

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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2025

or

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

For the transition period from to

Commission File Number: 001-40206

XBP Global Holdings, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State of or other Jurisdiction
Incorporation or Organization)

85-2002883
(I.R.S. Employer
Identification No.)

6641 N. Belt Line Road, Suite 100
Irving, Texas
(Address of Principal Executive Offices)

75063
(Zip Code)

Registrant's Telephone Number, Including Area Code: **(844) 935-2832**

Securities Registered Pursuant to Section 12(b) of the Act:

Title of Each Class	Trading Symbol	Name of Each Exchange On Which Registered
Common Stock, Par Value \$0.0001 per share	XBP	The Nasdaq Capital Market

Redeemable warrants, each ten warrants exercisable for one
share of common stock at an exercise price of \$115.00 per share

XBPEW

The Nasdaq Capital Market

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ☐ Yes ☒ No

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. ☐ Yes ☒ No

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

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

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See 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 has filed a report on and attestation to its management’s assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant’s executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

The aggregate market value of the Registrant’s voting and non-voting shares of common stock held by non-affiliates of the Registrant was approximately \$6,220,383 computed by reference to the price at which such common stock was last sold as of June 30, 2025, (based on a closing price of \$9.30).

As of March 30, 2026, the Registrant had 11,768,050 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III of this Report, to the extent not set forth herein, is incorporated herein by reference from portions of the registrant’s definitive proxy statement that will be filed for the 2026 Annual Meeting of Shareholders, which the registrant intends to file with the Securities and Exchange Commission no later than 120 days after the close of the fiscal year ended December 31, 2025.

[Table of Contents](#)

TABLE OF CONTENTS

Part I	5
Item 1. Business	5
Item 1A. Risk Factors	21
Item 1B. Unresolved Staff Comments	36
Item 1C. Cybersecurity	36
Item 2. Properties	37
Item 3. Legal Proceedings	38
Item 4. Mine Safety Disclosures	38
Part II	39
Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	39
Item 6. [Reserved]	39
Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations	40
Item 7A. Quantitative and Qualitative Disclosure About Market Risk	64
Item 8. Financial Statements and Supplementary Data	65
Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure	143
Item 9A. Controls and Procedures	143
Item 9B. Other Information	146
Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspection	146
Part III	147

<u>Item 10. Directors, Executive Officers, and Corporate Governance</u>	147
<u>Item 11. Executive Compensation</u>	147
<u>Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</u>	147
<u>Item 13. Certain Relationships and Related Transactions, and Director Independence</u>	147
<u>Item 14. Principal Accountant Fees and Services</u>	147
<u>Part IV</u>	148
<u>Item 15. Exhibit and Financial Statement Schedules</u>	148
<u>Item 16. Form 10-K Summary</u>	150
<u>Signatures</u>	151

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements included or incorporated by reference in this Annual Report on Form 10-K (“Annual Report”) are not historical facts but are forward-looking statements for purposes of the safe harbor provisions under The Private Securities Litigation Reform Act of 1995. Forward-looking statements generally are accompanied by words such as “may”, “should”, “would”, “plan”, “intend”, “anticipate”, “believe”, “estimate”, “predict”, “potential”, “seem”, “seek”, “continue”, “future”, “will”, “expect”, “outlook” or other similar words, phrases or expressions. These forward-looking statements include statements regarding our industry, future events, strategy, plans, intentions, or expectations or anticipated future results and other statements that are not historical facts. These statements are based on the current beliefs and assumptions of our management and are not predictions of actual performance. These statements are subject to a number of risks and uncertainties regarding our business that may change at any time, and, therefore, our actual results may differ materially from those that we expected. The factors that may affect our results include, among others: the impact of political and economic conditions on the demand for our services; the impact of a data or security breach; the impact of competition or alternatives to our services on our business pricing and other actions by competitors; our ability to address technological development and change in order to keep pace with our industry and the industries of our clients; the impact of terrorism, natural disasters or similar events on our business; the effect of legislative and regulatory actions in the United States and internationally; the impact of operational failure due to the unavailability or failure of third-party services on which we rely; the effect of intellectual property infringement; the Business Combination or Restructuring (as defined below); and other factors discussed in this report under the headings “Risk Factors”, “Legal Proceedings”, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and otherwise identified or discussed in this Annual Report. You should consider these factors carefully in evaluating forward-looking statements and are cautioned not to place undue reliance on such statements, which speak only as of the date of this report.

The forward-looking statements made by us in this report speak only as of the date of this report. We undertake no obligation to update or revise any forward-looking statements to reflect events or circumstances occurring after the date of this report, except as otherwise required by law. In addition, forward-looking statements provide our expectations, plans or forecasts of future events and views based upon information available to us as of the date of this report and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and you are cautioned not to unduly rely upon these statements.

Unless otherwise indicated or the context otherwise requires, references in this section to “we,” “our,” “us,” “XBP Global”, “the Company” and similar terms are to BPA before the Business Combination (as such terms are defined below), and to XBP Global Holdings, Inc. following the Business Combination.

DEFINED TERMS

Following is a glossary of other abbreviations and acronyms that are found in this Annual Report:

“*BPA*” means Exela Technologies BPA, LLC, (n/k/a XBP Americas, LLC) collectively with its subsidiaries and affiliates.

“*Business Combination*” means the acquisition of BPA by the Company pursuant to a Membership Interest Purchase Agreement dated July 3, 2025.

“*Bylaws*” means the bylaws of the Company.

“*Charter*” means the amended and restated certificate of incorporation of the Company.

“*Common Stock*” means the common stock of XBP Global Holdings, Inc., par value \$0.0001.

[Table of Contents](#)

“*Company*” or “*XBP Global*” means XBP Global Holdings, Inc., a Delaware corporation (f/k/a XBP Europe Holdings, Inc.)

“*Consenting ETI Parties*” means GP 3XCV LLC and XCV-STs, LLC (two subsidiaries of ETI)

“*EIM*” means enterprise information management.

“*EMEA*” means the Europe, Middle East and Africa geographical region.

“*ERP*” means enterprise resource planning system.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*ETI*” means Exela Technologies, Inc., a Delaware corporation.

“*GAAP*” means generally accepted accounting principles in the United States.

“*IT*” means information technology.

“*Nasdaq*” means The Nasdaq Stock Market LLC.

“*MIPA*” means the Membership Interest Purchase Agreement dated July 3, 2025

“*Plan*” means the plan of reorganization filed on May 7, 2025, by BPA along with certain affiliates reflecting the proposed Restructuring.

“*Restructuring*” means the restructuring of the indebtedness of BPA and certain affiliates pursuant to the plan support agreement entered into on April 16, 2025, as amended, with an ad hoc group of holders of certain notes of BPA.

“*Sarbanes-Oxley Act*” means the Sarbanes-Oxley Act of 2002, as amended.

“*SEC*” means the United States Securities and Exchange Commission.

“*Securities Act*” means the Securities Act of 1933, as amended.

PART I

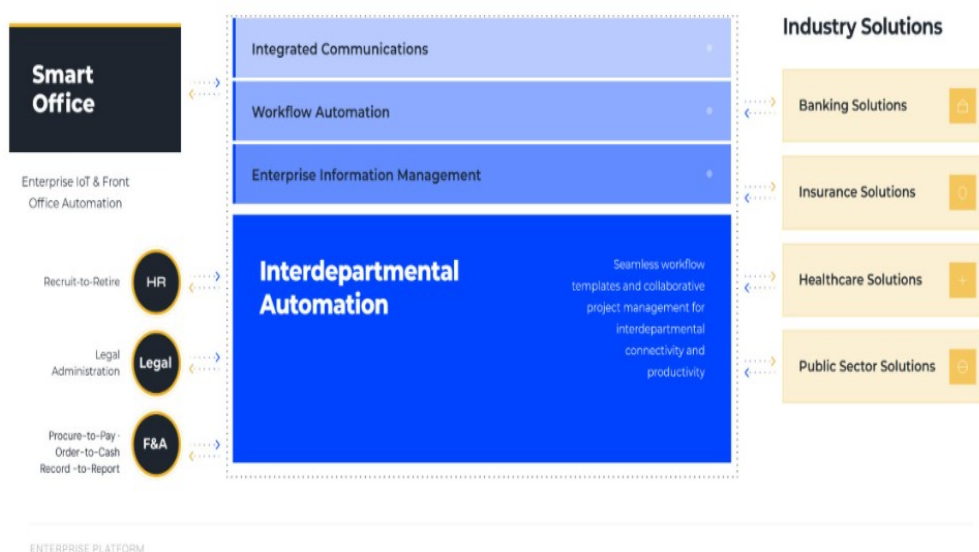
ITEM 1. BUSINESS

Overview

XBP Global is a multinational technology and services company powering intelligent workflows for organizations worldwide. Our proprietary platforms and agentic AI-driven automation enable our clients to entrust us with their most impactful digital transformations and mission-critical operations. Our operational foundation is further defined by deep domain expertise across industries and the public and private sectors. We possess decades of experience helping clients navigate shifting global regulatory frameworks and supporting compliance with the rigorous standards required by government entities and highly scrutinized industries, including banking, healthcare and insurance. We pair this expertise with platform-agnostic, end-to-end structured workflows that combine AI-driven automation with dedicated human-in-the-loop exception handling and proprietary orchestration software, enabling our clients to transition from labor-intensive, reactive operations to digitally orchestrated, exception-driven workflows. For the period August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), we generated \$359.4 million and \$431.7 million of revenue, respectively. As of December 31, 2025, we served more than 2,500 clients throughout the world.

