Intellectual Property and Purchaser Licensed Intellectual Property, substantially in the form of Exhibit I (the “Intellectual Property License Agreement”);

(8) Sublicense Agreement. The Sublicense Agreement of the Evonik License and Supply Agreement between the Parties, substantially in the form attached hereto as Exhibit J (the “Sublicense Agreement”), to entered into contemporaneously with this Agreement;

(g) Books and Records. The Books and Records;

(9) Promotional Material. The Promotional Material;

(10) Officer Certificate. A certificate executed by an executive officer of Seller certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Seller authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all resolutions adopted in connection with the transaction contemplated hereby and thereby; and

(11) IRS Form W-9. A properly completed and executed IRS Form W-9 with respect to Seller.

3.3 Deliveries by Purchaser. At the Closing, Purchaser shall deliver to Seller the following items, duly executed by Purchaser as applicable:

(1) Wire Transfer. A wire transfer in the aggregate amount equal to (x) the Purchase Price less (y) the Seller R&W Premium Amount in immediately available funds in accordance with Section 2.1;

(2) General Assignment and Bill of Sale. The General Assignment and Bill of Sale;

(3) Purchaser Assignment and Assumption Agreement. The Purchaser Assignment and Assumption Agreement;

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- Assignment;
- (4) Intellectual Property Assignments. The Patent Assignment and the Trademark
- (5) Transition Services Agreement. The Transition Services Agreement;
- (6) Contract Manufacturing Agreement. The Contract Manufacturing Agreement;
- Agreement;
- (7) Intellectual Property License Agreement. The Intellectual Property License
- (8) Sublicense Agreement. The Sublicense Agreement; and
- (9) Officer Certificate. A certificate executed by an executive officer of Purchaser certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Purchaser authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all resolutions adopted in connection with the transaction contemplated hereby and thereby.

#### ARTICLE 4

##### REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth on Schedule 4 (the “Seller Disclosure Schedule”) attached to this Agreement (it being agreed that disclosure of any item in any schedule shall be deemed disclosure with respect to any other section of this Agreement to which the relevance of such item is reasonably apparent on its face), Seller hereby represents and warrants to Purchaser as follows as of the Closing (except for those representations and warranties made as of a particular date, in which case Seller represents to Purchaser as follows as of such date):

4.1 Organization and Good Standing. Seller is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. (a) Seller is duly qualified to conduct business and in good standing under the laws of each jurisdiction in which the manufacture and commercialization of the Products and assets (including the Purchased Assets) that Seller conducts or owns requires such qualification and (b) Seller has full power and authority required to own, lease and operate its assets and to carry on the manufacture and commercialization of the Products as now being conducted, in each case except where the failure to be so qualified or to have such power and authority would not reasonably be expected to be, individually or in the aggregate, material to the Products or the Purchased Assets.

4.2 Authority; Binding Nature of Agreements. Seller has all requisite corporate power and authority to execute and deliver this Agreement and the other Transaction Agreements to which Seller is a party. The execution, delivery and performance by Seller of this Agreement and the other Transaction Agreement to which Seller is a party has been duly and validly authorized and approved by all requisite corporate action on the part of Seller. The execution, delivery and performance by Seller of this Agreement and the other Transaction Agreements does not require the approval of the shareholders of Seller. This Agreement has been duly and validly executed and delivered by Seller. Each of this Agreement and the other Transaction Agreements to which Seller is a party constitutes, or upon execution and delivery will (assuming due authorization, execution and delivery by Purchaser or its Affiliates, as applicable) constitute, the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium

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and other similar laws and equitable principles related to or limiting creditors' rights generally and by general principles of equity.

4.3 No Conflicts; Required Consents. Neither the execution, delivery or performance of this Agreement nor any other Transaction Agreement by Seller nor the consummation of any of the Transactions will:

(1) conflict with, violate, result in any breach of or constitute a default under (with or without notice or lapse of time) any of the provisions of the organizational documents of Seller,

(2) conflict with, violate, result in any breach of or constitute a default under (with or without notice or lapse of time) any provision of any Material Contract, or require a Consent under any Material Contract;

(3) (i) give any Governmental Authority or other Person the right to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which Seller is bound or any of the Purchased Assets is subject, (ii) violate or conflict with any provision of, or result in the breach of, any Legal Requirement applicable to Seller or require any Consent of any Person under any Legal Requirement or (iii) constitute a default under or give any Person the right to declare a default of, exercise any remedy under, accelerate the performance of, cancel, terminate, modify or receive any payment under any Material Contract or otherwise result in the termination of a Material Contract;

(4) result in the imposition or creation of any Encumbrance upon or with respect to, or result in the imposition of additional obligations or loss of rights under, any Purchased Asset (other than Liens resulting from any facts or circumstances relating to Purchaser or its Affiliates); or

(5) require Seller to make or deliver any filing or notice to a Governmental Authority, other than reporting under the Securities Exchange Act of 1934, as amended or any filings or notices required to record the transfer of ownership of the Purchased Intellectual Property or any required updates to an FDA registration and medical device listing;

except, with respect to clauses (b) and (c), for any violations, conflicts, defaults, terminations, cancellations, accelerations or impositions as would not reasonably be expected to be, individually or in the aggregate, material to the Products or the Purchased Assets.

4.4 Financial Information; No Undisclosed Liabilities.

(1) Schedule 4.4(a) hereto includes unaudited net revenue and standard costs, in each case for the period commencing on June 1, 2020 and ending on May 31, 2023 for certain assets exclusively related to the final assembly and packaging of the Products (collectively, the "Financial Information"). The Financial Information (i) has been prepared from and in accordance with the Books and Records of Seller and (ii) has been maintained in accordance with the business and accounting practices and internal controls and policies of Seller. The Financial Information fairly presents in all material respects the revenues and cost of goods sold with respect to the Products as of the dates and for the periods indicated therein.

Otherwise, the Financial Information (x) includes information with respect to the Products as of the dates and for the periods indicated therein only with respect to the financial statement line items identified in Schedule 4.4(a) (and not other line items that would be required to be included in an income statement or balance sheet prepared in accordance with GAAP) and (y) does not include "Operating Expenses" line items identified in the Financial Information, such as costs allocated to the Products based on a percentage of the revenue of the operating segment of which the Products business unit is a part, and does not include allocations of corporate overhead expenses, including costs of information technology, legal, finance and

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accounting, human resources, regulatory and quality, tax or treasury functions, or other similar shared costs or allocations that would be attributable to the Products in an income statement prepared in accordance with GAAP.

(2) Except (i) as set forth on Schedule 4.4(b), (ii) Liabilities reflected in the Financial Information, (iii) Liabilities incurred by Seller in the Ordinary Course of Business since the date of the Financial Information, and (iv) Liabilities set forth in any Contract which was entered into in the Ordinary Course of Business and which does not result from any breach of contract, breach of warranty, tort, claim or lawsuit arising as of or prior to Closing, Seller has, with respect to the Products or the Purchased Assets, no Liabilities.

(3) Seller maintains a system of internal accounting controls designed to provide reasonable assurance that transactions are recorded in a timely manner and as necessary to permit preparation of Financial Information in accordance with GAAP and to maintain accountability for earnings and assets.

4.5 Purchased Inventory. Schedule 1.1(a) is a complete and accurate list of the Purchased Inventory as of June 7, 2023. All of the items in the Purchased Inventory are (a) of a quality and quantity saleable in the Ordinary Course of Business, (b) meet current industry standards and specifications, (c) are not adulterated or misbranded and are in compliance with all Legal Requirements (including without limitation the Federal Food, Drug, and Cosmetic Act, and (d) have been acquired in *bona fide* transactions in the Ordinary Course of Business, in each case except as would not reasonably be expected to be, individually or in the aggregate, material to the Products or the Purchased Assets. All Purchased Inventory is owned by Seller free and clear of all Encumbrances (other than Permitted Encumbrances), and no Purchased Inventory is held on a consignment basis. The quantities of each item of Purchased Inventory (whether raw materials, work-in-process or finished goods) are reasonable and sufficient for the manufacture and commercialization of the Products under present circumstances. No items of Purchased Inventory are held by any bailee, warehouseman or other third party (other than inventory in route for delivery in the Ordinary Course of Business).

#### 4.6 Absence of Changes.

(1) Since December 31, 2022 through the date hereof, the Products have been manufactured and commercialized in the Ordinary Course of Business and Seller has not, with respect to the Products:

(1) made any capital expenditures or entered into any commitment therefore with respect to the Products in an amount greater than \$100,000, except in the Ordinary Course of Business;

(2) mortgaged, pledged or subjected to any Encumbrance any of its assets (whether tangible or intangible) or properties with a fair market value in excess of \$100,000 in the aggregate;

(3) incurred, assumed or guaranteed any indebtedness for borrowed money except as would not constitute an Assumed Liability;

(4) made any loan (or forgiven any loan to), or entered into any other transaction with, any of its current or former Representatives other than employment or consulting relationships in the Ordinary Course of Business or as would not constitute an Assumed Liability;

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(5) sold, assigned, transferred, conveyed, licensed, leased or otherwise disposed of or agreed to sell, assign, transfer, convey, license, lease or otherwise dispose of any material portion of its assets or properties, except for the sale of inventories in the Ordinary Course of Business;

(6) cancelled or compromised any material debt or material claim, or waived, compromised or released any material right, except with respect to any Excluded Asset or Excluded Liability;

(7) entered into, accelerated, terminated, materially modified or cancelled any Material Contract or Governmental Approval, other than in the Ordinary Course of Business;

(8) with respect to the Purchased Assets, in each case, to the extent such action could materially affect Purchaser in a taxable period (or portion thereof) ending after the Closing Date, (A) changed any material Tax election or accounting method, (B) consented to the extension of any waiver of the limitation period applicable to any material Tax claim or assessment, or (C) settled or comprised any material Tax claim or assessment; or

(9) committed in writing to take any of the foregoing actions.

(2) Since December 31, 2022 through the date hereof no event, development or circumstance has occurred that has had, or would reasonably be expected to have, a Material Adverse Effect.

#### 4.7 Taxes.

(1) Except as set forth on Schedule 4.7(a), all Tax Returns in respect of or in relation to the Purchased Assets required to be filed have been timely filed (taking into account any extensions of time in which to file). All such Tax Returns are correct and complete in all material respects and all Taxes in respect of or in relation to the Purchased Assets (whether or not shown on such Tax Returns) have been timely paid.

(2) Except as set forth on Schedule 4.7(b), there is no pending dispute, audit or claim regarding Taxes pending against Seller or its Affiliates with respect to or in relation to any Purchased Asset claimed or raised by any Tax Authority and no Tax Authority has given written notice of the commencement of (or its intent to commence) any such actions, suits, claims, investigations or other legal proceedings.

(3) There are no outstanding Encumbrances that have been proposed, asserted, or assessed by any Tax Authority for Taxes other than Permitted Encumbrances on the Purchased Assets.

(4) Except as set forth on Schedule 4.7(d), the Assigned Contracts impose no Liability on Seller or its Affiliates, and following Closing will impose no Liability on Purchaser, for or with respect to the Taxes of any other Person.

(5) Seller has not extended any statute of limitations period in respect of Taxes that relates to the Purchased Assets, or agreed to any extension of time with respect to an assessment or deficiency relating to such Taxes, for any taxable period with respect to which the statute of limitations has not expired (after giving effect to any extension or waiver).

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(1) Schedule 4.8(a) sets forth a correct and complete list of the following, in each case that Seller owns or purports to own and that in each case is used primarily in connection with any Product: (i) Registered Intellectual Property Rights; (ii) unregistered Trademarks; (iii) unregistered Copyrights, including all Promotional Materials; and (iv) summaries of Trade Secrets (collectively, “Product Intellectual Property”), and in each case setting forth, for each item: the title; full legal name of the owner(s) of record; jurisdiction in which such item has been issued or registered or filed or applied for; status; registration number, serial number, or application number; and date of application, registration, or issuance, as applicable (collectively, the “Purchased Intellectual Property”). Seller solely owns, and possesses all rights, titles and interests in and to all Purchased Intellectual Property, free and clear of all Encumbrances and upon Closing, Purchaser will be the sole owner of, and will have valid title to, and will have the full right to use, license, and transfer all of the Purchased Intellectual Property.

(2) All of the Purchased Intellectual Property is valid, subsisting, enforceable and in full force and effect (other than any Intellectual Property Rights which have been expired, abandoned or cancelled, as indicated on Schedule 4.8(a)). Seller has timely (i) paid any and all renewal and maintenance fees, annuities or other fees to any Governmental Authority to maintain the Product Intellectual Property and (ii) made any and all filings, submissions and responses to any Governmental Authority or other organization necessary to maintain the Product Intellectual Property. Except as disclosed on Schedule 4.8(a), no payments are owed and no filings, submissions, or responses are due to be made during the period of ninety (90) days following Closing for any Purchased Intellectual Property.