Our solutions and services reach multiple elements within a client's organization. We use a global delivery model and primarily host solutions in our data centers, on the cloud, or directly from our clients' premises. As of December 31, 2025, we had 10,600 employees in 20 countries operating either remotely from our business facilities or co-located at our clients' facilities. Our solutions offer geographic flexibility, and we believe the combination of our hybrid hosted solutions and global workforce in the Americas, EMEA and Asia offers a meaningful differentiation to the industries we serve and services we provide.

Multi-industry, Departmental Solutions



Our Solutions and Services

We offer flexible commercial models tailored to our clients' needs. We generate revenue through transaction-based processing fees, fixed-fee managed services, and recurring software licenses and maintenance, along with professional services for system configuration and integration. Our solutions continue to evolve to include more self-

[Table of Contents](#)

service features that are easy to deploy and designed to integrate with existing systems, including those of small and medium-sized businesses.

In addition to operating our own datacenter, we have extended our existing data investments into AI capabilities and initiatives via the sophisticated proprietary deep-learning models we now deploy. Our investments in agentic AI, which we believe is the operating system of the modern enterprise, are now infused into many of our offerings described below. Our focus on agentic AI starts with investments that materially improve the productivity of our workforce and extends to delivering value to clients in both their on-premise and hybrid cloud environments. Additionally, our extensive experience in large-scale document processing informs the design of our custom AI models targeted at complex workflows. We are also developing specialized, vertical-specific AI solutions tailored for the nuanced regulatory and operational requirements of the highly complex sectors we serve.

Finance and Accounting Solutions

XBP Platform — Exchange for Bills and Payments

The XBP platform provides a secured network, allowing billers, consumers and businesses to communicate and transact utilizing a modern technology stack that can connect to any client system without significant capital investments by new clients. Business-to-business billers are able to communicate with payers electronically, offering transparency and simplified reconciliations. By structuring and linking data across disparate client systems, our XBP platform can be rapidly implemented using each client's existing infrastructure and in-country settlement processes. This product allows payers to receive their bills in a single place, with analytics, alerts and several payment options. Downstream processes can be integrated with actionable data that is offered as a value-added service.

The XBP platform payment solutions enable consolidation of inbound payment channels and data continuity to enhance treasury management. Among other things, the product offers integrated receivables dashboards, multi-channel bill presentment and payment, reconciliation, exception and dispute management, ageing analytics, collections management and targeted engagements.

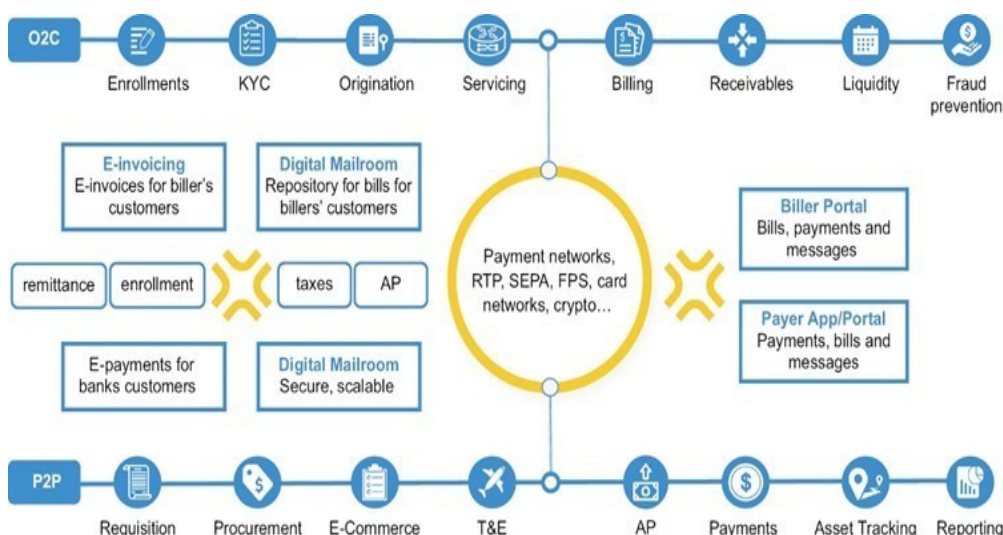
Through the introduction of the XBP platform for small and medium sized businesses ("SMBs"), clients are able to access our XBP web portal and leverage rich features to organize their bills, initiate communication and manage their order-to-cash cycle ("O2C") effectively, including accounts receivable, all designed to improve liquidity by expediting payments. We also use the XBP platform as the tool to support our ERP data consolidation offering. To address the time-consuming and error-prone processes that enterprises can face when consolidating data from multiple ERPs, we use our AI-enabled

robotic process automation suite, along with off the shelf ERP connectors, to extract data from multiple ERPs and feed it into the XBP platform for clients to have one consolidated view without data being subject to the risks commonly associated with manual handling.

Our accounts payable and broader procure-to-pay (“P2P”) solution leverages artificial intelligence to simplify the complexities of supplier onboarding, management, and invoice processing. Our P2P platform integrates with our Digital Mailroom (“DMR”) technology, which processes unstructured data utilizing locally hosted large language models (“LLMs”). By deploying these models within our own infrastructure, we help our clients meet their data privacy and compliance obligations— which we believe can be a competitive differentiator in securing major AI-driven mandates. The P2P solution process begins by initiating a requisition, which moves to procurement where bids are solicited from an approved supplier network. Our P2P solution also records receipt of goods and invoices and performs AI-based three-way matching. Exceptions are intelligently routed and, once approved, the purchase is recorded directly into the client’s ERP system for payment. We then generate and deliver a payment file in the format the bank requires,

[Table of Contents](#)

or, in some cases, process the payment on the client's behalf. By deploying these solutions, we are able to decipher complex invoices, resolve exceptions, and provide predictive forecasts and insights into legacy accounting platforms.



Plug and play solutions across the P2P and O2C cycle to simplify and personalize user experience, optimize treasury management and facilitate compliance while reducing administrative cost.

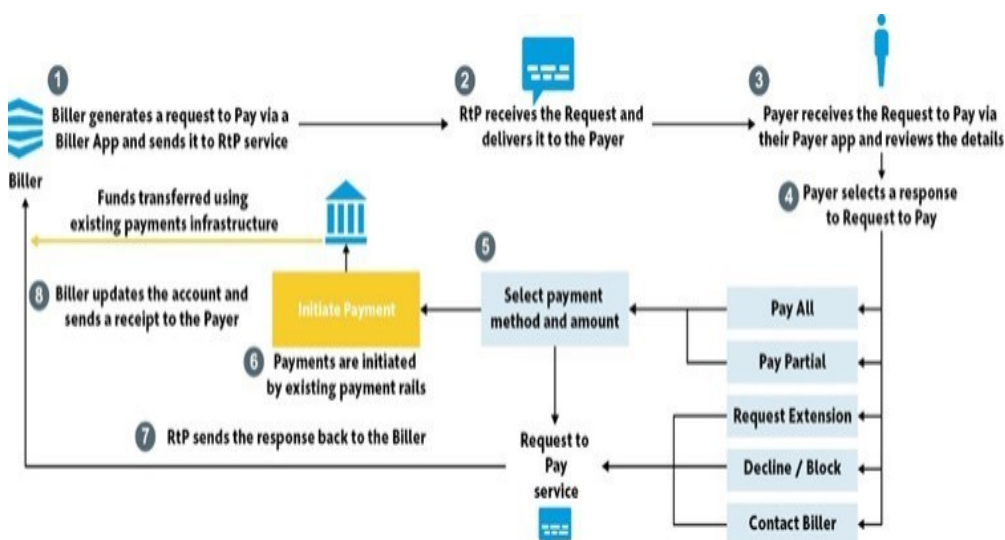
Request To Pay

Our consistent focus on innovation in the open banking space allowed us to become one of the first market participants to develop an approved Request to Pay (“RTP”) solution for the UK market. This product was developed in cooperation with a key partner, Mastercard, and was approved in 2020 by Pay.UK, the operator and standards body for the U.K.’s interbank retail payment systems. Meanwhile, the European Union is advancing its own RTP solution to complement the E.U. Instant Payments Regulation adopted in March 2024. Whether in the U.K. or European Union, RTP enables billers to make payment requests and allows payers to act on such requests through a secure, unified messaging service that provides end-to-end audit trails for billers and facilitates two-way communication throughout the payment process. The solution is designed to help reduce the number of late payments by allowing the payer to exercise more options, including opening a line of communication regarding the amount, frequency and time of payment. Driven by recent regulatory frameworks such as the U.K.’s National Payments Vision (2024) and the E.U. Instant Payments Regulation, RTP has evolved into a foundational component of the broader account-to-account ecosystem. Recent industry assessments highlight that its potential uses have expanded beyond e-invoicing and e-commerce to include point-of-sale instant transfers, variable recurring payments and integrated digital wallets. The benefits across these use



[Table of Contents](#)

cases are many and include improved liquidity management, reduction of payment defaults, avoidance of credit card fees and reduced reliance on cash by enabling a low-cost real-time account to account transfer.