(3) Schedule 4.8(c)(i) sets forth a correct and complete list of the following, in each case that are licensed to or used by, but not solely owned by, Seller in connection with any Product: (A) Registered Intellectual Property Rights; (B) unregistered Trademarks; (C) material unregistered Copyrights; and (D) Trade Secrets and other know-how (“Third Party Intellectual Property”). Seller has a valid and enforceable license to all of the Third Party Intellectual Property as necessary in connection with the development, design, making, use, offer, sell, service, importation, or exportation of any Products, which such licenses (other than generally commercially available, “off-the-shelf” software programs and non-exclusive licenses with an annual spend of less than \$20,000 granted in the ordinary course of business which do not contain any material restriction or condition on the use or exploitation of any Purchased Intellectual Property) and such licenses for Third Party Intellectual Property that are to be assigned to Purchaser are set forth on Schedule 4.8(c)(ii) (“Licenses”). Each party to a License is and has been in compliance with, and has not, to Seller’s Knowledge, breached or defaulted under, any of such License, and no License has been threatened in writing to be terminated. Seller does not owe any royalties, fees, honoraria, or other payment to any Person by reason of the ownership, development, modification, use, license, sublicense, sale, distribution or other disposition of Products, Third Party Intellectual Property or Purchased Intellectual Property, other than fees set forth in Licenses.

(4) Other than Purchased Intellectual Property, Third Party Intellectual Property and Seller Licensed Intellectual Property, Seller has not used, utilized, or exploited any Intellectual Property Rights in connection with any Product. The Purchased Intellectual Property, Seller Licensed Intellectual Property and the Third Party Intellectual Property constitute all of the Intellectual Property Rights necessary for any use, manufacturing, development, selling, offering for sale, importation, exportation, marketing, or exploitation of any Product in all material respects.

(5) Seller has not licensed, agreed to license or granted any other rights in or to any Purchased Intellectual Property, Third Party Intellectual Property, or Seller Licensed Intellectual Property to any Person except as listed on Schedule 4.8(e).

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(6) As of the date hereof, no Product, no use, manufacture, development, sale, offer for sale, importation, exportation, marketing, or exploitation of any Product, and no Purchased Intellectual Property (i) to Seller's Knowledge infringes, misappropriates, dilutes, or otherwise violates any Intellectual Property Right of any third party, and, to Seller's Knowledge, there is no valid basis for such claim, (ii) no investigation is pending or threatened in writing with respect to any possible infringement, misappropriation, dilution, or other violation of any Intellectual Property Right of any third party. Except as listed on Schedule 4.8(f), (A) Seller has not received written, or to Seller's Knowledge, oral notice of any allegation of any infringement, misappropriation, or violation of any Intellectual Property Right of any third party with respect to the Products or Purchased Assets, and (B) Seller has not requested or received any opinions of counsel related to any of the foregoing.

(7) To Seller's Knowledge no Person is, or since June 1, 2020 has been, infringing, misappropriating, diluting, or otherwise violating any Purchased Intellectual Property. Seller has not given notice to any third party, and no Proceeding has been initiated, threatened, or is pending against any third party, asserting any infringement, misappropriation, dilution, or violation of any Purchased Intellectual Property. Since June 1, 2020, except as set forth on Schedule 4.8(g), Seller is not subject to any claim by any other Person seeking indemnification, defense or otherwise to be held harmless, and has not agreed to indemnify, defend or otherwise hold harmless any other Person, with respect to any Purchased Intellectual Property.

(8) As of the date hereof, other than applications for Patents, Copyrights, Trademarks or other Intellectual Property Rights listed on Schedule 4.8(a), (i) there are no Proceedings before any Governmental Authority (including before the United States Patent and Trademark Office or United States Copyright Office) in any jurisdiction related to any of the Purchased Intellectual Property, and (ii) to Seller's Knowledge, no Proceeding has, been initiated, threatened or is pending against Seller. Since June 1, 2020, no notice from any Person has been received by Seller that challenges the validity, enforceability or use of, or any ownership or right of Seller regarding, any Purchased Intellectual Property.

(9) Each current and former employee and contractor of Seller involved in the invention, development, creation, reduction to practice, or discovery of any Purchased Intellectual Property has signed and executed a valid and enforceable assignment irrevocably transferring all rights, title, and interest of such employee or contractor in or to such Purchased Intellectual Property to Seller, except as would not reasonably be expected to be, individually or in the aggregate, material to the Products or the Purchased Intellectual Property. Seller has taken commercially reasonable measures to preserve and maintain the confidentiality of all Trade Secrets and other information of Seller included in the Purchased Assets that is confidential, secret, or subject to any disclosure limitation. Seller has taken commercially reasonable measures to preserve and maintain the confidentiality of all Trade Secrets and other confidential information of any other Person in the possession and control of Seller in connection with the Products, including in compliance with all confidentiality, non-disclosure, and similar Contracts, duties, and obligations of Seller related thereto. All Persons that have received Trade Secrets and other information of Seller included in the Purchased Assets that is confidential, secret, or subject to any disclosure limitation have agreed to preserve and maintain the confidentiality thereof, and to Seller's Knowledge no Person has defaulted under or breached any such Contract. To Seller's Knowledge, no current or former employee or contractor has any patents issued or applications pending for any device, process, design, or invention of any kind now used or needed by Seller in furtherance of the Products, which patents or applications are not part of the Purchased Intellectual Property.

(10) With respect to the Products and Purchased Assets, Seller is in compliance in all material respects with all applicable Legal Requirements and its posted privacy policies regarding the collection, receipt, use, privacy and protection of any information and data from customers or other Persons (including personally identifiable information and data) collected or otherwise obtained by Seller that are

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part of the Purchased Assets (the “Collected Information”). Since June 1, 2020, Seller has used commercially reasonable security measures and safeguards in place to detect and prevent any security breaches and to protect the Collected Information from illegal or unauthorized access, use or processing by its personnel or third parties, or access, use, or processing by its personnel or third parties in a manner in violation of, or inconsistent with applicable Legal Requirements and the applicable posted privacy policies of Seller. Since June 1, 2020, no Person has gained unauthorized access to or made any unauthorized use or processing of any Collected Information. Without limiting the foregoing, Seller has in effect commercially reasonable information security, backup, disaster recovery and incident response policies with respect to any company system on which any Collected Information is stored. Since June 1, 2020, no claims have been asserted or, to Seller’s Knowledge, threatened against Seller by any Person alleging any material violation of any individual’s privacy, personal or confidentiality rights related to any Collected Information.

#### 4.9 Material Contracts.

(1) Schedule 4.9(a) sets forth an accurate, correct and complete list of any Contracts in effect as of the date of this Agreement entered into by Seller that apply to the manufacture or commercialization of the Products and to which any of the descriptions set forth below apply (the Contracts required to be so listed, the “Material Contracts”):

(1) any Contract for capital expenditures in excess of \$50,000 individually, or \$200,000 in the aggregate;

(2) any Contract with an agent, customer or distributor that resulted or would reasonably be expected to result in sales of greater than \$50,000 per annum.

(3) any Contract with a vendor or supplier that resulted or would reasonably be expected to result in payments by Seller of greater than \$50,000 per annum;

(4) any lease or other Contract under which Seller, with respect to the Products, is a lessee of, or holds or operates, any machinery, equipment, vehicle or other tangible personal property owned by a third party that requires rental payments in excess of \$50,000 per annum;

(5) any mortgage, indenture, security agreement, pledge, note, loan agreement or guarantee in respect of indebtedness for borrowed money or any agreement that creates an Encumbrance (other than a Permitted Encumbrance) on any Product or Purchased Asset;

(6) any Contract that limits or purports to limit the ability of Seller to compete in any line of business or with any Person or in any geographic area or during any period of time;

(7) any Contract that is a license by Seller to a third party of Purchased Intellectual Property;

(8) any Contract related to the acquisition of a business or the equity of, or joint venture with, any other Entity;

(9) any Contract for the joint development of any product;

(10) any Contract for the sale of any of the Purchased Assets or for the grant to any Person of any option, right of first refusal or preferential or similar right to purchase any of the

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Purchased Assets, in each case, excluding acquisitions or dispositions of supplies, inventory, merchandise or products in the Ordinary Course of Business;

(11) any Contract with a Governmental Authority;

(12) any Contract for the distribution of any of the Products in any jurisdiction;

and

(13) any proposed arrangement of a type that, if entered into, would be a Contract described in any of (i) through (xii) above.

(2) Each Material Contract is, assuming the due execution and delivery of the counterparties thereto, valid and binding on Seller in accordance with its terms and is in full force and effect. None of Seller or any other party thereto is in breach of or default under (or, to Seller's Knowledge, is alleged to be in breach of or default under) in any material respect, or since June 1, 2020 has provided or received any written, or to Seller's Knowledge, oral notice of any intention to terminate, any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default by Seller or, to Seller's Knowledge, any other party thereto under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any material right or obligation or the loss of any material benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been made available to Purchaser.

4.10 Insurance. There are no insurance policies or fidelity bonds that are part of the Purchased Assets or which will continue to provide insurance for the Purchased Assets subsequent to the Closing Date.

4.11 Compliance with Laws

. Since June 1, 2020, Seller has been, and is now, in compliance in all material respects with all applicable Legal Requirements and Orders (including all applicable Environmental Laws and health, and safety Legal Requirements) with respect to the Products (including the manufacturing, sale and delivery of the Products) and Purchased Assets. Seller has in effect all approvals, clearances, authorizations, certificates, filings, franchises, licenses, notices, permits, clearances, exemptions and registrations of, with or from all Governmental Authorities (collectively, "Permits") that are required in all material respects for Seller's manufacture and commercialization of the Products. Schedule 4.11 contains a complete listing of all Permits required for the conduct of Seller's business of manufacturing and commercializing the Products as currently conducted. No violation, loss or expiration of any of such Permits is pending or, to Seller's Knowledge, threatened other than expiration in accordance with the terms thereof. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit. Since June 1, 2020, no notice, citation, summons or order has been issued to Seller, no complaint has been filed with Seller, no penalty has been assessed against Seller and to Seller's Knowledge no review or investigation, is pending or threatened, by any Governmental Authority with respect to any alleged failure by Seller to have any such Permit.

4.12 Governmental Approvals; Product Liability.

(1) Since June 1, 2020, (i) there has not been conducted or requested in writing, nor, to Seller's Knowledge, threatened by any Governmental Authority, any Recall in respect of any Product and (ii) no report of any death, injury, material defect or malfunction involving any Product has been filed or is required to have been filed with any Regulatory Authority under any United States or foreign Legal Requirement. There are no pending, and since June 1, 2020, there have not been any, Proceedings or written

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threats thereof related to product liability involving any Products, and no such Proceedings or written threats have been settled, adjudicated or otherwise disposed of since June 1, 2020.

(2) As of the date hereof, there are no citations, decisions, adjudications or statements, in each case issued in writing by any Regulatory Authority and affecting the Products, and Seller is not subject to any Order, asserting that any Product is defective or unsafe in any material respect or fails in any material respect to meet any Legal Requirement. Seller is not under any duty to recall or correct any Product in the field. Seller, with respect to the Products, (i) has obtained all applicable Governmental Approvals required by any Regulatory Authority to develop, test, manufacture, market, store, distribute and sell each of the Products in compliance with applicable Legal Requirements, including without limitation all clearances under Federal Food, Drug, and Cosmetic Act § 510(k), and all approvals, authorizations, registrations, or clearances in any jurisdiction where the Seller currently conducts such activities with respect to each of the Products and (ii) has made all filings with, and given all notifications to, all Regulatory Authorities in all material respects as required by all applicable Legal Requirements, and all such filings, reports and notifications were complete and accurate on the date filed (or were corrected in or supplemented by a subsequent filing), in each case of clauses (i) and (ii), except as would not reasonably be expected to be, individually or in the aggregate, material to the Products or the Purchased Assets, or Purchaser's right or ability to promote, distribute, and sell any Product.

(3) There is no Proceeding pending or, to Seller's Knowledge, threatened in writing that would reasonably be expected to result in the suspension, termination, revocation, cancellation, material limitation or material impairment of any Governmental Approval or Permit, filing or notification, or any currently conducted Product research, development, testing, manufacturing, marketing, distribution or sales activities.

(4) Seller has made available to Purchaser accurate and complete copies of all of the Governmental Approvals and Permits, filings and notifications identified on Schedule 1.1(e), including all renewals thereof and all amendments thereto.

(5) Seller, and, to Seller's Knowledge, any officer, employee or agent of Seller, has not been excluded or threatened in writing by any Governmental Authority with exclusion from participation in any federal health care program or engaged in any conduct for which a person could be excluded from participating in any federal healthcare program under Section 1128 of the Social Security Act.

4.13 Proceedings and Orders. There is no Proceeding pending or, to Seller's Knowledge, threatened against Seller or any of its Affiliates with respect to the Purchased Assets, including, without limitation, the Products or the Assumed Liabilities. To Seller's Knowledge, no event has occurred that would reasonably be expected to serve as a basis for the commencement of any such Proceeding. Neither Seller nor any of its Affiliates is in default with respect to any Order related to the Products or the Purchased Assets. None of Seller's (with respect to the Products or Purchased Assets) properties, assets, operations or businesses, nor any of the Purchased Assets or Assumed Liabilities, is subject to any Order or any proposed Order. There are no Proceedings pending or threatened in writing relating to the Products, the Purchased Assets or the Assumed Liabilities. The foregoing sentences include, without limiting their generality, actions pending or threatened against Seller involving the employment (prior or present) of any of Seller's officers' or employees' use of any information or techniques related to the Products, Purchased Assets or the Assumed Liabilities allegedly proprietary to such officer or employee.

4.14 Title, Condition and Sufficiency of Assets.

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(1) Seller is the sole and exclusive owner of, and has good and valid title to, all Purchased Assets, free and clear of all Encumbrances, other than Permitted Encumbrances. The Seller is the sole and exclusive owner of all Governmental Approvals and Permits set forth on Schedule 1.1(e), and the Seller has not previously sold or transferred in any manner, in whole or in part, directly or indirectly, any of such Governmental Approvals.