Enterprise Information Management

Our enterprise information management solutions consume and organize large amounts of data across multiple formats and store the information in cloud-enabled proprietary platforms, including DocumentDNA, our secure electronic repository and document management platform. We also gather transaction data from enterprise systems for hosting. The data we collect and extract for our clients is used to complete a client-mandated process and is then made available to our clients and their end-consumers for a period of time in return for an access fee or software license revenue as part of the hosting service. These solutions use state of the art cloud-based relational and non-relational databases to provide scalable, secure and resilient digital archiving. Demonstrating our commitment to security standards, our electronic archiving system, eFirst Archive SAE, holds the French NF 461 certification. This standard establishes guidelines for document creation, storage, use and disposal, and is designed for stringent quality and security levels throughout a document's lifecycle. We use this suite of solutions extensively in our digital transformation projects.

Agentic AI-Enabled Robotic Process Automation

We have been at the forefront of implementing robotic process automation ("RPA") in our services. While we started with traditional RPA tools to enable desktop automation, followed by server-level automation, we have since started leveraging agentic AI ("computer use") tools extensively for simulating human activities at computer terminals. We have built up a large library of automation rules by both industry and client embedded into our solution

suite. We view agentic AI-based automation as a step towards the automation of processes in instances where application programming interfaces do not exist. An example of this is old legacy systems, which may only be accessed through UIs that were intended for a human operator to access.

Digital Mailroom Solutions

Our DMR links physical mail delivery and the modern digital workspace. As part of our comprehensive services, we frequently handle the entire mailroom operation for our clients, utilizing either our own processing centers or a client's existing facilities. At the core of this process, DMR serves as the secure point of entry, receiving and digitizing physical mail. Then, our Smart Sort Transformation solution employs AI-enabled classification and intelligent routing to categorize and deliver documents to the correct employee, department, or system. Our intelligent document processing platform, paired with dedicated "human-in-the-loop" exception handling, can then convert the correspondence into actionable electronic data. These offerings reduce the need for dedicated mailroom personnel who

[Table of Contents](#)

physically open, review, and sort incoming documents. This transition from manual, location-specific sorting to software-driven routing provides scalable, impactful automation benefits to mailroom operations. For our clients, this can result in accelerated processing cycle times and a significant reduction in per-transaction costs and also serves as a fundamental enabler of a hybrid or remote workplace environment. Our largest DMR deployment is with the German savings bank finance group, to which over 50 million users have access.

Workflow Automation

We have built extensive proprietary workflow automation platforms across industries and regions. Our platforms are designed to have intuitive user interfaces with drag & drop configuration enabling a certain amount of customization. Our platforms use our EIM engines by default, are designed to integrate with popular databases and enterprise systems, and are offered across three user categories:

- **Enterprise class** workflow automation platform, hosted on premises, and suitable for organizations with more than 10,000 users and offering more than 10,000 tasks or process automations. Majority of our employees use this platform every day to perform work for our clients in the Americas, EMEA and Asia.
- **Interdepartmental class** workflow automation platform which is ideal to bring structure and collaboration across departments. Over 2,500 of our employees globally use this platform to collaborate with each other and their individual work management. The platform is designed to integrate with other industry leading platforms to create a comprehensive collaborative experience.
- **Case-management** workflow automation platform which is available as a shrink wrap version for building custom workflows. Our clients can use our library of workflows, customize them or build one from scratch for purposes of case management only. Smaller clients can purchase enterprise licenses of this platform or subscribe on a SaaS basis.

XBP Global provides agentic AI-enabled observability, reporting, and analytics capabilities embedded within its platforms to deliver actionable intelligence across collaboration, task management, and operational workflows. Through configurable dashboards, users can consolidate and organize disparate data sources into intuitive visual and audio interfaces, build custom dashboards with dynamic drilldowns and alerts, and link insights directly to managers and action items to drive optimization and issue resolution. These analytics provide real-time visibility into revenue, cost, profitability, cash flow, process performance, and KPIs, including AI-driven triggers that notify stakeholders when trends deviate from defined thresholds to support timely capacity and operational adjustments. We believe these analytics modules complement our services and solutions by

enhancing the user experience, reducing reliance on third-party tools, and centralizing business management within XBP Global's platforms, while enabling dashboard sharing across organizations to drive broader adoption and deeper penetration of our front-end applications across the enterprise.

Legal Administration

Through our subsidiary, Rust Consulting, Inc., we provide administration services for complex legal and regulatory matters, including class action settlements, mass torts, product recalls, and data breach responses. Our service delivery encompasses the entire project lifecycle, requiring the management of multi-channel communication networks and high-volume data workflows. As part of this process, we orchestrate large-scale notification campaigns, disseminating millions of outgoing legal notices and settlement payments across both physical mail and electronic communication channels. Additionally, we manage the simultaneous intake of inbound claims and inquiries across these diverse channels, which includes operating dedicated contact centers, where we are deploying automated chatbots to streamline the handling of high-volume inquiries.

Our operational capabilities are built upon decades of experience administering thousands of complex projects, processing millions of claims, and facilitating the distribution of billions of dollars in settlement funds. Due to this sustained scale, we frequently serve as the designated administrator for distributions overseen by federal courts and government agencies, including the Federal Trade Commission, the Department of Justice, and the Consumer Financial

[Table of Contents](#)

Protection Bureau. To help maintain the strict compliance and accountability standards mandated by these oversight bodies, our processing infrastructure incorporates comprehensive data validation processes, deficient claim review, and professional exception management. These structural controls help provide accuracy, regulatory adherence, and secure fund distribution across large-scale legal administrations.

Integrated Marketing Communications

Our Integrated Marketing Communications business provides technology-enabled services that help organizations design, produce, and deliver communications to clients, members, and business partners. These communications include statements, invoices, checks, regulatory notices, client correspondence, and targeted marketing communications. The industry is experiencing a secular shift as volumes for transactional printing decline due to digital substitution. Conversely, demand for direct mail and commercial graphics is expanding, as clients increasingly rely on high-quality, variable data printing to expand market share. By prioritizing our marketing execution capabilities and aligning our enterprise resources with these expanding direct mail volumes, we are investing to be an integral partner in this market.

Our platform integrates document composition software, automated workflow management, and multi-channel delivery capabilities that support high-volume communications across both digital and physical channels, including print and mail, email, SMS, web portals, and other digital delivery methods. Through these solutions, clients can automate the creation and distribution of communications, maintain regulatory compliance, and optimize delivery channels based on cost, speed, and client preferences. Our technology also enables enhanced client engagement through tools such as dynamic QR codes and personalized digital links embedded within communications, allowing recipients to transition from physical communications to digital experiences. We continue to evaluate additional applications of these capabilities as part of our broader efforts to enhance client communications and engagement.

XBP Brand Central is our cloud-based platform that enables organizations to manage branded materials, marketing assets, and printed communications through a centralized digital storefront. The platform allows clients to order, customize, and distribute printed materials, promotional products, and marketing collateral while maintaining brand standards and controlling costs. XBP Brand Central integrates ordering, composition, production, and fulfillment workflows, supporting print-on-demand and inventory management capabilities. By consolidating procurement and distribution through a single platform, XBP Brand Central helps clients improve operational efficiency, maintain brand consistency, and reduce inventory and logistics costs.

Our production and technology platforms have capacity to support enterprise communications programs across the United States and Europe. We continue to invest in technology, automation, AI-enabled analytics, and data-driven communications capabilities that support the growing demand for digital communications, enhanced client engagement, and automated enterprise communication platforms. Our integrated model combines software-driven workflow management with production and distribution capabilities, enabling clients to manage complex communications programs through a single platform.

Smart Office

Our Smart OfficeSM suite is an enterprise IoT (“internet of things”) solution designed to optimize facility management and workplace experiences. To transition legacy facilities into connected “Smart Campuses,” the suite centers on XBP Concierge—a unified, mobile-first application that consolidates room and desk booking, intelligent indoor wayfinding using beacon technology, and service helpdesks. Our platform integrates with existing enterprise applications and serves as a physical-to-digital bridge connecting software to IoT devices such as occupancy sensors, intelligent digital lockers, and access control systems. By capturing real-time data from the physical office, the suite delivers predictive analytics regarding user behavior and space utilization, enabling clients to optimize their real estate footprint and manage high-density hybrid work environments. Furthermore, to automate physical workflows and support just-in-time near-site logistics, we intend to develop our capabilities to integrate collaborative robots into our orchestration platform. Once deployed, these “cobots” are intended to operate alongside human staff to execute high-volume physical tasks, with “human-in-the-loop” exception handling, which we believe will allow clients to further relocate and digitize legacy front-office operations to centralized off-site hubs. A key component of this logistical

[Table of Contents](#)

support is the integration of our DMR capabilities, which further de-tethers the workforce from physical office dependencies by securely digitizing and intelligently routing inbound correspondence.

Industry Specific Services and Solutions

While the above-described solutions and services can be leveraged across industries, over the years we have also developed services and solutions for specific industries which help our clients around the world. The most significant are summarized below.

Healthcare Industry Solutions and Services for Insurance Companies and Healthcare Providers

XBP Global's healthcare industry clients include commercial and government-sponsored healthcare plans, as well as healthcare providers, including hospital networks, university hospital systems, and large medical distribution systems, and accounted for approximately 28% of total revenues in 2025.

We bundle our core solutions and services with a comprehensive suite of healthcare payer- and provider-specific offerings, including end-to-end revenue cycle management ("RCM"). These services encompass clinical documentation, medical coding, claims processing, revenue integrity, enrollment, credentialing, denial and appeals management, and payment operations.

For healthcare payers, XBP Global delivers specialized operational and technology-enabled services designed to improve administrative efficiency, claims accuracy and regulatory compliance. These services include claims intake and adjudication support, eligibility and benefits verification, provider data management, prior authorization processing, care management support, encounter data management, coordination of benefits, payment integrity, fraud, waste and abuse (FWA) detection, and member services operations. We also support value-based care administration, risk adjustment documentation review, quality reporting and regulatory submissions for government programs such as Medicare and Medicaid.

Experienced revenue cycle and payer operations professionals manage complex transactions and exceptions across these services, supported by automation for routine, high-volume tasks such as document digitization, reconciliation and workflow processing. Our approach combines domain expertise with intelligent automation, analytics and exception-based processing to improve claims accuracy, accelerate adjudication cycles and enhance financial outcomes for both payers and providers. These services embed technology directly into provider and payer workflows, including intelligent automation, analytics, and

exception-based processing to address accounts receivable, compliance requirements, clinical documentation improvement, underpayments, contractual adjustments and payment integrity.

Our cloud-based PCH Global platform supports these services by streamlining claims submission and payment processing for providers and facilitating real-time connectivity with payer systems. It leverages its distributed architecture to integrate XBP Global's multiple industry offerings, including edit engines, payment application, healthcare analytics and revenue integrity capabilities. This integrated ecosystem enables cleaner claims at the point of service, reducing the risk of denial, delay and rework, thereby improving liquidity for various industry stakeholders. The PCH Global platform includes a dedicated online portal designed for small and medium-sized healthcare providers. By enabling these practices to submit and track claims directly through an intuitive, self-service interface, the portal provides a speedy, cost-effective alternative to traditional submission methods, significantly reducing administrative overhead and accelerating the overall payment cycle.

The healthcare RCM outsourcing market is experiencing significant growth, driven by demand for scalable solutions amid persistent industry labor shortages, rising regulatory complexity, interoperability mandates, and the continued shift toward value-based care models. To capitalize on these industry trends, XBP Global is engaged in ongoing development of an AI-first revenue cycle and payer operations solution suite, intended to support a transition from labor-intensive, reactive workflows to a digitally orchestrated, exception-driven operating model. This approach emphasizes embedding automation for routine tasks while leveraging experienced professionals for complex exceptions, with technology incorporating configurable thresholds, comprehensive audit trails, and human-in-the-loop controls to support compliance, public-sector accountability, and adaptability to evolving regulatory and technological landscapes.

[Table of Contents](#)

Banking and Financial Industry Solutions and Services

We provide a broad array of payment solutions to many of the world's largest financial institutions. These solutions allow our clients to bridge their physical and digital payment channels while maintaining security and auditability levels consistent with global financial regulations. We process more than a billion payments annually. Our banking and financial industry offerings include solutions for payment processing and payment enablement, mortgage enrollment, lending and loan management, confirmation of payee, KYC, anti-money laundering, governance, compliance and information management solutions and accounted for approximately 19% of revenue in 2025.

We handle a variety of payment channels in addition to checks and credit cards, including mobile payments, automated clearing house (ACH), Real Time Payments (called Faster Payments in the UK), Single Euro Payments Area (SEPA), Bank Giro in Nordic countries and other payment networks. Regulators have increasingly mandated security overlay services, such as the RTP standards described above, to mitigate fraud in real-time payments. Additionally, Confirmation of Payee ("CoP") and Verification of Payee ("VOP") are U.K. and E.U. standards, respectively, that verify payee information against account details. We were among the first service providers to launch a live client on our CoP service with the Co-operative Bank in 2020 and have been an approved CoP aggregator since 2024. We are also registered with the European Payments Council as a vendor of VOP services. We perform these services on behalf of banks or our other clients. Open banking is changing the regulatory environments in many of the Company's markets, which permit non-bank payment processors to connect to the payment networks directly. These banks look to us to manage the payment infrastructure (software, hardware and hosting), the process design, the operational aspects of the services, payment scheme compliance (to the in-country interbank clearing schemes) and the application of the appropriate governance processes covering this heavily regulated industry. The bank clients outsource functions from their payments infrastructure and operations to us, and we then manage the end-to-end design and build, test and operate aspects of the payments processes using our in-house resources, software and know-how.

We have internal policies and procedures that conform to the standards required by banks and regulators for such sensitive and crucial activities and help us comply with local laws and regulations. Our processing facilities are Payment Card Industry ("PCI") certified. Additionally, our platforms are equipped to process complex regulatory and financial transactions on behalf of our clients, such as helping our clients maintain compliance with Regulation Z (which governs consumer credit disclosures and costs under the Truth in Lending Act) and helping manage annuity payments. These policies and procedures are intended to position us well to accommodate evolving data privacy laws and regulations related to LLMs and AI.

Liquidity and Disbursement Solutions

We provide liquidity and disbursement solutions designed to facilitate capital flow. Utilizing proprietary, AI-enabled automation, our platform connects small-to-medium businesses (SMBs) and lending institutions. A primary application of this service is expediting the processing and routing of government disbursements, such as federal tax refunds, which allows commercial clients to receive their funds faster.

Cross Border Payments

We operate foreign currency services for banks in the U.K. and Ireland. These services are more complex than domestic payments as they require us to comply with international sanctions regimes (e.g., OFAC) and involve many more regulations, rules and downstream processes including exchange rate charging tariffs.

Digitization of Checks

We provide mobile and remote deposit technologies to our banking and financial services clients. For example, when the U.K. transitioned from traditional check processing to an image clearing system (“ICS”) in 2017, to speed up the settlement of checks, XBP Global and Vocalink (part of Mastercard) were selected to jointly build the infrastructure of this new inter-bank clearing system. Today, ICS has standardized digital check processing across the U.K. Within this ecosystem, we have delivered ICS-compliant services to participant banks in the U.K. and have worked to upgrade their mobile and remote deposit capabilities.

[Table of Contents](#)

Mortgage and Loan Management

To improve the speed and provide cost efficiencies within a compliant mortgage and lending completion process, our proprietary mortgage and loan management solutions enable lenders to originate and service loans with greater efficiency by automating the entire mortgage lifecycle, from origination to submission and post-completion disbursements.

Public Sector

We provide technology and services to public sector clients, including central, federal, state, and local government agencies, as well as national tax authorities, which accounted for approximately 11% of total revenues in 2025. Once integrated, our solutions become deeply embedded in these highly scrutinized public workflows, because our processing environments and data custody protocols are built from the ground up to satisfy rigorous regulatory standards, we provide a secure, compliant physical and cloud-based infrastructure that we believe represents a significant barrier to entry for new market participants.

XBP Global solutions are primarily deployed across pension benefits and administration, tax return processing, payment operations, inter-agency information management and communications with citizens and government employees. These solutions have evolved over time to include digital capabilities designed to reduce taxpayer refund waiting time, decrease the potential for tax fraud, and provide auditable reports to relevant stakeholders. Furthermore, we have the secure infrastructure and AI-enabled technology platforms in place to process payments, perform collection services, handle overflow taxpayer calls, provide e-filing for individual income tax, generate outbound taxpayer notifications across traditional and electronic channels, and host other specialized solutions built specifically to meet the exacting standards of public sector oversight.

Insurance Industry Solutions and Services

XBP Global offers a suite of insurance industry solutions aimed at providing digital engagements and rapid integration of disparate systems and silos. Our insurance industry solutions accounted for approximately 7% of total revenues in 2025. We provide applications and services to facilitate automation and digital transformation for underwriting and enrollments, premium payments, claims submission, first notification of loss, fraud, waste & abuse monitoring, and integrated communications. Our solutions are aimed at improving the client experience by providing digital pathways and transparency with web portals and integrated communications, while helping to improve quality and risk management.

Other Industries

For the commercial, technology, manufacturing, telecommunication, utilities, pharma, life sciences and legal industries, we primarily provide the multi-industry solutions described earlier. For 2025, our commercial industry revenue accounted for approximately 6% of total revenues, our service industry revenue accounted for approximately 11% of total revenues, our revenues from the technology and manufacturing industry accounted for approximately 8%, our telecommunication and utilities industry revenue accounted for approximately 3% of total revenues, our pharma and life sciences industry revenue accounted for approximately 2% of total revenues, while our revenue from the legal industry accounted for approximately 5%.

Historically, the majority of revenue for the above-mentioned industries was generated in the Americas, though we believe there is significant expansion opportunity throughout EMEA and the Asian markets. As we have made investments in our global scale, technology platforms and business strategy, some of our multinational clients have expanded our services to other geographies to leverage our international footprint. We believe our value proposition as a single source provider, with global platforms and location agnostic operations, positions us as a differentiated partner to our multi-national clients.