(2) Each piece of machinery and equipment included in the Purchased Assets is in good operating condition and repair (subject to normal wear and tear) and is adequate and suitable in all material respects for its use in connection with the manufacture or commercialization of the Products, meets current industry standards and specifications, and is in compliance with all Legal Requirements.

(3) The Purchased Assets used in the manufacture and commercialization of the Products, together with (i) the administrative, back-office and professional services from accounting, audit, compliance, customs, legal, treasury, finance, tax, human resources, payroll, benefits, information technology, maintenance, insurance, logistics, marketing, sales, supply chain, customer service/allocation or other administrative groups, in each case that are currently provided by Seller, any of its Affiliates or any third party to the Products as well as to Seller or one or more of its Affiliates generally, (ii) the services from any employees of Seller or its Affiliates, (iii) the services to be provided by Seller and its Affiliates to Purchaser and its Affiliates pursuant to this Agreement, the Transition Services Agreement, the Contract Manufacturing Agreement and the other agreements contemplated hereby, (iv) the Shared Contracts and (v) any real property used in the manufacture and commercialization of the Products, and assuming all consents, permits and licenses have been obtained or transferred, constitute all of the assets used to manufacture and commercialize the Products in all material respects as operated during the twelve (12) months prior to the date hereof by Seller and its Affiliates.

4.15 Brokers. Other than UBS Securities LLC, Seller has not retained any broker or finder or incurred any Liabilities for any brokerage fees, commissions or finders fees with respect to this Agreement or the Transactions, and no broker, finder, investment banker or other Person is entitled to any fees or commissions in connection with the Transactions.

4.16 Trade Control Laws. Neither Seller (with respect to the Products), nor to Seller's Knowledge any of its officers, directors or employees, nor any Representative acting on behalf of Seller (with respect to the Products), is currently, or has been since June 1, 2020: (a) a Sanctioned Person, (b) organized or resident in a Sanctioned Country, (c) except as set forth on Schedule 4.16, engaged in any dealings or transactions, directly or indirectly, with any Sanctioned Person or in or with any Sanctioned Country, or (d) otherwise in violation of applicable Sanctions Laws, Export-Import Laws, or the anti-boycott Laws administered by the United States Department of Commerce, the United States Customs and Border Protection and the United States Department of Treasury's Office of Foreign Assets Control (collectively, "Trade Control Laws"). Since June 1, 2020, Seller has not (with respect to the Products) received from any Governmental Authority or, to Seller's Knowledge, any other Person any notice, inquiry, or internal or external allegation; made any voluntary or involuntary disclosure to a Governmental Authority; or conducted any internal investigation or audit, in each case concerning any actual or potential violation of any Trade Control Laws.

4.17 Anti-Corruption Laws. Since June 1, 2020, Seller has not (with respect to the Products), nor to Seller's Knowledge, any of its officers, directors or employees, nor any Representative acting on behalf of Seller (with respect to the Products), (a) has made any unlawful payment or given, offered, promised, or authorized or agreed to give, any money or anything of value, directly or indirectly, to any Governmental Authority or other Person in violation of any applicable Anti-Corruption Laws, (b) otherwise violated any applicable Anti-Corruption Laws, or (c) engaged in off-label, false or misleading promotion, advertising or marketing of medical devices. Since June 1, 2020, Seller (with respect to the Products) has

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not received from any Governmental Authority or, to Seller's Knowledge, any other Person, any notice, inquiry, or internal or external allegation; made any voluntary or involuntary disclosure to a Governmental Authority; or conducted any internal investigation or audit, in each case concerning any actual or potential violation of applicable Trade Control Laws or Anti-Corruption Laws.

4.18 Distributors, Customers and Suppliers. Schedule 4.18(a) sets forth a list of the names of the top ten (10) distributors of the Products, each by dollar value of sales to such distributors for the fiscal year ended December 31, 2022. Schedule 4.18(b) sets forth a list of the names of the top ten (10) customers of the Products, each by dollar value of sales to such customers for the fiscal year ended December 31, 2022. Schedule 4.18(c) sets forth a list of the names of the top ten (10) suppliers of the Products, each by dollar value of net purchases from such suppliers, for the fiscal year ended December 31, 2022. Seller has not received any written, or to Seller's Knowledge, oral notice (a) from any of the distributors listed on Schedule 4.18(a) that any such distributor intends to stop, materially decrease the rate of, or materially change the payment or price terms with respect to, distributing any products included in the Products, (b) from any of the customers listed on Schedule 4.18(b) that any such customer intends to stop, materially decrease the rate of, or materially change the payment or price terms with respect to, buying any products included in the Products, or (c) from any of the suppliers listed on Schedule 4.18(c) that any such supplier intends to stop, materially decrease the rate of, or materially change the payment or price terms with respect to, supplying products or services for the Products.

4.19 Intercompany Arrangements. Set forth on Schedule 4.19 is a true and complete list of all Contracts between or among Seller or its Affiliates with respect to the Products.

4.20 Product Warranties. Since June 1, 2020, each Product sold by Seller prior to the Closing has been manufactured, sold, and delivered in compliance with all express warranties set forth in any Contract to which such products are subject. Seller has furnished or made available to Purchaser complete and correct copies of the standard terms and conditions of sale for the Products (containing applicable guaranty, warranty and indemnity provisions). Except for the written warranties set forth in the agreements furnished or made available to Purchaser, there are no legally binding warranties (written or oral) granted by Seller with respect to any Product.

4.21 FDA and Regulatory Matters.

(1) Seller is in compliance in all material respects with all applicable Legal Requirements regarding registration, license and certification for each site at which a Product is manufactured, labeled, sold, or distributed. Since June 1, 2020, to the extent that any Product is exported from the United States, Seller has exported such Product in compliance in all material respects with applicable Legal Requirements. All design, development and manufacturing operations performed by or on behalf of Seller are being conducted in material compliance with the Quality Systems Regulations of the FDA (21 C.F.R. Part 820), Good Manufacturing Practices at 21 C.F.R. 210, 211, and, to the extent applicable to Seller, counterpart regulations in the European Union and all other countries where compliance is required. Seller is in material compliance with all applicable Legal Requirements applicable to the maintenance, compilation and filing of reports, including Medical Device Reports (as defined in 21 CFR Part 803), with regard to the Products. Since June 1, 2020, Seller has not received from the FDA or any other applicable Governmental Authority (i) any written notice contesting the pre-market clearance or approval of, the uses of or the labeling and promotion of any of the Products, or (ii) any notice of adverse findings, FDA Form 483s, notices of violations, warning letters, criminal proceeding notices under any Legal Requirement, or other similar communication from the FDA or other Governmental Authority alleging or asserting material noncompliance with any Legal Requirement.

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(2) All of the Seller's labeling or other promotional or informational material regarding coding or billing relating to any Product is accurate in all material respects, and the Seller has not caused any health care provider or other entity to submit any false claims under 31 U.S.C. §§ 3729-3733 or any similar Legal Requirement. The Seller's marketing practices regarding any Product are in compliance in all material respects with the federal open payments rules, 42 U.S.C. § 1320a-7h and 42 C.F.R Part 403, Subpart I, and any similar medical device marketing Legal Requirements or any other jurisdiction in which the Seller does business. Seller has not been excluded, suspended or debarred from participating in any federal health care program (as defined in 42 U.S.C. §1320a-7b(f)) or been subject to sanction pursuant to 42 U.S.C. §1320a-7a or 1320a-8 or been convicted of a crime described at 42 U.S.C. §1320a-7b. To Seller's Knowledge, no such exclusions are threatened.

4.22 Environmental, Health, and Safety Matters. Seller and its predecessors and Affiliates have complied with all applicable environmental, health, and safety Legal Requirements the failure of which to comply with would have a Material Adverse Effect or which could create any Encumbrance on the Purchased Assets. Without limiting the generality of the foregoing, Since June 1, 2020, Seller and its predecessors and Affiliates have obtained and complied in all material respects with all permits, certificates, licenses, filings, approvals, and other authorizations of any Governmental Authority that are required pursuant to any applicable, environmental, health, and safety Legal Requirements for Seller's manufacture and commercialization of the Products.

4.23 No Other Representations and Warranties. Except for the representations and warranties expressly set forth in this Article 4 as qualified by the Seller Disclosure Schedules, neither Seller nor any other Person has made any other representation or warranty, expressed or implied, as to Seller, its Affiliates, the Products, the Purchased Assets or the Assumed Liabilities.

## ARTICLE 5

### REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller as follows:

5.1 Organization and Good Standing. Purchaser is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Purchaser (a) is duly qualified to conduct business under the laws of each jurisdiction in which the nature of its business, the operation of its assets or the ownership or leasing of its properties requires such qualification; and (b) has full power and authority required to carry on its business as now being conducted, in each case except where the failure to be so qualified or to have such power and authority would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

5.2 Authority; Binding Nature of Agreements. Purchaser has all requisite corporate and other power and authority to execute and deliver this Agreement and all other Transaction Agreements to which it is a party and to carry out the provisions of this Agreement and the other Transaction Agreements.

(1) The execution, delivery and performance by Purchaser of this Agreement and the other Transaction Agreements have been duly and validly authorized and approved by all requisite action on the part of Purchaser. The execution, delivery and performance by Purchaser of this Agreement and the other Transaction Agreements does not require the approval of the shareholders of Purchaser.

(2) This Agreement has been duly and validly executed and delivered by Purchaser. Each of this Agreement and the other Transaction Agreements to which Purchaser is a party constitutes, or upon execution and delivery will (assuming due authorization, execution and delivery by Seller, as

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applicable) constitute, the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium and other similar laws and equitable principles related to or limiting creditors' rights generally and by general principles of equity.

5.3 No Conflicts; Required Consents. Neither the execution, delivery or performance of this Agreement nor any other Transaction Agreement by Purchaser nor the consummation of any of the Transactions will:

(1) conflict with, violate, result in any breach of or constitute a default under (with or without notice or lapse of time) (i) any of the provisions of the organizational documents of Purchaser; (ii) any resolution or corporate action of Purchaser; (iii) any of the terms or requirements of any Governmental Approval held by Purchaser or that otherwise relates to the Transactions; or (iv) any provision of any Contract binding upon Purchaser or require a Consent under any such Contract, other than such conflicts, violations, breaches or defaults that, alone or in the aggregate, would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect;

(2) (i) give any Governmental Authority or other Person the right to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which Purchaser or any of its assets is bound, (ii) violate or conflict with any provision of, or result in the breach of, any Legal Requirement applicable to Purchaser or require any Consent of any Person; or (iii) constitute a default under or give any Person the right to declare a default of, exercise any remedy under, accelerate the performance of, cancel, terminate, modify or receive any payment under any Contract binding upon Purchaser; or

(3) require Purchaser to make or deliver any filing or notice to a Governmental Authority, other than reporting under the Securities Exchange Act of 1934, as amended.

5.4 Brokers. Other than Piper Sandler & Co., Purchaser has not retained any broker or finder or incurred any Liabilities for any brokerage fees, commissions or finder's fees with respect to this Agreement or the Transactions for which Seller or any of its Affiliates is liable.

5.5 Proceedings and Orders. There is no material Proceeding or Order pending or, to the knowledge of Purchaser, threatened in writing against Purchaser or any of its Affiliates that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

5.6 R&W Insurance Policy. Purchaser has as of the date of this Agreement obtained the R&W Insurance Policy, which requires the R&W Insurance Company to waive any right of subrogation against Seller except in cases of Fraud by Seller in connection with the representations and warranties set forth in Article 4.

5.7 Condition of the Business. Purchaser acknowledges that it is a sophisticated purchaser and, together with its Affiliates and Representatives, has made its own investigation, review and analysis regarding the Products, the other Purchased Assets, the Assumed Liabilities and the Transactions. Purchaser is purchasing the Purchased Assets based on the results of its investigation, review and analysis and on the representations and warranties of Seller specifically set forth in Article 4. Any claims Purchaser may have for breach of representation or warranty in connection with this Agreement shall be based solely on the representations and warranties of Seller set forth in Article 4 hereof as qualified by the Seller Disclosure Schedules. Purchaser acknowledges that none of Seller, its Affiliates or Representatives is making, and Purchaser is not relying on, any statement, representation or warranty, oral or written, express or implied, except to the extent expressly set forth in Article 4 as qualified by the Seller Disclosure Schedules, including without limitation any projections, forecasts, estimates or budgets made available to

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Purchaser, its Affiliates or any of their respective Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of the business relating to the Products (including the reasonableness of the assumptions underlying any of the foregoing), whether or not included in any management presentation or in any other information made available to Purchaser, its Affiliates or any of their respective Representatives or any other Person and none of Seller or any of its Affiliates or Representatives shall have any liability to Purchaser or any of its Affiliates or Representatives pursuant to this Agreement in connection with the use of, any information, documents or materials made available to Purchaser or its Affiliates or Representatives, whether orally or in writing, in any confidential information memoranda, virtual data rooms, management presentations, projections, due diligence discussions, question and answer responses (whether written or oral), or in any other form in expectation of the Transactions, except to the extent expressly set forth in Article 4 hereof as qualified by the Seller Disclosure Schedules. Purchaser acknowledges that, should the Closing occur, Purchaser shall acquire the business relating to the Products, the Purchased Assets and the Assumed Liabilities without any representation or warranty as to merchantability or fitness thereof for any particular purpose or other warranties arising under the Uniform Commercial Code (or similar foreign Laws), except as expressly set forth in Article 4.