Overview of Revenues

We provide services to our clients on a global basis. During the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), our revenues by geography were as follows: \$291.7 million and \$421.0 million, respectively in the United States (90.1% of combined annual revenues), \$60.9 million and \$0, respectively in EMEA (7.7% of combined annual revenues) and \$6.8 million and \$10.6 million, respectively from the rest of the world (2.2% of combined annual revenues). We present additional geographical financial information in Note 21, *Segment Information* within our consolidated financial statements.

As described further in our consolidated financial statements, revenues reported for EMEA do not include amounts attributable to the period prior to the Business Combination. Our business consists of two reportable segments:

- ***Applied Workflow Automation.*** Our larger segment, Applied Workflow Automation, spans across a wide range of our solutions and services designed to aid businesses in information capture, processing, decisioning and distribution. The Applied Workflow Automation segment generated \$321.6 million and \$401.6 million of revenues for periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively, representing 91.4% of our combined annual revenues. We generate Applied Workflow Automation revenues primarily from a transaction-based pricing model for the various types of volumes processed, based on time and materials pricing and a mix of fixed management fees and transactional revenue for document logistics and location services.
- ***Technology.*** The Technology segment primarily focuses on sales of recurring and perpetual software licenses and related maintenance, hardware solutions and professional services. The Technology segment generated \$37.8 million and \$30.1 million of revenues for periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively, representing 8.6% of our combined annual revenues. We generate Technology revenues primarily from licensing and maintenance fees for technology sales.

Additional financial information for our business segments and regarding our Successor/Predecessor period and our Company's fresh start accounting is included in Note 21, *Segment Information* and Note 4, *Fresh Start Accounting*, respectively, within our audited consolidated and combined financial statements.

Our revenues can be affected by various factors such as our clients' demand pattern for our services. These factors have historically resulted in lower revenues in the third quarter and higher revenues in the fourth quarter. Backlog is not a metric that we use to measure our business.

History and Development of Our Company

XBP Global Holdings, Inc. was originally incorporated as CF Acquisition Corp. VIII, a blank check company formed under the laws of the State of Delaware on July 8, 2020. On March 16, 2021, the Company consummated its initial public offering. The Company's initial purpose was to effect a business combination with one or more businesses. On October 9, 2022, CF Acquisition Corp. VIII entered into a merger agreement with XBP Europe, Inc., at the time a subsidiary of ETI. This initial business combination was completed on November 30, 2023, at which time the Company was renamed XBP Europe Holdings, Inc., reflecting the acquisition of ETI's historical European operations, and the Company's shares and public warrants started trading on The Nasdaq Stock Market LLC under the ticker symbols "XBP" and "XBPEW," respectively.

On July 29, 2025, XBP Europe Holdings, Inc. finalized its acquisition of BPA, ETI's historical operations in the Americas and Asia, pursuant to the MIPA. The consideration for the sale was \$1.00, reflecting the encumbered nature of BPA, which at the time of entry into the MIPA was involved in voluntary bankruptcy proceedings under the caption *In re DocuData Solutions, L.C.*, Case No. 25-90023 (CML) (the "Chapter 11 Cases"). The Business Combination was subject to certain conditions subsequent including the emergence of BPA and certain of its affiliates from the Chapter 11 Cases, which occurred on July 29, 2025. Prior to the Business Combination, the Company and BPA had both been indirect subsidiaries of ETI. In connection with the Business Combination, the Company changed its

[Table of Contents](#)

name from “XBP Europe Holdings, Inc.” to “XBP Global Holdings, Inc.” and ceased being a subsidiary of ETI. Together with the European operations acquired in 2023, the Company’s current global platform is built upon a portfolio of acquired and predecessor entities with more than 50 years of commercial and operational history.

BPA Chapter 11 Reorganization

On March 3, 2025, BPA along with certain affiliates (the “BPA Debtors”) commenced the Chapter 11 Cases in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). On April 16, 2025, the BPA Debtors entered into a Plan Support Agreement (as amended, the “Plan Support Agreement”) with an ad hoc group of holders of certain notes, ETI, certain non-BPA Debtor subsidiaries of ETI (together with ETI, the “Consenting ETI Entities”), and certain other parties thereto. In the Plan Support Agreement such parties agreed, subject to certain conditions, to support the BPA Debtors’ reorganization plan in the Chapter 11 Cases and to take all commercially reasonable actions necessary and appropriate to facilitate the Restructuring. On May 7, 2025, the BPA Debtors filed the Plan reflecting the proposed Restructuring, which was confirmed by the Bankruptcy Court on June 23, 2025. On July 29, 2025 (the “Emergence Date”), BPA consummated the Restructuring and emerged from bankruptcy having satisfied or waived all the conditions set forth in the Plan.

See Note 1, *Description of the Business* of the notes to the consolidated financial statements for additional information about the Restructuring.

Key Business Strategies

Our business strategy centers on securely managing complex workflows for our clients. We accomplish this by deploying proprietary software and automated workflows that unify physical logistics and modern digital infrastructure. By combining decades of experience managing sensitive operations with adherence to mandated compliance standards, we provide a structurally durable operating model that securely processes complex data that off-the-shelf software tools cannot easily manage. The key elements of our growth strategy are described below:

- **Orchestrate Mission-Critical Systems to Enable Hyper-Automation.** We seek to expand our client relationships by delivering end-to-end intelligent workflows. Through the integration of our proprietary platforms, agentic AI-enabled automation, and domain expertise, we act as a hyper-automation enabler for mission-critical enterprise systems. This approach allows organizations to transition from labor-intensive, reactive workflows to a digitally orchestrated, exception-driven operating model.

- **Expand our Public Sector Presence.** We currently provide solutions to various government agencies across the world and intend to intensify our presence in the public sector by pursuing government and public agency-led technology and infrastructure opportunities. These initiatives span complex digital transformation, AI-driven, and cloud-based solutions. Because our operating environments are built to satisfy rigorous, mandated compliance and security standards—such as FISMA, SOC 2, and HIPAA—we believe we are well positioned to deliver processing and automation platforms that meet the exacting requirements of federal, central and state and regional agencies.
- **Expand Relationships with Existing Clients.** We intend to continue to pursue cross-selling and up-selling opportunities within our existing client base. With an existing base of over 2,500 clients, we believe we have meaningful opportunities to offer a bundled suite of services and be a “one-stop-shop” for our clients, especially when they need a digital transformation partner.
- **Grow XBP Network of Buyers and Suppliers.** We processed more than a billion payment transactions in 2025. The transactions we process touch a vast network of consumers, buyers and suppliers globally, and present a significant opportunity to connect many more of them. We intend to expand the scope and scale of services we offer by leveraging the integration value our existing network provides as we endeavor to further connect buyers and suppliers to communicate and transact digitally.

[Table of Contents](#)

- **Leverage our Software Suite Across On-Site Services.** More than a thousand of our employees currently work directly at our clients' facilities in an on-site capacity. We believe this physical presence is a competitive differentiator and a valuable asset as we pursue future growth. In highly regulated industries where accuracy and compliance are paramount, automated workflows still require dedicated human oversight. By equipping our on-site personnel with our proprietary workflow automation tools, they can act as the critical "human-in-the-loop"—handling complex exceptions, sensitive data, and quality control. This integration of human expertise with advanced software directly within the client's own environment enables us to support AI-enabled automation deployments in operational settings that may not be conducive to purely software-driven solutions.
- **Expand our Healthcare Presence.** Healthcare represented approximately 28% of our total revenues in 2025, making it our largest vertical and a strategic growth priority. We serve commercial and government-sponsored payers, hospital networks, and large medical distribution systems through our revenue cycle management suite and PCH Global platform. Across all geographies, we are developing an AI-first solution suite designed to capitalize on growing demand for scalable RCM automation amid persistent industry labor shortages and rising regulatory complexity.

Clients

As of December 31, 2025, we served over 2,500 clients across a variety of industries, many of which are recurring clients that have maintained long-term relationships with us and our predecessor companies. We have successfully leveraged these relationships to offer extended value chain services, driving long-term retention and increasing overall margins. Clients turn to us due to a demonstrated ability to work on large-scale projects, past performance and record of delivery, and deep domain expertise accumulated from years of experience in key verticals.

Our solutions reach a wide range of industries and transactions

Automation in Healthcare		Bills & Payments		Legal Administration	Integrated Communication Solutions
		Americas	Europe		
1+ MILLION	\$53.8+ BILLION	700 MILLION+	~800 MILLION	~\$1 BILLION	460+ MILLION
PROVIDERS MANAGED	CLAIMS DENIAL ERRONEOUS ANNUAL BILLED CLAIMS VALUE IDENTIFIED UPFRONT	PAYMENT TRANSACTIONS PROCESSED ANNUALLY	PAYMENT TRANSACTIONS PROCESSED ANNUALLY	FUNDS DISBURSED ANNUALLY	PIECES OF MAIL PROCESSED ANNUALLY
~12 MILLION	32+ MILLION	17,000	~95-100%	3.2+ MILLION	1.7+ BILLION
CHARTS CODED AND AUDITED ANNUALLY	CLAIMS PROCESSED ANNUALLY	ACTIVE LOCKBOXES	UK AND IRELAND CHECK PAYMENTS, NORWAY & SWEDEN BANK GIRO TRANSACTIONS	E-PAYMENTS DONE ANNUALLY	IMAGES PROCESSED ANNUALLY

We maintain a strong mix of diverse clients with low client concentration. While our top 5 clients accounted for 27% of 2025 revenue, and our top 10 clients accounted for 39% of 2025 revenue, no single client accounts for more than 10% of 2025 revenue. By operating across a diverse set of end markets, we seek to balance our client mix and mitigate our dependency on any single client or specific industry vertical.

Research and Development

Our ability to compete successfully depends upon our development of advanced technologies that modernize complex enterprise workflows. Through investment, intellectual property development, and targeted acquisitions, our research and development efforts are primarily focused on deploying artificial intelligence and embedded processing solutions. Because we serve as the secure point of entry for vast quantities of proprietary corporate data—capturing unstructured inputs directly through our physical and DMR operations—we regularly handle complex, highly regulated

[Table of Contents](#)

workflows. This experience guides our engineering efforts as we bridge the gap between AI and real-world enterprise implementation.

We are enhancing our end-to-end processing environments by pairing intelligent document processing and our orchestration software with dedicated, human-in-the-loop exception handling. This structured, platform-agnostic workflow provides that as we develop hyper-automation and custom machine learning models to classify and action data instantly, we help our clients maintain the requisite security protocols and auditable chains of custody. As part of our broader innovation pipeline, we are also actively developing specialized, vertical-specific AI solutions tailored to the operational and regulatory requirements of the sectors we serve. Additional financial information regarding our R&D expense is included in Note 2, *Basis of Presentation and Summary of Significant Accounting Policies* within our consolidated financial statements.

Intellectual Property

We deploy a combination of internally developed proprietary knowledge platforms and agentic AI-driven automation. Our decisioning engines incorporate hundreds of thousands of client- and industry-specific rules that enable high-accuracy preparation and decisioning of complex, regulated transactions where generalized software often fails to meet the precision, auditability and compliance requirements of our clients. We believe this accumulated body of domain expertise is a meaningful differentiator in serving our target markets.

Our business processes and implementation methodologies are confidential and proprietary and include trade secrets that are important to our business. We own a variety of trademarks and patents, which are registered or pending. We regularly enter into nondisclosure agreements with clients, business partners, employees and contractors that require confidential treatment of our information to establish, maintain and enforce our intellectual property rights. Our licensed intellectual properties are generally governed by written agreements of varying durations, including some with fixed terms that are subject to renewal based on mutual agreement. Generally, each agreement may be further extended, and we have historically been able to renew most existing agreements before they expire.

Competition

We believe that the principal competitive factors in providing our solutions include proprietary platforms, industry specific knowledge, quality, reliability and security of service, and price. We are differentiated competitively given our scale of operations, reputation as a trusted partner with deep domain expertise, innovative solutions, and highly integrated technology platforms that provide clients with end-to-end services addressing many aspects of their mission-critical operational processes. We continue to integrate best

practice delivery processes into our service delivery capabilities to improve quality and service levels and to increase operational efficiencies. The markets in which we serve are competitive with both large and small businesses, as well as global companies:

- Multi-national companies that provide data aggregation, information management and workflow automation services, such as IBM, Google, AWS, Microsoft, EMC, OpenText, Hyland, Iron Mountain, Canon, and Ricoh;
- Bills and payments aggregators and processors;
- Consulting, discrete process and platform integration service providers such as Fiserv, Jack Henry, FIS, Intercontinental Exchange, Optum, Broadridge Financial Solutions, Computershare, Cognizant, and Accenture;
- Platform and front-end software providers, such as Workday, Salesforce, HighRadius Blackline and Pega;
- Multi-shore business process outsourcing companies, such as Genpact, Cognizant, Exl Service, Conduent, Wipro, and WNS; and

[Table of Contents](#)

- Niche service providers in specific verticals and/or geographies.

Regulation and Compliance

We handle, directly or indirectly through client contracts and business associate agreements, a significant amount of sensitive information, including personal, financial and health related information. As a result, we are subject to federal, state and local privacy and information security laws and regulations, including the Gramm Leach Bliley Act (“GLBA”), the Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”). We are also subject to sector specific confidentiality, data use, and security requirements imposed by certain of our clients, including regulated financial institutions and healthcare entities. Further, we are subject to country specific rules governing data protection, records retention, and information handling in the jurisdictions in which we operate outside the United States.

Our commitment to global compliance is underscored by our adherence to a rigorous framework of international certifications and independent third-party assessments. These certifications include ISO 9001 (Quality Management Systems), ISO/IEC 27001 (Information Security Management), ISO 22301 (Business Continuity Management), and ISO/IEC 28000 (Supply Chain Security Management). Furthermore, our operations are supported by a broad suite of System and Organization Controls (“SOC”) 1 Type II and SOC 2 Type II reports. These independent assessments are intended to provide a foundation for the deployment of advanced automation and digital transformation initiatives for our clients. By maintaining this consistent third-party validation, we seek to maintain internal controls that remain robust and scalable as we evolve our service offerings.

We also maintain region specific certifications and align our services with recognized national and international standards, including the NF461 electronic archiving certification in France; the German Federal Office for Information Security’s TR 03138 (RESISCAN) technical guideline for legally compliant replacement scanning in Germany; the Cyber Essentials Plus assurance scheme in the United Kingdom; and BS 10008, the British Standard governing the legal admissibility and evidential weight of electronically stored information. In addition, our information management and secure destruction practices are aligned with internationally recognized standards, including ISO 15489 for records management and BSEN 15713 for the secure destruction of confidential and sensitive material.

In addition, while many of our services to our clients are not directly regulated, those services must be delivered in a manner consistent with legal and procedural frameworks applicable to our clients. For example, our bankruptcy claims administration services must comply with requirements and deadlines established under the United States Bankruptcy Code and the Federal Rules of Civil Procedure. We also support clients that are

subject to regulatory oversight, which may result in our operations being reviewed by those oversight bodies from time to time. Further, as a government contractor, we are subject to associated regulations, compliance obligations and performance requirements. Certain of our contracts also require us to meet specific information security standards or undergo periodic third party assessments or certifications.

Changes to existing laws, adoption of new laws or regulations, or failure to comply with applicable requirements may result in additional operational costs, required changes to our business practices, liability for monetary damages or penalties, governmental inquiries or investigations, criminal or civil enforcement actions, restrictions on our ability to collect, use or process information, and/or allegations of contractual nonperformance. Any of these outcomes could materially adversely affect our business, financial condition, results of operations, profitability or cash flows.

Privacy and Information Security Regulations

Data privacy and information security laws in the United States and internationally apply to the access, collection, processing, transfer, use, storage, retention, and destruction of personal information in connection with our services. In the United States, our financial institution clients are subject to GLBA, and we are contractually bound to maintain controls consistent with that framework. We also perform services for healthcare companies and are therefore subject to HIPAA, HITECH, and related regulations. We additionally perform credit related services that require us to comply with payment card standards, including the PCI Data Security Standard. Federal and state privacy and information security laws, including consumer protection statutes, may also apply directly to our operations.

[Table of Contents](#)

Privacy laws often require notification to affected individuals, state and federal regulators, and consumer reporting agencies in the event of certain security incidents resulting in unauthorized access to or disclosure of personal information. State data breach notification laws in the United States continue to expand in scope and complexity, and several states have enacted comprehensive privacy laws imposing additional compliance obligations, such as consumer rights management, data minimization requirements, and restrictions on certain automated processing activities.

Privacy laws outside the United States may impose additional or more restrictive obligations. For example, in the European Union, the General Data Protection Regulation (“GDPR”) imposes significant requirements relating to data protection, cross border data transfers, data subject rights, breach response and notification, and security safeguards, and provides for substantial penalties for non-compliance. Many other jurisdictions in which we operate have adopted, or continue to adopt, GDPR inspired privacy regimes, each with its own regulatory, notice, and data transfer requirements.

Public attention to data protection, cybersecurity incidents, and the use of personal information continues to increase, accompanied by evolving legislation, regulations and case law aimed at strengthening consumer privacy, information security, and governance of data use. Emerging regulatory frameworks relating to artificial intelligence and automated decision making may also impose additional compliance considerations for companies that process large volumes of data, including service providers such as us. While we believe we are compliant with our regulatory obligations, information security threats continue to evolve, resulting in increased risk and exposure. Legislation, regulation, litigation, court rulings, enforcement activities or other events could expose us to increased costs, liability or reputational harm.

Human Capital

We consider our employees to be the foundation for our growth and success.

As of December 31, 2025, we had approximately 10,600 employees. We have a global workforce with approximately half of our employees located in Americas and EMEA, and the remainder located in India and the Philippines. Our employee count fluctuates from time to time based upon the timing and duration of our engagements. Our senior leadership team has extensive experience with workflow automation, and while we have grown through a number of acquisitions, we have retained an experienced and cohesive leadership team.