## ARTICLE 6

[RESERVED]

## ARTICLE 7

### POST-CLOSING COVENANTS

7.1 Cooperation. After the Closing, upon the request of Purchaser, Seller shall, and shall cause its controlled Affiliates to, use commercially reasonable efforts to (i) execute and deliver any and all further materials, documents and instruments of conveyance, transfer or assignment as reasonably requested by Purchaser to effect, record or verify the transfer to, and vesting in Purchaser of, Seller's right, title and interest in and to the Purchased Assets in accordance with the terms of this Agreement, (ii) cooperate with Purchaser to enforce the terms of any Assigned Contracts, including terms relating to confidentiality and Intellectual Property Rights, and to transfer all Governmental Approvals (to the extent transferable) to Purchaser, and (iii) cooperate with reasonable requests from Purchaser to ensure an orderly transfer of customer relationships involving the Products to Purchaser. After the Closing, Seller shall, and shall cause its controlled Affiliates to, promptly deliver to Purchaser (w) any mail, packages, orders, inquiries and other communications addressed to Seller and relating to the Products and (x) any property that Seller receives and that properly belongs to Purchaser or any of its Affiliates. After the Closing, Purchaser shall, and shall cause its controlled Affiliates to, promptly deliver to Seller (y) any mail, packages, orders, inquiries and other communications addressed to a Seller or any of its Affiliates and relating to a business of Seller or its Affiliates other than the Products and (z) any property that Purchaser or such Affiliate receives and that properly belongs to Seller or any of its Affiliates. The provisions of this Section 7.1 are not intended to, and shall not be deemed to, constitute an authorization by a party to permit another party to accept service of process on its behalf, and no party is or shall be deemed to be the agent of another party for service of process purposes. Promptly upon the Closing, the parties shall reasonably cooperate to facilitate any required updates to an FDA registration and medical device listing to de-list the Seller as the manufacturer or distributor of any of the Products, and shall cooperate with Purchaser to facilitate Purchaser updating its FDA registration and listing to list Purchaser as the manufacturer or distributor of each of the Products.

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(1) In the event that any Excluded Asset or Excluded Liability is discovered by Purchaser or any of its Affiliates or identified to Purchaser in writing by Seller at any time after the Closing Date, possession or ownership of which or responsibility for which previously has been transferred to, or assumed by, Purchaser or any of its Affiliates in connection with the Transactions (i) Purchaser shall return or transfer and convey or assign (without further consideration) to Seller, and Seller shall accept or assume, as applicable, such Excluded Asset or Excluded Liability; (ii) Seller shall assume (without further consideration) any Liabilities associated with such Excluded Assets or Excluded Liabilities; and (iii) Purchaser and Seller shall execute such documents or instruments of conveyance or assumption and take such further acts which are reasonably necessary to effect the transfer or assignment of such Excluded Asset or Excluded Liability back to, or assumption of such Excluded Liability by, Seller.

(2) In the event that any Purchased Asset or Assumed Liability is discovered by Seller or any of its Affiliates or identified to Seller in writing by Purchaser at any time after the Closing Date, possession or ownership of which has not been transferred to, or assumed by, either Purchaser or its Affiliates at such time, (i) Seller shall promptly take such steps as may be required to transfer and convey or assign, or cause to be transferred or assigned (without further consideration) to Purchaser, and Purchaser shall accept or assume, as applicable, such Purchased Asset or Assumed Liability; (ii) Purchaser shall assume (without further consideration) any Liabilities associated with such Purchased Assets or Assumed Liabilities; and (iii) Purchaser and Seller shall execute such documents or instruments of conveyance or assumption and take such further acts which are reasonably necessary to effect the transfer or assignment of such Purchased Asset or Assumed Liability by Purchaser.

7.3 Records and Documents. For a period of seven (7) years after the Closing, at the other party's request, each party shall provide the other party and its Representatives with access to and the right to make copies (at the sole expense of the requesting party) of those records and documents related to the Products (possession of which is retained by Seller or transferred to Purchaser, as applicable), as may be necessary in connection with any third-party litigation, the preparation of financial statements, any accounting or Tax purposes, or the conduct of any audit or investigation by a Governmental Authority (excluding claims under this Agreement in which case the parties shall comply with Article 9 and Article 11, as applicable, instead of this Section 7.3); *provided, however*, that no party shall be required to violate any obligation of confidentiality to which such party or any of its Affiliates is subject or to waive any privilege which any of them may possess in discharging its obligations pursuant to this Section 7.3; *provided, further, however*, that in any such case, each party shall, and shall cause its controlled Affiliates to, reasonably cooperate with the requesting party to implement alternative arrangements to permit the access contemplated hereby. The foregoing will not require any party to permit any inspection, or to disclose any information, that in its reasonable judgment, upon the advice of outside counsel, is commercially sensitive or reasonably likely to result in the waiver of any attorney-client privilege. If at any time after the Closing, Seller becomes aware that it or any of its controlled Affiliates has in its or their possession any business records, financial books and records, minute books, sales order files, purchase order files, engineering order files, warranty and repair files, supplier lists, customer lists, dealer, representative and distributor lists, studies, surveys, analyses, strategies, plans, forms, designs, diagrams, drawings, specifications, technical data, information relating to any Governmental Approvals, or production and quality control records and formulations, in each case, to the extent related to the Products or the Purchased Assets (collectively "Business Records"), Seller shall promptly forward such Business Records to Purchaser. If, following the Closing, Purchaser contacts Seller to inquire as to whether any specific Business Records are in the possession of Seller or any of its Affiliates, Seller will use commercially reasonable efforts to determine whether such Business Records are in its possession or the possession of any of its controlled Affiliates and, to the extent Seller locates any such Business Records, Seller will promptly forward such Business Records to Purchaser. If any such Business Records contain

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any information of Seller or any of its Subsidiaries not related to the Products or the other Purchased Assets, Seller may elect to redact those portions of such Business Records to the extent pertaining to such other information or, in Seller's sole and absolute discretion, Seller may deliver unredacted copies of such Business Records containing information not related to the Products or the other Purchased Assets but such information shall be subject to the confidentiality provisions of this Agreement, shall remain the property of Seller, and Purchaser shall have no rights with respect to such information.

7.4 Confidentiality. Except as required by law or administrative process and except for information which is now or hereafter becomes public other than as a result of a breach of this Section 7.4, without limitation to any other rights or obligations under the Confidentiality Agreement, for a period of five (5) years after the Closing Date, except that with regard to each Trade Secret for which the relevant period will be as long as such Trade Secret remains otherwise protectable as a trade secret, Seller shall not disclose to any other Person any Confidential Information used in or relating to the Products, the Purchased Assets, Purchaser or Purchaser's business, whether in written, oral or other form; *provided* that nothing in this Section 7.4 shall in any way limit the disclosure of any such information to the Representatives of Seller in order to assist Seller with respect to the Transactions and the Transaction Agreements.

7.5 Non-Competition; Non-Solicitation.

(1) For a period of five (5) years commencing on the Closing Date (the "**Restricted Period**"), Seller shall not, and shall not permit any of its Subsidiaries to, directly or indirectly: (i) engage in or assist others in engaging in the Restricted Business anywhere in the world; or (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business anywhere in the world in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant; *provided*, that nothing in this Section 7.5(a) shall preclude Seller or any of its Affiliates from:

(1) owning, directly or indirectly, securities of any Person if Seller or its Affiliate is not a controlling Person of, or a member of a group which controls, such Person and does not, directly or indirectly, own 5% or more of any class of securities of such Person;

(2) entering into and consummating an agreement with any Person with respect to a merger, share exchange or other business combination transaction with respect to Seller immediately following which the beneficial owners of the voting capital stock of Seller immediately prior to the consummation of such transaction do not, directly or indirectly, beneficially own a majority of the combined voting power of the outstanding voting capital stock entitled to vote generally in the election of directors (or Persons performing a similar function) of the entity resulting from such transaction, and in the event of such transaction, the restrictions contained in this Section 7.5(a) shall not apply to such acquirer or its Affiliates; or

(3) acquiring any entity, assets or business that is engaged in a Restricted Business if (x) the revenues from the Restricted Business constitute less than twenty-five percent (25%) of the total revenues generated by such entity, assets or business or, (y) if such revenues constitute more than twenty-five percent (25%) of the total revenues generated by such entity, assets or business, Seller or its Affiliate, as applicable, divest the portion of such entity, assets or business that is engaged in a Restricted Business within twelve (12) months following the acquisition thereof; *provided*, that for purposes of this clause (y), Seller shall first offer to sell such divested portion to Purchaser and, if Purchaser elects to make an offer for the divested portion, which offer Seller agrees to consider in good faith, but such offer is not accepted by Seller, Seller shall divest such

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portion solely for consideration that is equal or more favorable to Seller, in the aggregate, than as set forth in such rejected Purchaser offer.

(2) Without limiting the generality of the provisions of Section 7.5(a), Seller hereby agrees that during the Restricted Period, Seller will not, and will cause each of its Subsidiaries not to, directly or indirectly, through another Person, as employee, agent, consultant, director, equity holder, manager, co-partner or in any other capacity without Purchaser's prior written consent, solicit any clients, purchasers or suppliers of Purchaser in any manner designed to take business away from Purchaser with respect to the Restricted Business. For the avoidance of doubt, in no event shall this Section 7.5(b) restrict any Seller communications made in the Ordinary Course of Business or communications relating to any business of Seller or its Affiliates as of the date of this Agreement or any business Seller may have in the future to the extent not related to the Products.

(3) Seller acknowledges and agrees that the territorial, time and scope limitations set forth in this Section 7.5 are reasonable and are properly required to protect Purchaser's substantial investment hereunder and for the protection of Purchaser's legitimate interest in client relationships, goodwill and trade secrets related to the Products and Purchased Assets, and that such limitations would not impose any undue burden upon Seller. In the event that any such territorial, time or scope limitation is deemed to be invalid, prohibited or unenforceable by a court of competent jurisdiction, Seller agrees, and Seller submits, to the reduction of any or all of said territorial, time or scope limitations to such an area, period or scope as said court will deem reasonable or enforceable under the circumstances. If such partial enforcement is not possible in such jurisdiction, the provision will be deemed severed as to such jurisdiction, and the remaining provisions of this Agreement will remain in full force and effect.

(4) Seller acknowledges and agrees that in the event of Seller's, or any of its Affiliate's actual or threatened breach of any of the provisions contained in this Section 7.5, Purchaser will have no adequate remedy at law. Seller accordingly agrees that in the event of any actual or threatened breach of any of the provisions contained in this Section 7.5, Purchaser will be entitled to injunctive relief, without the need of posting bond or proving actual damages, as may be deemed necessary or appropriate by a court of competent jurisdiction.

(5) Purchaser and Seller each further covenant and agree that during the Restricted Period, neither party will make any disparaging remarks (whether or not such party deems such comments to be true and accurate) about the other party or its officers, directors or employees and each of Purchaser and Seller shall refrain from saying or doing anything that reasonably could hold the other party or its officers, directors or employees up to disrepute in the eyes of any other person or entity. This subsection (e) does not, in any way, (i) restrict or impede Purchaser or Seller from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency; *provided* that such compliance does not exceed that required by the law, regulation or order or (ii) apply to Purchaser's or Seller's exercise of its rights under this Agreement or the Transaction Agreements.

7.6 Product Recalls. Subject to the terms of the Transaction Agreements, from and after the Closing Date, Purchaser shall have the sole right to conduct all voluntary and involuntary recalls, corrections, market withdrawals, market refunds or replacements, "dear doctor" letters, investigator notices, stock recoveries and other field actions or notices relating to an alleged lack of safety, efficacy or regulatory compliance ("Recalls") of Products (whether Products were made before or after Closing), including Recalls required by any Governmental Authority and voluntary Recalls of Products. Without limitation of, and subject to, Purchaser's rights under the Contract Manufacturing Agreement, any Damages or other Liabilities arising with respect to or related to any Recall of any units of Product made on or after the Closing Date (including Products purchased under the Contract Manufacturing Agreement) shall be

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Assumed Liabilities. Upon the reasonable request of Purchaser, Seller shall cooperate and assist, and shall cause its Affiliates to cooperate and assist, Purchaser in implementing and effecting a Recall with respect to Products.

7.7 Licensed Intellectual Property. Schedule 7.7(a) sets forth a list of the Seller Licensed Intellectual Property and Schedule 7.7(b) sets forth a list of the Purchaser Licensed Intellectual Property. Purchaser will have the right to utilize the Seller Licensed Intellectual Property, and Seller will have the right to utilize the Purchaser Licensed Intellectual Property, according to the terms of the Intellectual Property License Agreement following the Closing.

7.8 Post-Closing Proceedings; Privilege Matters.

(1) From and after the Closing, Seller, on the one hand, and Purchaser, on the other hand, shall use commercially reasonable efforts to, upon the reasonable written request of the other party, cooperate in connection with any Proceedings in which the requesting party may from time to time be involved relating to the Products prior to or after the Closing. Any such cooperation shall be provided during normal business hours at a location and in a manner reasonably calculated to minimize disruption to such requested party or Persons. Seller and Purchaser agree to reimburse each other for reasonable out-of-pocket expenses, including reasonable attorneys' fees, but excluding officers' or other employees' salaries, incurred by the other in connection with providing cooperation pursuant to this Section 7.8(a).