We are fully committed to developing and fostering a culture of diversity and inclusion and understand that our ability to identify and hire talented individuals from all backgrounds and perspectives is key to our continued success.

- ***Diversity and inclusion.*** We continue to focus on the hiring, retention, and advancement of women and underrepresented populations. Recently, we have been expanding our efforts to recruit and hire diverse talent and identify strategic partners to accelerate our inclusion and diversity programs.
- ***Compensation and benefits.*** We offer a complete set of benefits for our employees, including competitive base salaries and pay-for-performance opportunities. In addition, we maintain an equity incentive plan through which we use targeted equity-based grants with vesting conditions to attract and retain personnel.
- ***Health, safety, and wellness.*** The success of our business is fundamentally connected to the well-being of our people. Accordingly, we are committed to the health, safety and wellness of our employees. We provide our employees and their families with access to a variety of flexible and convenient health and wellness programs.
- ***Talent development.*** We invest significant resources to develop the talent needed to continue to be a leader in our industry. We deliver numerous training opportunities, provide rotational assignment opportunities, have expanded our focus on continuous learning and development, and implemented industry leading methodologies to manage performance, provide feedback and develop talent. Our talent development programs provide employees with the resources they need to help achieve their career goals, build management skills and lead their organizations.

[Table of Contents](#)

- ***Building connections.*** We believe that building connections between our employees, their families, and our communities creates a more meaningful, fulfilling and enjoyable workplace. We are active and involved in the communities in which our employees live and work, and we promote a culture of volunteering and giving back.

We locate our operation centers in areas where the value proposition it offers is attractive relative to other local opportunities, resulting in an engaged and educated multi-lingual workforce that is able to make a meaningful global contribution from their local marketplace. We offer our employees a focused set of training programs to increase their skills and leadership capabilities with the goal of creating a long-term funnel of talent to support the Company's continued growth. Additionally, our proprietary platforms enable rapid learning and facilitate knowledge transfer among employees, reducing training time.

Reverse Stock Split

On December 12, 2025, the Company filed a Certificate of Amendment to its Third Amended and Restated Certificate of Incorporation with the Secretary of State of Delaware, to effect a one (1) share for ten (10) shares reverse stock split of the Company's Common Stock (the "Reverse Stock Split"). The Reverse Stock Split had no effect on the par value of the Common Stock. Fractional shares were not issued as a result of the Reverse Stock Split. Stockholders who would otherwise have been entitled to a fractional share of Common Stock instead received cash in lieu of fractional shares based on the closing sales price of the Company's Common Stock as quoted on the Nasdaq on December 12, 2025.

The Reverse Stock Split resulted in a proportionate adjustment to the per share exercise price and the number of shares of Common Stock issuable upon the exercise of our outstanding stock options and warrants. As a result of the Reverse Stock Split, the number of shares of Common Stock issuable on exercise of each of our warrants has decreased in proportion to such decrease in outstanding shares of Common Stock. As a result, each private and public warrant previously exercisable for one share at \$11.50 per one share, is now exercisable for one-tenth of a share at \$11.50 per one-tenth of a share (\$115.00 per share). Each ETI warrant previously exercisable for one share at \$4.98 per one share, is now exercisable for one-tenth of a share at \$4.98 per one-tenth of a share (\$49.80 per share)

Except as otherwise indicated, all share and per share information herein gives pro forma effect to the Reverse Stock Split.

Status as a Smaller Reporting Company

We are a "smaller reporting company" as defined in Rule 12b-2 of the Exchange Act and have elected to take advantage of certain of the scaled disclosures available for smaller reporting companies.

Available Information

Our website address is www.xbpglobal.com. We are not including the information provided on our website as a part of, or incorporating it by reference into, this Annual Report. We make available free of charge through our website our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to these reports, as soon as reasonably practicable after we electronically file such material with, or furnish such material to, the SEC. In addition, we make available our code of ethics entitled “Code of Ethics and Business Conduct” free of charge through our website. We intend to post on our website all disclosures that are required by law or Nasdaq listing standards concerning any amendments to, or waivers from, any provision of our code of ethics.

The SEC maintains an internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov. The information contained on the websites referenced in this Annual Report is not incorporated by reference into this filing.

ITEM 1A. RISK FACTORS

In the course of conducting our business operations, we are exposed to a variety of risks, some of which are inherent in our industry and others of which are more specific to our own business. In addition to the other information set forth in this Annual Report on Form 10-K, and other filings we have made and will make in the future with the SEC, you should carefully consider the following risk factors and uncertainties, which could materially affect the Company's business, financial condition and operating results. Additional risks and uncertainties not currently known to management or that management currently deems immaterial also may materially, adversely affect the Company's business, financial condition or operating results.

Risks Relating to our Business

Our strategic focus on automating and modernizing the workplace through artificial intelligence involves significant execution risks, and failure to successfully develop or monetize these solutions could materially harm our business.

A key element of our corporate strategy is the deployment of artificial intelligence, including agentic AI, machine learning, and intelligent workflow automation, into our core platforms to automate enterprise workflows. Executing this strategy requires substantial upfront and ongoing investments in technology infrastructure, proprietary data modeling, and specialized engineering talent. The market for AI solutions is rapidly evolving, highly competitive, and subject to shifting client preferences. If our AI-enabled platforms fail to deliver anticipated efficiencies, if clients resist adopting these automated workflows, or if we are unable to keep pace with the technological advancements of larger, better-funded competitors, our strategy may not succeed. Furthermore, the increasing integration of AI into mission-critical and highly regulated workflows exposes us to complex regulatory, execution and implementation risks. As the Company deploys AI to automate workflows previously performed by its own workforce, it faces the risk that this automation displaces higher-margin managed service revenues faster than new AI-enabled revenue streams can replace them, compressing margins during the transition period. If we are unable to successfully develop, deploy, and monetize our AI-driven solutions, our competitive position, revenue growth, and financial condition could be materially and adversely affected.

Many of the Company's client contracts may be terminated without cause and with limited notice, and government contracts subject it to audits, investigations and potential penalties that could result in contract termination, financial liability and reputational damage.

Many of the Company's client contracts may be terminated by its clients without cause and without any fee or penalty, with only limited notice. The Company may not be able to replace a client that elects to terminate or fails to renew its contract with it. In addition, a portion of the Company's revenues is derived from contracts with the U.S. federal and state governments and their agencies and from contracts with foreign

governments and their agencies. Government entities typically finance projects through appropriated funds. The public procurement environment is unpredictable and this could adversely affect the Company's ability to perform work under new and existing contracts. Any such reductions in revenue could materially adversely affect the Company's business, results of operations and financial condition.

Moreover, government contracts are generally subject to a right to conduct audits and investigations by government agencies. If a government entity determines that there were contractual breaches or improper or illegal activities related to any government contracts, the Company may be subject to various civil and criminal penalties and administrative sanctions, which may include termination of contracts, forfeiture of profits, suspension of payments, fines and suspensions or debarment from doing business with the government. Further, the negative publicity that could arise from any such penalties, sanctions or findings in such audits or investigations could have an adverse effect on the Company's reputation in the industry and reduce its ability to compete for new contracts and could materially adversely affect the Company's results of operations and financial condition.

The Company's long-term contracts are based on cost estimates that may prove inaccurate, and its inability to offset increased operational costs with corresponding fee increases could materially impact its financial performance.

The pricing and other terms of the Company's client contracts are based on estimates and assumptions the Company makes at the time it enters into those contracts. These estimates reflect the Company's best judgments

[Table of Contents](#)

regarding the nature of the engagement and its expected costs to provide the contracted services and could differ from actual results. Not all of the Company's larger long-term contracts allow for escalation of fees as the Company's costs of operation increase and those that allow for such escalations do not always allow fee increases at rates comparable to cost increases that the Company experiences. Where the Company cannot negotiate long-term contract terms that provide for fee adjustments to reflect increases in its cost of service delivery, the Company's business, results of operations and financial condition could be materially impacted. The Company has entered into, and expects to continue to enter into, contracts in which fees are contingent in whole or in part on achieving specified performance metrics or client outcomes. These arrangements introduce revenue variability and the risk that the Company bears costs without commensurate compensation if target outcomes are not met or are disputed.

The Company's workflow automation solutions require extended selling cycles and implementation periods, which can strain finances through upfront expenses without immediate revenue and create risks of contract loss after significant investment.

The Company often faces long selling cycles to secure new contracts for its workflow automation solutions. If the Company is successful in obtaining an engagement, the selling cycle can be followed by a long implementation period. Delays in internal approvals, technology implementations or client decisions can prolong these cycles. Even if the Company succeeds in developing a relationship with a potential client and begins to discuss the services in detail, the potential client may choose a competitor or decide to retain the work in-house prior to the time a contract is signed. Additionally, the Company may not begin receiving revenue until after the implementation period and its solution is fully operational, leading to upfront expenses without immediate profits. These extended cycles can strain finances, especially when hiring new staff before revenue collection. The Company's inability to obtain contractual commitments after a selling cycle, maintain contractual commitments after the implementation period or limit expenses prior to the receipt of corresponding revenue may have a material adverse effect on its business, results of operations and financial condition.

The Company operates in a highly competitive industry and faces significant competition from companies with stronger financial resources, better brand recognition and lower-cost operations, as well as from clients who may choose to perform services in-house.