(2) From and after the Closing, except to the extent required by Legal Requirement or Governmental Authority, no party shall intentionally disclose to any third party, and no party shall permit any of its respective controlled Affiliates to intentionally disclose to any third party, any documents or other information that, if disclosed, would cause a waiver of any privilege that can be asserted under any Legal Requirement by the other party (i) if such waiver would reasonably be expected to have an adverse effect on the other party or any of its Affiliates, (ii) with respect to (A) the Products, the Purchased Assets or the Assumed Liabilities or (B) the process relating to the sale of the Products.

7.9 Customer Inquiries. During the Restricted Period, Seller shall notify Purchaser of each inquiry that Seller receives relating to the Products from a customer of a Product or any other Person that submits a written indication of interest or purchase order related to Products.

7.10 Misplaced Mail and Communications. After the Closing Date, each party to this Agreement and its Affiliates may receive mail, packages, and other communications (including electronic communications) properly belonging to the other party (or the other party's Affiliates). Accordingly, at all times after the Closing Date, each party authorizes the other party and its Affiliates to receive and open all mail, packages and other communications received by it and not unambiguously intended for the other party (or its Affiliates) or any of the other party's (or its Affiliates') officers or directors, and to retain the same to the extent that they relate to the Products (in the case of receipt by Purchaser or its Affiliates) or Seller's other businesses (in the case of receipt by Seller or its Affiliates), or to the extent that they do not relate to the Products (in the case of receipt by the Purchaser or its Affiliates) or Seller's other businesses (in the case of receipt by Seller or its Affiliates), the receiving party shall promptly after becoming aware thereof refer, forward or otherwise deliver such mail, packages, or other communications (or, in case the same relate to both the Products and Seller's other businesses, copies thereof) to the other party. The provisions of this Section 7.10 are not intended to, and shall not be deemed to, constitute an authorization by either party to permit the other party to accept service of process on its behalf and neither party is or shall be deemed to be the agent of the other for service of process purposes.

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## ARTICLE 8

### CONDITIONS TO CLOSING

8.1 Conditions to the Obligations of Each Party to Close. The obligations of each party to consummate the Transactions shall be subject to the satisfaction, on or prior to the Closing Date, of the condition, which may be waived by the parties in writing, that no Proceeding shall have been commenced by a Governmental Authority against Seller or Purchaser, which would prevent the Closing, and that no injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any transaction contemplated by this Agreement.

## ARTICLE 9

### TAX MATTERS

#### 9.1 Purchase Price Allocation.

(1) No later than ninety (90) days after the date hereof, Purchaser shall provide Seller with a schedule allocating the Purchase Price (plus the Assumed Liabilities and any other Liabilities deemed assumed by Purchaser for United States federal income Tax purposes) among the Purchased Assets in accordance with Section 1060 of the Code, the Treasury Regulations promulgated thereunder, and any other applicable Tax laws that the Parties must satisfy with respect to an allocation of the Purchase Price (the "Purchase Price Allocation"). If Seller provides no comments with respect to the Purchase Price Allocation by written notice to Purchaser within thirty (30) days after receipt by Seller of the Purchase Price Allocation, then the Purchase Price Allocation shall be deemed final, binding and conclusive for all purposes of this Agreement and with respect to any Tax filings made in connection with the actions and transactions contemplated by this Agreement. If Seller provides any comments with respect to the Purchase Price Allocation by written notice to Purchaser within thirty (30) days after receipt by Seller of the Purchase Price Allocation, and sets forth in such written notice the disputed item or items and the basis for its objection in reasonable detail, then Seller and Purchaser shall negotiate in good faith to resolve any such dispute for a period of fifteen (15) days thereafter. If, within fifteen (15) days of Purchaser's receipt of a valid written notice of objection to the Purchase Price Allocation, Purchaser and Seller have not reached an agreement regarding the disputed item or items specified in such written notice, Purchaser and Seller shall submit (at the expiration of such fifteen (15) day period) all disputed items for resolution to an independent accountant. The independent accountant shall deliver to Purchaser and Seller a written determination of any disputed item within twenty (20) days of submission of the dispute to the independent accountant, which determination shall be final, binding and conclusive on the parties hereto. The fees and expenses of the independent accountant will be shared equally by Seller and Purchaser.

(2) Seller and Purchaser shall report all Taxes and file all Tax Returns (including amended Tax Returns and claims for refund) consistent with the Purchase Price Allocation (as appropriately adjusted), and shall take no position inconsistent therewith (including in any audits or examinations by any Tax Authority), unless, and then only to the extent, required by a Final Determination. Seller and Purchaser (or any of their respective Affiliates) shall exchange completed and executed forms required by applicable law with respect to the allocation (including IRS Form 8594) at least thirty (30) days prior to the due date for filing such forms and shall cooperate in the filing of any such forms, including any amendments to such forms required as a result of any adjustment to the Purchase Price pursuant to this Agreement.

9.2 Transfer Taxes. Except as provided in Section 9.3 below, Seller shall be responsible for all Transfer Taxes incurred in connection with this Agreement and the transactions contemplated hereby. The applicable Transfer Taxes shall be paid when due. All Tax Returns and other documentation with

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respect to all Transfer Taxes shall be timely filed by Seller. Seller and Purchaser shall cooperate to facilitate Seller in filing all necessary documents (including all Tax Returns) with respect to all such Transfer Taxes in a timely manner.

9.3 Property Taxes. In the case of any Property Taxes on the Purchased Assets for any Straddle Period, the Taxes of Seller and Purchaser shall be allocated between the Pre-Closing Tax Period, which shall be for Seller's account, and the Post-Closing Tax Period, which shall be for Purchaser's account, as follows: (a) Taxes attributable to the Pre-Closing Tax Period shall equal the Property Taxes for such Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of days in the Straddle Period, and (b) Taxes attributable to the Post-Closing Tax Period shall equal the Property Taxes for such Straddle Period multiplied by a fraction, the numerator of which is the number of days during the Straddle Period that are in the Post-Closing Tax Period and the denominator of which is the number of days in the Straddle Period. The party required by applicable law to pay to the Tax Authority any such Property Taxes for a Straddle Period and to file any related Tax Return (the "Paying Party") shall provide the other party (the "Non-Paying Party") a statement setting forth the Non-Paying Party's share of such Taxes for a Straddle Period as determined pursuant to this Agreement, together with such supporting evidence as is reasonably necessary to calculate such amount, and the Non-Paying Party shall reimburse the Paying Party its share of such Taxes, not later than five (5) Business Days before such Taxes are required to be paid. The Paying Party shall furnish the Non-Paying Party a copy of any such Tax Return and a copy of a receipt showing payment of any such Taxes to the Tax Authority.

9.4 Tax Contests. Purchaser shall promptly notify Seller in writing upon receipt by Purchaser or any of its Affiliates of notice of any pending or threatened Tax audits, examinations or assessments which may materially affect the amount of any Tax which is, in whole or in part, an Excluded Liability; *provided*, that Purchaser's failure to provide such timely notice shall not negate Purchaser's right to indemnity for such Taxes unless it impairs Seller's legal right to contest such Taxes. Notwithstanding anything to the contrary in Section 11.4, Seller shall have the sole right to control the contest and resolution of any Tax audit, examination, assessment or other administrative or court proceeding relating to (each a "Tax Contest") any Tax which is, in whole or in part, an Excluded Liability, and in each case to employ counsel of its choice at its expense, *provided*, that, if the resolution of such Tax Contest could increase the Tax liability of, or reduce any Tax benefit available to, Purchaser or any of its Affiliates for any Post-Closing Tax Period, Seller shall not settle, discharge, compromise, or otherwise dispose of such Tax Contest if such disposition would result in, or otherwise involve, shifting any receipts, revenues, income, or profits, from a Pre-Closing Tax Period to a Post-Closing Tax Period or otherwise would reasonably be expected to have a material adverse consequence to Purchaser or any of its Affiliates without obtaining the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed. Neither Purchaser nor any of its Affiliates may settle any Tax Claim relating, in whole or in part, to any Tax which is an Excluded Liability without the prior written consent of Seller, which consent may be withheld in the sole discretion of Seller. Each of Purchaser and Seller shall, or shall cause their respective Affiliates to, furnish to each other copies of all correspondence received from any Tax Authority in connection with any Tax Contest or information request with respect to any taxable period for which the other party or its Affiliates may have Liability under this Agreement.

9.5 Tax Cooperation. After the Closing, each of Purchaser and Seller shall furnish, and cause their respective controlled Affiliates to furnish, to each other, upon request, as promptly as practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the preparation or filing of all Tax Returns, the making of any election related to Taxes, the preparation for any audit by or dispute with any Tax Authority and the prosecution or defense of any claim, suit or proceeding relating to any Tax Return. Each of Purchaser and Seller shall provide, or cause their respective controlled Affiliates to provide, timely notice to each other in writing of any pending or threatened Tax audit, examination,

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assessment or other administrative or court proceeding with respect to the Purchased Assets for any taxable period for which the other party may have Liability under this Agreement.

9.6 Tax Priority Provision. To the extent this Article 9 conflicts with the provisions of any other Article in this Agreement, this Article 9 shall govern.

## ARTICLE 10

[RESERVED]

## ARTICLE 11

### INDEMNIFICATION

11.1 Indemnification by Seller. Subject to the limitations set forth in this Article 11, from and after the Closing, Seller shall indemnify, defend, compensate, reimburse and hold harmless Purchaser, its Subsidiaries, and their respective officers, directors, agents, employees and Affiliates (collectively, the "Purchaser Indemnified Persons") from and against any and all Damages, including reasonable attorneys' fees (collectively, "Purchaser Damages"), from third party claims arising out of, relating to or resulting from (a) any breach of a covenant of Seller contained in this Agreement, or (b) any Excluded Liability.

11.2 Indemnification by Purchaser. Subject to the limitations set forth in this Article 11, from and after the Closing, Purchaser shall indemnify, defend, compensate, reimburse, and hold harmless Seller, its Subsidiaries, and their respective officers, directors, agents, employees and Affiliates (collectively, the "Seller Indemnified Persons") from and against any and all Damages, including reasonable attorneys' fees (collectively, "Seller Damages"), from third party claims arising out of, relating to or resulting from (a) any breach of a covenant of Purchaser contained in this Agreement, (b) any Assumed Liability; and (c) the possession, ownership, use, operation and management of the Purchased Assets or the Products by Purchaser (or its Affiliates) from and after the Closing.

11.3 [Reserved]

11.4 Procedures for Indemnification.

(1) Promptly after receipt by a party entitled to indemnification under Sections 11.1 or 11.2 or any other provision of this Agreement (the "Indemnitee") of written notice of the assertion or the commencement of any Proceeding against any Indemnitee by a third party with respect to any matter referred to in Sections 11.1 or 11.2, the Indemnitee shall give written notice describing such claim or Proceeding in reasonable detail in light of the circumstances then known to the Indemnitee to the party obligated to indemnify Indemnitee (the "Indemnitor"), *provided, however*, that failure of the Indemnitee to give such written notice to Indemnitor as provided herein shall not relieve the Indemnitor of its obligations hereunder except to the extent that such failure has a prejudicial effect on the defenses or other rights available to the Indemnitor with respect to such claim. In connection with any such Proceeding, the Indemnitor shall be entitled to assume the defense thereof and shall have the sole power to direct and control such defense with counsel selected by the Indemnitor; *provided, however*, that the Indemnitor shall not have the right to assume or control the defense of any Proceeding if at any time (i) the Indemnitee shall have one or more legal or equitable defenses available to it which are different from or in addition to those available to the Indemnitor, and, in the reasonable opinion of the Indemnitee, counsel for the Indemnitor could not adequately represent the interests of the Indemnitee because such interests could be in conflict with those of the Indemnitor; (ii) the claim involves any criminal proceeding against an Indemnitee, (iii) the claim seeks an injunction, equitable relief or other non-monetary relief against any Indemnitee, or (iv) the

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Indemnitor shall not have assumed the defense of the Proceeding within twenty (20) days of notice of such Proceeding.

(2) If the Indemnitor shall assume the defense of any Proceeding, the Indemnitee shall be entitled to participate in any Proceeding at its expense, and the Indemnitor shall not settle such Proceeding unless (i) the settlement shall include as an unconditional term thereof the giving by the claimant or the plaintiff of a full and unconditional release of the Indemnitee from all liability with respect to the matters that are subject to such Proceeding, the settlement does not contain any sanction or restriction upon the conduct of any business by the Indemnitee or its Affiliates and the settlement does not include any admission of wrongdoing or misconduct by any Indemnitee or its Affiliate, or (ii) the settlement otherwise shall have been approved by the Indemnitee, such approval not to be unreasonably conditioned, withheld or delayed. The Indemnitor shall afford the Indemnitee the opportunity to participate in, though counsel chosen by the Indemnitee, but not control, any defense or settlement of any Proceeding controlled by the Indemnitor pursuant to Section 11.4.

(3) If the Indemnitor fails to notify the Indemnitee within twenty (20) days after receipt of notice of such Proceeding pursuant to Section 11.4(a) that the Indemnitor elects to assume the defense of the Proceeding, or to the extent that the Indemnitor elects not to assume the defense or is not entitled to assume or control the defense in accordance with this Section 11.4, then the Indemnitee shall have the right to assume and control the defense of the Proceeding and shall be reimbursed for its reasonable costs and expenses (including any attorney's fees) incurred in connection therewith. If the Indemnitee assumes its own defense of a Proceeding, the Indemnitee shall keep the Indemnitor reasonably informed as to the status of, and any material developments related to, the Proceeding, provide to the Indemnitor any documentation or information reasonably requested by the Indemnitor relating to such Proceeding, and shall consult with the Indemnitor, and consider in good faith the Indemnitor's views, with respect to the defense strategy and budget for such Proceeding. The Indemnitee shall not, without the written consent of the Indemnitor (which written consent shall not be unreasonably withheld, delayed or conditioned), pay, compromise or settle any such Proceeding.

#### 11.5 Limits on Indemnification; Payment of Indemnifiable Damages.

(1) All representations and warranties contained in this Agreement and all claims with respect thereto shall terminate at and shall not survive the Closing; *provided, however*, that such termination shall not effect Purchaser's ability to make any claim under the R&W Insurance Policy. The Purchaser Indemnified Persons' remedy for breaches of representations and warranties by Seller shall be satisfied solely from the R&W Insurance Policy and not in any event satisfied by or recoverable from Seller, except in the case of Fraud with respect to the representations and warranties set forth in Article 4; *provided, however*, that Seller shall reimburse Purchaser for an amount equal to one-half of the R&W Policy Retention Amount to the extent required pursuant to Section 11.9. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, PURCHASER ACKNOWLEDGES AND AGREES, ON BEHALF OF ITSELF AND EACH OF ITS AFFILIATES AND OTHER PURCHASER INDEMNIFIED PERSONS, THAT NEITHER SELLER, NOR ANY OF ITS AFFILIATES SHALL HAVE ANY DIRECT OR INDIRECT LIABILITY (DERIVATIVELY OR OTHERWISE) WITH RESPECT TO ANY BREACH OR INACCURACY OF ANY REPRESENTATION OR WARRANTY UNDER THIS AGREEMENT, EXCEPT IN THE CASE OF FRAUD WITH RESPECT TO THE REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 4 AND SELLER'S OBLIGATION TO REIMBURSE PURCHASER FOR AN AMOUNT EQUAL TO ONE-HALF OF THE R&W POLICY RETENTION AMOUNT TO THE EXTENT REQUIRED PURSUANT TO SECTION 11.9. PURCHASER FURTHER ACKNOWLEDGES AND AGREES, ON BEHALF OF ITSELF AND EACH OF ITS AFFILIATES AND OTHER PURCHASER INDEMNIFIED PERSONS, THAT FOLLOWING THE CLOSING PURCHASER'S ONLY RECOURSE IN THE EVENT OF ANY

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BREACH OR INACCURACY OF ANY REPRESENTATION OR WARRANTY SHALL BE TO FILE A CLAIM UNDER THE R&W INSURANCE POLICY, EXCEPT IN THE CASE OF FRAUD WITH RESPECT TO THE REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 4.

(2) In the event a state of facts exists that would allow a Purchaser Indemnified Person to seek recovery under either the R&W Insurance Policy or Section 11.1, such Purchaser Indemnified Person must first seek recovery of such Damages under the R&W Insurance Policy, whether or not there is any retention amount due.

(3) In the case of Purchaser Damages pursuant to Section 11.1 or Seller Damages pursuant to Section 11.2(a) and Section 11.2(b), the amount of indemnification payments to which an Indemnitee shall be entitled under this Article 11 shall be made within five (5) Business Days after the date: (a) the amount of such payments are determined by written agreement between the Indemnitee and the Indemnitor; or (b) both such amount and the Indemnitor's obligation to pay such amount have been determined by a final Order of any court of competent jurisdiction. The Order of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined. Any indemnification of the Purchaser Indemnified Parties pursuant to this Article 11 shall be effected by wire transfer of immediately available funds from Seller to an account designated by Purchaser, and any indemnification of the Seller Indemnified Parties pursuant to this Article 11 shall be effected by wire transfer of immediately available funds to an account designated by Seller.

11.6 Remedies Exclusive. With the exception of the rights of the parties under Section 12.15 and any claims of Fraud with respect to the representations and warranties set forth in Article 4 and Article 5 which are proven and upon which a judgment entered in the involved proceeding shall be expressly based, Seller and Purchaser expressly agree that from and after the Closing the provisions of this Article 11 shall be the sole and exclusive remedy for all claims of breach or indemnification pursuant to this Agreement; *provided, however*, that the foregoing shall not limit any rights or remedies and for all claims pursuant to the other Transaction Agreements.

11.7 Adjustment to Damages.

(1) The amount of any Damages for which indemnification is provided under Section 11.1 or Section 11.2 shall be net of (i) any amounts actually recovered by the Indemnitee pursuant to any indemnification by, or indemnification agreement with, any third party that is not an Affiliate of the Indemnitor, (ii) any insurance proceeds or other cash receipts or sources of reimbursement received from any third party that is not an Affiliate of such Indemnitor as an offset against such Damages (each third party that is not an Affiliate of such Indemnitor referred to in clauses (i) and (ii), a "Collateral Source") and (iii) any Tax benefit available to such Indemnitee or its Affiliates that is attributable to such Damages. If the amount to be netted hereunder in connection with a Collateral Source from any payment required under Section 11.1 or Section 11.2 is received after payment by the Indemnitor of any amount otherwise required to be paid to an Indemnitee pursuant to this Article 11, the Indemnitee shall repay to the Indemnitor, promptly after such receipt, any amount that the Indemnitor would not have had to pay pursuant to this Article 11 had such receipt been made at or prior to the time of such indemnification payment, and any excess recovery from a Collateral Source shall be applied to reduce any future payments to be made by the Indemnitor pursuant to Section 11.1 or Section 11.2. The provisions of this Article 11 are not intended to permit duplicate recoveries on the same Damages.

(2) Each Indemnitee must mitigate in accordance with Legal Requirements any Damages for which such Indemnitee seeks indemnification under this Agreement. If such Indemnitee mitigates its Damages after the Indemnitor has paid the Indemnitee under any indemnification provision of

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this Agreement in respect of such Damages, the Indemnitee must notify the Indemnitor and pay to the Indemnitor the extent of the value of the benefit to the Indemnitee of that mitigation, promptly after such benefit is received. Each Indemnitee and its Affiliates shall use reasonable efforts to collect any amounts available under insurance coverage, or from any other Person alleged to be responsible, for any Damages payable under this Article 11.

11.8 Tax Treatment of Indemnification. For all Tax purposes, Purchaser and Seller agree to treat any indemnity payment (including all payments under the R&W Insurance Policy, which is an integral term of this transaction) under this Agreement as an adjustment to the Purchase Price unless otherwise required by a Final Determination.

11.9 Reimbursement. In the event the R&W Insurance Company determines that Purchaser is entitled to indemnification under the R&W Insurance Policy with respect to any loss, but that the retention under such policy is not yet satisfied, then upon Purchaser's delivery of written notice of such to Seller, Seller shall promptly pay to Purchaser an amount equal to one-half of such indemnifiable losses in immediately available funds; *provided*, that in no event shall Seller be responsible for an amount exceeding fifty percent (50%) of the R&W Policy Retention Amount.

## ARTICLE 12

### MISCELLANEOUS PROVISIONS

12.1 Expenses. Whether or not the Transactions are consummated, unless otherwise indicated expressly herein, each party shall pay its own costs and expenses in connection with this Agreement and the Transactions, including the fees and expenses of its advisers, accountants and legal counsel.

12.2 Interpretation. Except as otherwise explicitly specified to the contrary, (a) references to a Section, Article, Exhibit or Schedule means a Section or Article of, or Schedule or Exhibit to, this Agreement, unless another agreement is specified, (b) the word "including" (in its various forms) means "including without limitation," (c) references to a particular statute or regulation include all rules and regulations thereunder and any predecessor or successor statute, rules or regulation, in each case as amended or otherwise modified from time to time, (d) words in the singular or plural form include the plural and singular form, respectively, (e) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement, (f) "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if," (g) the headings contained in this Agreement, in any Exhibit or Schedule hereto and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement, (h) references to "\$" shall mean United States dollars and (i) the word "or" is not exclusive.

12.3 Entire Agreement. This Agreement, including the other documents, agreements, Exhibits and Schedules specifically referred to herein, constitutes the entire agreement between and among the parties hereto with regard to the subject matter hereof, and supersedes all prior agreements and understandings by or among the parties hereto or any of their respective Affiliates with regard to such subject matter, whether written or oral. Except for the Confidentiality Agreement, there are now no agreements, representations or warranties between or among the parties other than those set forth in the Agreement or the documents and agreements contemplated in this Agreement.

12.4 Amendment, Waivers and Consents. This Agreement shall not be changed or modified, in whole or in part, except by supplemental agreement or amendment signed by the parties. Any party may waive compliance by any other party with any of the covenants or conditions of this Agreement, but no waiver shall be binding unless executed in writing by the party making the waiver. No waiver of any

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provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Any consent under this Agreement shall be in writing and shall be effective only to the extent specifically set forth in such writing.

12.5 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns, *provided, however*, that no party hereto may assign any right or obligation hereunder without the prior written consent of all other parties hereto.

Notwithstanding the foregoing, Purchaser may assign this Agreement or any of its rights or obligations hereunder to any Affiliate of Purchaser without Seller's prior written consent (but with notice to Seller).

Notwithstanding anything in this Section 12.5 to the contrary, no assignment shall relieve the assigning party of its obligations hereunder.

12.6 Governing Law. The rights and obligations of the parties shall be governed by, and this Agreement shall be interpreted, construed and enforced in accordance with, the laws of the State of Delaware, excluding its conflict of laws rules to the extent such rules would apply the law of another jurisdiction.

12.7 Jurisdiction; Waiver of Jury Trial.

(1) Any judicial proceeding brought against any of the parties to this Agreement or any dispute arising out of this Agreement or related hereto shall be brought in the courts of the State of Delaware, or in the United States District Court for the District of Delaware, and, by execution and delivery of this Agreement, each of the parties to this Agreement accepts the exclusive jurisdiction of such courts and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. The foregoing consents to jurisdiction shall not constitute general consents to service of process in the State of Delaware for any purpose except as provided above and shall not be deemed to confer rights on any Person other than the parties to this Agreement. Each of the parties to this Agreement agree that service of any process, summons, notice or document by United States mail to such party's address for notice hereunder shall be effective service of process for any action, suit or proceeding in Delaware with respect to any matters for which it has submitted to jurisdiction pursuant to this Section 12.7.

(2) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION, PROCEEDING OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

12.8 Rules of Construction. The parties acknowledge that each party has read and negotiated the language used in this Agreement. The parties agree that, because all parties participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement which construes ambiguous language in favor of or against any party by reason of that party's role in drafting this Agreement.

12.9 Severability. If any provision of this Agreement, as applied to either party or to any circumstance, is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision, and the Parties agree to negotiate in good faith to replace such illegal, unenforceable or void provision with a valid, legal and enforceable provision that achieves, to the greatest lawful extent under this Agreement, the economic, business and other purposes of such invalid, illegal or unenforceable provision.

12.10 Exhibits and Schedules. All Exhibits and Schedules attached hereto shall be deemed to be a part of this Agreement and are fully incorporated in this Agreement by this reference. Disclosure in any

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Schedule shall qualify (a) the corresponding Section of the Agreement to which such Schedule refers and (b) any other Sections of this Agreement to the extent that it is reasonably apparent on the face of such disclosure that such disclosure also qualifies or applies to such other Sections.

12.11 Notices. Any notice required or permitted to be given hereunder shall be sufficient if in writing and (a) delivered in person or by express delivery or internationally recognized overnight courier service, (b) sent by facsimile or email of a PDF document or (c) deposited in the mail registered or certified first class, postage prepaid and return receipt requested. Each notice shall be deemed given when so delivered personally, or sent by facsimile or email transmission (provided that in each case no “bounceback” or similar “undeliverable” message is received by the sender thereof), or, if sent by express delivery or internationally recognized courier service one (1) Business Day after being sent, or if mailed, five (5) Business Days after the date of deposit in the mail. A notice of change of address or facsimile number shall be effective only when done in accordance with this Section 12.11.

To Purchaser at:

Merit Medical Systems, Inc.  
1600 West Merit Parkway  
South Jordan, UT 84095  
Email: Brian.Lloyd@merit.com  
Attention: Brian Lloyd, Chief Legal Officer

With copies to: (which shall not constitute notice to Purchaser):

Parr Brown Gee & Loveless  
101 South 200 East, Suite 700  
Salt Lake City, Utah 84111  
Email: mschefer@parrbrown.com  
Attention: Michael J. Schefer

To Seller at:

AngioDynamics, Inc.  
14 Plaza Drive  
Latham, New York 12110  
E-mail: strowbridge@angiodynamics.com  
Attention: Stephen A. Trowbridge, Executive Vice President  
and Chief Financial Officer

With copies to: (which shall not constitute notice to Seller):

Cadwalader, Wickersham & Taft LLP  
200 Liberty Street  
New York, New York 10281  
E-mail: william.mills@cwt.com  
braden.mccurrach@cwt.com  
Attention: William P. Mills  
Braden K. McCurrach

12.12 Rights of Parties. Except for Purchaser Indemnified Persons and Seller Indemnified Persons, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies

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under or by reason of this Agreement on any persons other than the parties to it and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the Liabilities of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over or against any party to this Agreement.

12.13 Public Announcements. Except as may be required by applicable Legal Requirements or stock exchange rules, no party to this Agreement or any Affiliate or Representative of such party shall make any public announcements or otherwise communicate with any news media in respect of this Agreement or the Transactions without prior consent of the other parties, such consent not to be unreasonably withheld, and prior to any announcement or communication the parties shall cooperate as to the timing and contents of any such announcement or communication.

12.14 Counterparts. This Agreement may be signed in any number of counterparts, including facsimile copies thereof or electronic scan copies thereof delivered by electronic mail, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

12.15 Specific Performance. The parties hereby expressly recognize and acknowledge that immediate, extensive and irreparable damage would result, no adequate remedy at law would exist and damages would be difficult to determine in the event that any provision of this Agreement is not performed in accordance with its specific terms or otherwise breached. It is hereby agreed that the parties shall be entitled to specific performance of the terms hereof and immediate injunctive relief and other equitable relief, without the necessity of proving the inadequacy of money damages as a remedy, and the parties further hereby agree to waive any requirement for the securing or posting of a bond in connection with the obtaining of such injunctive or other equitable relief. Such remedies, and any and all other remedies provided for in this Agreement, shall, however, be cumulative in nature and not exclusive and shall be in addition to any other remedies whatsoever which any party may otherwise have. Each of the parties hereby acknowledges that the existence of any other remedy contemplated by this Agreement does not diminish the availability of specific performance of the obligations hereunder or any other injunctive relief. Each of the parties further acknowledges and agrees that injunctive relief and/or specific performance will not cause an undue hardship to such party.

12.16 Electronic Data Room Materials. No information or document will be considered to have been “made available” to Purchaser unless it was uploaded no later than 9:00 a.m. (Eastern time) on the Business Day prior to the date of this Agreement to the electronic dataroom hosted by Sharepoint, a copy of which Seller shall deliver to Purchaser on one or more DVDs (or other digital storage device as Purchaser and Seller agree) at Closing, and was fully accessible to Purchaser and its Representatives through the earlier of the Closing or the termination of this Agreement.

12.17 Further Assurances. Subject to the terms and conditions of this Agreement, prior to and after the Closing, each party shall prepare, execute and deliver such further instruments and shall use its commercially reasonable efforts to take or cause to be taken such other further action, as any party shall reasonably request of the other party to consummate the terms and provisions of this Agreement.

12.18 Bulk Transfers. Purchaser waives compliance with the provisions of all applicable Legal Requirements relating to bulk transfers in connection with the transfer of the Purchased Assets.

**[Signatures Follow On a Separate Page]**

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IN WITNESS WHEREOF, the Parties hereto have executed this Asset Purchase Agreement as of the date first above written.

**PURCHASER:**

**MERIT MEDICAL SYSTEMS, INC.**

By: /s/ Fred P. Lampropoulos

Name: Fred P. Lampropoulos

Title: Chairman and CEO

**SELLER:**

**ANGIODYNAMICS, INC.**

By: /s/ Stephen A. Trowbridge

Name: Stephen A. Trowbridge

Title: EVP and CFO

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## EXHIBIT A

### CERTAIN DEFINITIONS

“Accounts Receivable” shall have the meaning specified in Section 1.2(a).

“Affiliate” of any Person shall mean any Person directly or indirectly controlling, controlled by, or under common control with, such Person; *provided, however*, that, for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract, or otherwise.

“Agreement” shall have the meaning specified in the Preamble.

“Anti-Corruption Laws” shall mean all applicable federal, state and foreign Legal Requirements relating to the prevention or prohibition of corruption, bribery, kickbacks, conflicts of interest and off-label, false or misleading promotion, advertising or marketing of medical devices, including the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010, the United States Anti-Kickback Statute, the United States Stark Law, the United States Physician Payments Sunshine Act, and implementing regulations of these acts, statutes and similar laws.

“Assigned Contracts” shall have the meaning specified in Section 1.1(c).

“Assignment Consent” shall have the meaning specified in Section 1.5(a).

“Assumed Liabilities” shall have the meaning specified in Section 1.3.

“Assumed Pre-Closing Warranty and Recall Liabilities Amount” shall have the meaning specified in Section 1.3(c).

“Books and Records” shall have the meaning specified in Section 1.1(f).

“Business Day” shall mean any day other than (i) a Saturday or a Sunday or (ii) a day on which banking and savings and loan institutions are closed in New York, New York.

“Business Records” shall have the meaning specified in Section 7.3.

“Closing” shall have the meaning specified in Section 3.1.

“Closing Date” shall have the meaning specified in Section 3.1.

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

“Collected Information” shall have the meaning specified in Section 4.6(h).

“Confidential Information” shall mean all Trade Secrets and other confidential and/or proprietary information of a Person, including information derived from reports, investigations, research, work in progress, codes, marketing and sales programs, financial projections, cost summaries, pricing formulae, contract analyses, financial information, projections, confidential filings with any state or federal agency, and all other confidential concepts, methods of doing business, ideas, materials or information prepared or

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performed for, by or on behalf of such Person by its employees, officers, directors, agents, representatives, or consultants.

“Confidentiality Agreement” shall mean that certain confidentiality agreement between Purchaser and Seller, dated March 24, 2023.

“Consent” shall mean any approval, consent, ratification, permission, waiver or authorization (including any Governmental Approval).

“Contract” shall mean any agreement, contract, obligation, promise, understanding, arrangement, commitment, lease, license or undertaking of any nature.

“Contract Manufacturing Agreement” shall have the meaning specified in Section 3.2(e).

“Copyrights” shall mean all rights in works of authorship, including all copyrights, mask works, and all registrations and applications for the foregoing and all statutory and common law rights related thereto, in any jurisdiction, including any prosecution and litigation files, extension, modification, or renewal of any such registration or application.

“COVID-19” shall mean SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof or related or associated epidemics, pandemic or disease outbreaks.

“COVID-19 Measures” shall mean any quarantine, “shelter in place,” “stay at home,” social distancing, mask wearing, temperature taking, personal declaration, “purple badge standard,” shut down, closure, sequester or any other Law, decree, judgment, injunction or other Order, directive, guideline or recommendation by any Governmental Authority or industry group in connection with or in response to COVID-19 pandemic, including the CARES Act.

“Damages” shall mean and include any Liability, loss, damage, injury, settlement, judgment, award, fine, penalty, Tax, Proceeding, cost, fee or expense of any nature, including the cost of enforcing any right to indemnification hereunder (including reasonable fees and expenses of counsel, consultants, experts and other professional fees), irrespective of whether arising directly or indirectly from third-party claims and the cost of pursuing insurance providers.

“Employee Plan” shall mean any “employee benefit plan” (as defined in section 3(3) of ERISA, regardless of whether subject to ERISA), and each other material agreement, plan, program, fund, policy, contract or arrangement (whether written or unwritten) providing compensation, benefits, pension, retirement, profit sharing, stock bonus, stock option, stock purchase, phantom or stock equivalent, bonus, incentive, deferred compensation, vacation, life insurance, death benefit, sick pay, disability, severance, termination indemnity, seniority pay, holiday pay, fringe benefit or similar employee benefits covering any employee or former employee of Seller or any ERISA Affiliate of Seller, or the beneficiaries and dependents of any employee or former employee of Seller any ERISA Affiliate of Seller, regardless of whether it is mandated any applicable Legal Requirement, voluntary, private, funded, unfunded, financed by the purchase of insurance, contributory or noncontributory.

“Encumbrance” shall mean any lien, pledge, hypothecation, charge, mortgage, security interest, deed of trust, security interest, covenant, option, right of first refusal or other encumbrance of any kind.

“Entity” shall mean any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust or company (including any limited liability company or joint stock company) or other similar entity.

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“Environmental Law” means any Law relating to the environment, natural resources, pollutants, contaminants, wastes, chemicals or public health and safety, including any Law pertaining to (a) treatment, storage, disposal, generation and transportation of toxic or hazardous substances or solid or hazardous waste, (b) air, water and noise pollution, (c) groundwater or soil contamination, (d) the release or threatened release into the environment of toxic or hazardous substances or solid or hazardous waste, including emissions, discharges, injections, spills, escapes or dumping of pollutants, contaminants or chemicals, (e) manufacture, processing, use, distribution, treatment, storage, disposal, transportation or handling of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or oil or petroleum products or solid or hazardous waste, (f) underground and other storage tanks or vessels, abandoned, disposed or discarded barrels, containers and other closed receptacles, (g) public health and safety or (h) the protection of wild life, marine sanctuaries and wetlands, including all endangered and threatened species.

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

“ERISA Affiliate” shall mean any other Person that, together with Seller, would be treated as a single employer under section 414 of the Code.

“Excluded Assets” shall have the meaning specified in Section 1.2.

“Excluded Liability” shall have the meaning specified in Section 1.4.

“Export-Import Laws” shall mean all applicable United States and foreign Laws relating to export, reexport, transfer, and import controls, including the Export Administration Regulations and the EU Dual Use Regulation.

“FDA” shall mean the United States Food and Drug Administration or any successor agency.

“Final Determination” shall mean (a) with respect to U.S. federal income Taxes, a “determination” as defined in Section 1313(a) of the Code or execution of an IRS Form 870-AD (or successor form) and (b) with respect to Taxes other than U.S. federal income Taxes, any final determination of liability in respect of a Tax that, under applicable law, is not subject to further appeal, review or modification through Proceedings or otherwise, including the expiration of a statute of limitations or a period for the filing of claims for refunds, amended Tax Returns or appeals from adverse determinations.

“Financial Information” shall have the meaning specified in Section 4.4(a).

“Fraud” of a party shall mean actual fraud (under the laws of the State of Delaware) with respect to the making of the representations or warranties contained in this Agreement (and not, for the avoidance of doubt, constructive fraud, equitable fraud or promissory fraud or negligent misrepresentation or omission, or any form of fraud based on recklessness or negligence).

“GAAP” shall mean United States generally accepted accounting principles consistently applied.

“General Assignment and Bill of Sale” shall have the meaning specified in Section 3.2(a).

“Governmental Approval” shall mean any permit, license, certificate, concession, approval, consent, ratification, permission, clearance, confirmation, exemption, waiver, franchise, certification, designation, rating, registration, variance, qualification, accreditation or authorization issued, granted or given by or under the authority of any Governmental Authority or pursuant to any Legal Requirement.

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“Governmental Authority” shall mean any: (a) nation, principality, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or Entity and any court or other tribunal); (d) multinational organization or body; or (e) United States or non-United States, individual, Entity or body exercising, or entitled to exercise, any executive, legislative, judicial, administrative, arbitral, regulatory, police, military or taxing authority or power.

“Indemnitee” shall have the meaning specified in Section 11.4(a).

“Indemnitor” shall have the meaning specified in Section 11.4(a).

“Intellectual Property License Agreement” shall have the meaning specified in Section 3.2(f).

“Intellectual Property Rights” shall mean any or all rights in and to intellectual property anywhere in and throughout the world, including (i) Patent Rights, Trade Secrets, Copyrights, and Trademarks, (ii) any rights similar, corresponding or equivalent to any of the foregoing anywhere in the world, (iii) any rights in computer software, data, and databases, (iv) rights of publicity, and (v) any claims or causes of action, including the right to sue, for past, present and future infringement, misappropriation, dilution, or any other violation of any of the foregoing.

“Legal Requirement” shall mean any law, statute, legislation, constitution, principle of common law, resolution, ordinance, code, edict, decree, proclamation, treaty, convention, rule, regulation, permit, ruling, directive, pronouncement, requirement (licensing or otherwise), specification, determination, decision, opinion Order, regulatory guidance or interpretation issued, enacted, adopted, passed, approved, promulgated, made, implemented or otherwise put into effect by or under the authority of any Governmental Authority including any (a) technical or scientific standard to which adherence is required by any Governmental Authority and (b) any rules or policies of non-governmental accreditation or oversight bodies applicable to medical devices and related accessories, including the Products.

“Liabilities” shall mean any and all liabilities and obligations, whether accrued, fixed or contingent, mature or inchoate, known or unknown, reflected on a balance sheet or otherwise, including those arising under any Proceeding or Legal Requirement, and those arising under any Contract.

“Licenses” shall have the meaning specified in Section 4.8(c).

“Material Adverse Effect” shall mean, any event, change or effect that, when taken individually or together with all other adverse events, changes and effects, is or would reasonably be expected to have a materially adverse effect on the Purchased Assets, Assumed Liabilities and Products, taken as a whole; provided, however, that any events, changes or effects will not be deemed to constitute a Material Adverse Effect to the extent resulting from: (i) general changes or conditions in legal, tax, economic, political, regulatory or market conditions, including any changes affecting financial, credit or capital market conditions, or in the industries (or therapeutic areas) in which any of the Products operate, including changes in any markets that supply materials for the Products or in which customers of the Products operate; (ii) acts of war, terrorism or armed hostilities (or the continuation or escalation of the foregoing); (iii) any earthquake, hurricane, tsunami, tornado, flood, mudslide or other natural or man-made disaster or acts of God; (iv) any epidemic, pandemic or disease outbreak (including the COVID-19 pandemic), curfews or other restrictions that relate to, or arise out of, any epidemic, pandemic or disease outbreak (including the COVID-19 pandemic or any COVID-19 Measures or any change in such COVID-19 Measures or interpretations thereof) or material worsening of such conditions; (v) any action required or permitted by

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this Agreement or any action taken (or omitted to be taken) with the express written consent of or at the express written request of Purchaser; (vi) the announcement of this Agreement or consummation of the Transactions; and (vii) any failure by Seller or the Products to meet internal projections or forecasts for any period (provided that the underlying causes of such failure may be taken into account in determining whether there has been a Material Adverse Effect); *provided further, however*, that any event, occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on the Products or the Purchased Assets compared to other similarly situated participants in the industries in which the Products are sold (in which case, only the incremental disproportionate adverse effect may be taken into account in determining whether a Material Adverse Effect has occurred).

“Material Contracts” shall have the meaning specified in Section 4.9(a).

“Non-Assignable Asset” shall have the meaning specified in Section 1.5(a).

“Non-Paying Party” shall have the meaning specified in Section 9.3.

“Order” shall mean any: (a) temporary, preliminary or permanent order, judgment, injunction, edict, decree, ruling, pronouncement, determination, decision, opinion, verdict, sentence, stipulation, subpoena, writ or award that is or has been issued, made, entered, rendered or otherwise put into effect by or under the authority of any court, administrative agency or other Governmental Authority or any arbitrator or arbitration panel; or (b) Contract with any Governmental Authority that is or has been entered into in connection with any Proceeding.

“Ordinary Course of Business” shall mean the operation of the business of Seller relating to the Products in the usual and customary way and consistent with their past practices, giving effect to any adjustments and modifications thereto taken in response to or as a result of COVID-19 Measures.

“Patent Assignment” shall have the meaning specified in Section 3.2(c).

“Patent Rights” shall mean all patents, utility models, and industrial designs, and applications therefor, and all reissues, divisions, re-examinations, revisions, renewals, extensions, adjustments, reissues, provisionals, continuations, continuations-in-part thereof, and counterparts, invention disclosures, and all rights of priority related to any of the foregoing in any jurisdiction, including any prosecution and litigation files for any of the foregoing.

“Paying Party” shall have the meaning specified in Section 9.3.

“Permit” shall have the meaning specified in Section 4.11.

“Permitted Encumbrance” shall mean (a) statutory Encumbrances for Taxes or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings; (b) mechanics’, materialmen’s, architects’, warehousemen’s, landlords’ and other like statutory Encumbrances arising or incurred in the Ordinary Course of Business, either securing payments not yet due or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been set aside; and (c) zoning, building codes and other land use laws that do not materially impair the value, merchantability or continued use of the Purchased Assets. For the avoidance of doubt, any Encumbrance arising under the Code or ERISA in connection with any Employee Plan is not a Permitted Encumbrance.

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“Person” shall mean any individual, Entity or Governmental Authority.

“Post-Closing Tax Period” shall mean any taxable period (or portion of a Straddle Period) beginning after the Closing Date.

“Pre-Closing Tax Period” shall mean any taxable period (or portion of a Straddle Period) ending on or before the Closing Date.

“Proceeding” shall mean any action, claim, charge, complaint, demand, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation brought, conducted or heard at law or in equity before any Governmental Authority.

“Products” shall have the meaning specified in the Recitals.

“Promotional Material” shall have the meaning specified in Section 1.1(h).

“Property Tax” shall mean all real property Taxes, personal property Taxes, intangible property Taxes and similar ad valorem Taxes.

“Purchase Price” shall have the meaning specified in Section 2.1.

“Purchase Price Allocation” shall have the meaning specified in Section 9.1(a).

“Purchased Assets” shall have the meaning specified in Section 1.1.

“Purchased Intellectual Property” shall have the meaning specified in Section 4.8(a).

“Purchased Inventory” shall have the meaning specified in Section 1.1(a).

“Purchaser” shall have the meaning specified in the Preamble.

“Purchaser Assignment and Assumption Agreements” shall have the meaning specified in Section 3.2(b).

“Purchaser Damages” shall have the meaning specified in Section 11.1.

“Purchaser Indemnified Persons” shall have the meaning specified in Section 11.1.

“Purchaser Material Adverse Effect” shall mean any event, change or effect that, when taken individually or together with all other such events, changes or effects, would reasonably be expected to have, individually or in the aggregate, (a) a material adverse effect on the ability of Purchaser to consummate the Transactions contemplated hereby or (b) cause a material delay in the ability of Purchaser to consummate the Transactions contemplated hereby.

“Purchaser Licensed Intellectual Property” shall mean Purchased Intellectual Property listed on Schedule 7.7(b).

“Recalls” shall have the meaning specified in Section 7.6.

“Registered Intellectual Property Rights” shall mean, in any jurisdiction, all: (i) Patent Rights; (ii) registered Trademarks and pending applications to register Trademarks; (iii) Copyright registrations,

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pending applications to register Copyrights, and Copyright renewals; (iv) domain name registrations; (v) branded accounts on any social medial networks; and (vi) any other Intellectual Property Rights that are the subject of a pending application, certificate, filing, registration or other document issued by, filed with, or recorded by, any Government Authority or other organization at any time.

“Regulatory Authority” shall mean any federal, national, state, foreign or multinational Governmental Authority (including the FDA) that has jurisdiction or oversight over (a) the research, development, approval, clearance, marketing, manufacture, labeling, sale, import, export and distribution of medical devices and technology, (b) federal healthcare programs under which such medical devices are purchased or reimbursed, or (c) the protection of personal healthcare information.

“Representatives” shall mean, as to any Person, its officers, directors, employees, counsel, accountants, financial advisers, consultants and agents.

“Restricted Business” shall mean the researching, testing, designing, developing, manufacturing, commercializing, distributing and/or selling of products that directly compete with the Products as existing as of the Closing Date.

“R&W Insurance Company” means the provider of R&W Insurance Policy selected by Purchaser, prior to Closing on the terms and subject to the conditions set forth herein.

“R&W Insurance Policy” shall mean the buyer-side representation and warranty insurance policy obtained by Purchaser.

“R&W Policy Retention Amount” means the aggregate amount of retention set forth in the R&W Insurance Policy.

“Sanctioned Country” shall mean any country or region that is the target of comprehensive United States economic sanctions, including currently Cuba, Iran, Sudan, Syria, North Korea, and the Crimea region of Ukraine.

“Sanctioned Person” shall mean any Person that is the target of sanctions or restrictions under Sanctions Laws or Export-Import Laws, including: (a) any Person listed on any applicable United States or foreign sanctions- or export-related restricted party list, including OFAC’s Specially Designated Nationals and Blocked Persons List and the EU Consolidated List; (b) any entity that is, directly or indirectly, Controlled by a Person or Persons described in clause (a); or (c) any national of a Sanctioned Country.

“Sanctions Laws” shall mean all United States and foreign Laws relating to economic sanctions, including those administered or enforced by the United States (including by OFAC or the United States Department of State), the United Nations Security Council, and the European Union.

“Seller” shall have the meaning specified in the Preamble.

“Seller Damages” shall have the meaning specified in Section 11.2.

“Seller Disclosure Schedule” shall have the meaning specified in Article 4.

“Seller Indemnified Persons” shall have the meaning specified in Section 11.2.

“Seller R&W Premium Amount” shall mean fifty percent (50%) of the total premium costs of the R&W Insurance Policy.

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“Seller Licensed Intellectual Property” shall mean the Intellectual Property Rights listed on Schedule 7.7(a).

“Seller’s Knowledge”, “Knowledge of Seller” and similar phrases shall mean the actual knowledge of the following persons, after due inquiry: (i) James Clemmer; (ii) Stephen Trowbridge; (iii) Benjamin Davis; (iv) Peter Flora; (v) Chad Campbell; (vi) Chris Davis; (vii) David Helsel; (viii) Russ Howie; (ix) Stuart Holbrook; and (x) Warren Nighan.

“Shared Contracts” shall mean all Contracts listed on Schedule 1.6, which relate in part, but not exclusively, to the Products.

“Straddle Period” shall mean any taxable period that includes (but does not end on) the Closing Date.

“Sublicense Agreement” shall have the meaning specified in Section 3.2(h).

“Subsidiary” shall mean, with respect to any Person, any Entity in which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

“Tax” (and, with correlative meaning, “Taxes” and “Taxable”) shall mean all forms of taxation imposed by any Tax Authority, including all national, state or local taxation (including income, value added, occupation, real and personal property (tangible and intangible), social security (or similar), gross receipts, sales, use, ad valorem, franchise, profits, license, withholding, payroll, employment, excise, severance, occupation, windfall profit taxes, stamp duty, customs, estimated and other taxes), together with any interest, penalties, and additions to tax related thereto. For clarity, Taxes include any amounts described in the immediately preceding sentence imposed on or assessed against any Person for which Seller or its Affiliates have Liability by Contract, as successor or transferee, or otherwise under applicable Legal Requirements.

“Tax Authority” shall mean a Governmental Authority responsible for the imposition, assessment or collection of any Tax (domestic or foreign).

“Tax Claim” shall mean any action, suit, proceeding, investigation, audit or claim with respect to Taxes made or initiated by any Tax Authority.

“Tax Contest” shall have the meaning specified in Section 9.1(d).

“Tax Return” shall mean any report, return, statement, declaration, notice, certificate or other document filed or required to be filed with any Tax Authority in connection with the determination, assessment, collection or payment of any Tax.

“Third Party Intellectual Property” shall have the meaning specified in Section 4.6(c).

“Trade Control Laws” shall have the meaning specified in Section 4.16.

“Trade Secrets” shall mean all trade secrets under applicable law and other rights in know-how and confidential or proprietary information, clinical study data, formulae, processes, manufacturing information, procedures, inventions, or marketing information, and all other non-public information primarily related to the Products, and all claims and rights related thereto.

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“Trademark Assignment” shall have the meaning specified in Section 3.2(c).

“Trademarks” shall mean any and all trademarks, service marks, trade dress, logos, slogans, trade names, and other source identifiers, all applications and registrations therefor, all common law rights therein and thereto, and all goodwill associated with any of the foregoing in any jurisdiction, including any prosecution and litigation files, extension, modification, or renewal of any such registration or application.

“Transaction Agreements” shall mean this Agreement and the General Assignment and Bill of Sale, the Purchaser Assignment and Assumption Agreements, the Patent Assignment, the Trademark Assignment, the Transition Services Agreement, the Contract Manufacturing Agreement, the Intellectual Property License Agreement, the Sublicense and any other agreements or instruments executed pursuant hereto.

“Transaction Confidentiality Agreement” shall mean any right or interest of Seller or any Affiliate of Seller under any confidentiality agreement entered into by Seller or any Affiliate of Seller, solely to the extent relating to information of a proprietary or confidential nature concerning the Products.

“Transaction(s)” shall mean, collectively, the transactions contemplated by this Agreement.

“Transfer Taxes” shall mean all federal, state, local or foreign sales, use, transfer, real property transfer, mortgage recording, stamp duty, or similar Taxes that may be imposed in connection with the transfer of Purchased Assets.

“Transition Services Agreement” shall have the meaning specified in Section 3.2(d).

“Treasury Regulation” shall mean the regulations promulgated under the Code by the United States Treasury and Internal Revenue Service.

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## CERTIFICATION

I, Fred P. Lampropoulos, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q (the “Report”) of Merit Medical Systems, Inc. (the “Registrant”);
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this Report;
4. The Registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with general accepted accounting principles;
  - c) evaluated the effectiveness of the Registrant’s disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
  - d) disclosed in this Report any change in the Registrant’s internal control over financial reporting that occurred during the Registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant’s internal control over financial reporting; and
5. The Registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant’s auditors and the audit committee of the Registrant’s board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant’s ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant’s internal control over financial reporting.

Date: July 28, 2023

/s/ Fred P. Lampropoulos  
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Fred P. Lampropoulos  
President and Chief Executive Officer  
(principal executive officer)

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## CERTIFICATION

I, Raul Parra, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q (the "Report") of Merit Medical Systems, Inc. (the "Registrant");
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this Report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with general accepted accounting principles;
  - c) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
  - d) disclosed in this Report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: July 28, 2023

/s/ Raul Parra  
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Raul Parra  
Chief Financial Officer  
(principal financial officer)

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**Certification of Principal Executive Officer  
Pursuant to 18 U.S.C. Section 1350, as Adopted  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report on Form 10-Q of Merit Medical Systems, Inc. (the "Company") for the quarter ended June 30, 2023, as filed with the Securities and Exchange Commission (the "Report"), I, Fred P. Lampropoulos, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15 (d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: July 28, 2023

/s/ Fred P. Lampropoulos

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Fred P. Lampropoulos  
President and Chief Executive Officer  
(principal executive officer)

This certification accompanies the foregoing Report pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Registrant for purposes of Section 18 of the Securities Exchange Act of 1934, as amended. A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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**Certification of Chief Financial Officer**  
**Pursuant to 18 U.S.C. Section 1350, as Adopted**  
**Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report on Form 10-Q of Merit Medical Systems, Inc. (the "Company") for the quarter ended June 30, 2023, as filed with the Securities and Exchange Commission (the "Report"), I, Raul Parra, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15 (d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: July 28, 2023

/s/ Raul Parra

\_\_\_\_\_  
Raul Parra  
Chief Financial Officer  
(principal financial officer)

This certification accompanies the foregoing Report pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Registrant for purposes of Section 18 of the Securities Exchange Act of 1934, as amended. A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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