The Company's industry is highly competitive, fragmented and subject to rapid change. The Company competes primarily against local, national, regional and large multi-national information and payment technology companies, including focused workflow automation companies based in offshore locations, workflow automation divisions of information technology companies, other workflow automation and consulting services and digital transformation solution providers and the in-house capabilities of the Company's

clients and potential clients. These competitors may include entrants from adjacent industries or entrants in geographic locations with lower costs than those in which the Company operates.

As agentic AI, LLMs, and intelligent document processing tools become increasingly accessible, we expect competition to intensify. We may face new competitive pressures from AI-native software startups and major global technology companies entering the workflow automation space. Furthermore, the proliferation of highly capable, off-the-shelf AI tools may increasingly empower our clients and potential clients to seamlessly perform complex digital transformations and workflow automations in-house, significantly reducing their reliance on our services and managed platforms. Increased competition, the Company's inability to compete successfully against competitors, pricing pressures or loss of market share could result in reduced operating margins, which could materially adversely affect the Company's business, results of operations and financial condition.

The Company operates in an industry characterized by rapid technological change, and failure to develop competitive technology solutions, adapt to digital transformation trends or respond to evolving client needs could result in loss of market share and revenue.

If the Company fails to accurately anticipate and meet its clients' needs through the development of new technologies and service offerings or if its new services are not widely accepted, the Company could lose market share and clients to its competitors, which could materially adversely affect its results of operations and financial condition. More specifically, the workflow automation industry is characterized by rapid technological change, evolving industry standards and changing client preferences, especially with regards to AI and intelligent workflow automation. While we

[Table of Contents](#)

have made investments in AI-related technologies, the rapid development of artificial general intelligence by third parties may render our proprietary decisioning engines less competitive. The success of the Company's business depends, in part, upon its ability to develop technology and solutions that keep pace with changes in its industry and the industries of its clients. Although the Company has made, and will continue to make, investments in the research, design and development of new technology and platform-driven solutions, it may not be successful in addressing these changes on a timely basis or in marketing the changes it implements. In addition, products or technologies developed by others may render the Company's services uncompetitive or obsolete. Failure to address these developments could have a material adverse effect on the Company's business, results of operations and financial condition.

In addition, existing and potential clients are actively shifting their businesses away from paper-based environments to electronic environments with reduced needs for physical document management and processing. This shift may result in decreased demand for the physical document management services the Company provides such that its business and revenues may become more reliant on technology-based services in electronic environments, which are typically provided at lower prices compared to physical document management services. Although the Company has solutions for clients seeking to make these types of transitions, a significant shift by its clients away from physical documents to non-paper-based technologies, whether now existing or developed in the future, could adversely affect its business, results of operations and financial condition.

The Company's reliance on third-party hardware and software creates risks of service disruptions, increased costs and operational delays if vendors discontinue products or raise prices, or if it encounters defects in third-party components.

Although the Company has developed its platform-driven solutions internally, it relies, in some cases, on third-party hardware and software in connection with its service offerings, which it purchases, leases or licenses from third-party vendors. Detecting design defects or software errors in third-party hardware or software is challenging due to their complexity and unique specifications. Any errors or defects in third-party hardware or software incorporated into the Company's service offerings may result in a delay or loss of revenue, diversion of resources, damage to its reputation or potential claims against the Company.

Further, such third-party hardware and software may not continue to be available on commercially reasonable terms or at all. Any loss of the right to use any of this hardware or software, or any increases in the price charged by third-party vendors, could negatively affect the Company's business until equivalent technology is either developed by the Company or, if available from other third-party vendors, is identified, obtained and

integrated on commercially reasonable terms. Further, changing hardware vendors or software licensors could detract from management's ability to focus on the ongoing operations of the Company's business or could cause delays in the operations of its business.

Certain higher-risk engagements involving significant financial sums, sensitive data or complex legal matters could expose the Company to increased liability, reputational damage and operational disruption despite its risk mitigation efforts.

The Company provides certain workflow automation solutions for clients that, for financial, legal or other reasons, may present higher risks compared to other types of claims processing or document management engagements. Examples of higher risk engagements include class action and other legal distributions involving significant sums of money and engagements where the Company receives or processes sensitive data, including personal consumer or private health information.

As the Company's clients use its services for important aspects of their businesses, any errors, defects, disruptions in service or other performance problems could hurt the Company's reputation and may damage its clients' businesses. As a result, clients could elect not to renew the Company's services or delay or withhold payment. The Company could also lose future sales or clients may make warranty or other claims against it. These consequences have resulted, and may in the future result, in increased allowances for expected credit losses, lengthened collection cycles for accounts receivable, and increased expense and risk of litigation.

We rely on dedicated human-in-the-loop exception handling to oversee our agentic AI automation, and this control framework is subject to human error. Because our clients use our services for mission-critical aspects of their businesses—such as healthcare claims adjudication and large-scale legal settlement distributions—any failure by our

[Table of Contents](#)

human operators to identify sophisticated AI errors, hallucinations, or processing defects could hurt our reputation, severely damage our clients' businesses, and expose us to substantial financial and legal liabilities

Any actual or alleged error or omission by the Company, its clients or other third parties or possible fraudulent activity in one or more of these higher-risk engagements could result in the diversion of management resources, damage to the Company's reputation, increased service costs or impaired market acceptance of the Company's services, any of which could materially adversely affect the Company's business and financial condition.

The Company's business depends on protecting its intellectual property and avoiding infringement claims from others, and failure in either area could result in loss of competitive advantage, substantial damages or operational restrictions.

The Company's success depends in part on certain methodologies and practices it utilizes in developing and implementing applications and other proprietary intellectual property rights. In order to protect such rights, the Company relies upon a combination of nondisclosure and other contractual arrangements, as well as trade secret, copyright, trademark and patent laws. The Company also generally enters into confidentiality agreements with its employees, clients and potential clients and limits access to and distribution of its proprietary information. There can be no assurance that the laws, rules, regulations and treaties in effect in the United States, Europe, India and the other jurisdictions in which the Company operates and the contractual and other protective measures it takes are adequate to protect the Company from misappropriation or unauthorized use of its intellectual property, or that such laws will not change. There can be no assurance that the resources invested by the Company to protect its intellectual property will be sufficient or that its intellectual property portfolio will adequately deter misappropriation or improper use of its technology, and its intellectual property rights may not prevent competitors from independently developing or selling similar products and services. The Company may not be able to detect unauthorized use and take appropriate steps to enforce its rights, and any such steps may be costly and unsuccessful. Infringement by others of the Company's intellectual property, including the costs of enforcing its intellectual property rights, may have a material adverse effect on its business, results of operations and financial condition. The Company could also face competition in some countries where it has not invested in an intellectual property portfolio.

If the Company is not able to protect its intellectual property, the value of its brand and other intangible assets may be diminished, and its business may be adversely affected. The value of, or the Company's ability to use, its intellectual property may also be negatively impacted by dependencies on third parties, such as its ability to obtain or renew on commercially reasonable terms licenses that it needs in the future, or its ability to secure or retain ownership or rights to use data in certain software analytics or services offerings. In addition, if the Company is found to infringe any third-party rights, it could be required to

pay substantial damages or it could be enjoined from offering some of its products and services. Any such circumstances may have a material adverse effect on the Company's business, results of operations and financial condition.

The Company's revenues are concentrated, making it vulnerable to downturns, consolidation or regulatory changes in specific sectors.

A substantial portion of the Company's revenues are derived from specific industries. The Company's success largely depends on continued demand for its services from clients in these industries, and a downturn or reversal of the demand for workflow automation, or the introduction of regulations that restrict or discourage companies from engaging the Company's services, could materially adversely affect its business, financial condition and results of operations. Further, consolidation in any of these industries or combinations or mergers, particularly involving the Company's clients, may decrease the number of potential clients for its services. For example, the Company has been affected by the worsening of economic conditions and significant consolidation in the financial services industry and continuation of this trend may negatively affect its revenues and profitability.

The Company's competitive bidding process for commercial and government contracts requires substantial upfront investment with uncertain returns and exposes it to protest risks, cost estimation challenges and opportunity costs.

Many of the contracts awarded to the Company through competitive bidding procedures are extremely complex and require the investment of significant resources in order to prepare accurate bids and proposals. Competitive bidding imposes substantial costs and presents a number of risks that may adversely affect the Company's financial position,

[Table of Contents](#)

including: (i) the substantial cost and managerial time and effort that the Company spends to prepare bids and proposals for contracts that it may or may not be awarded; (ii) the need to estimate accurately the resources and costs that will be required to implement and service any contracts the Company is awarded, sometimes in advance of the final determination of its full scope and design; (iii) the expense and delay that may arise if the Company's competitors protest or challenge awards made to it pursuant to competitive bidding and the risk that such protests or challenges could result in the requirement to resubmit bids and in the termination, reduction or modification of the awarded contracts, or may eventually lead to litigation; and (iv) the opportunity cost of not bidding on and winning other contracts the Company might otherwise pursue.

The Company's profitability depends on its ability to obtain adequate pricing for its services in competitive markets and maintain cost efficiency through restructuring actions, technology initiatives and global delivery centers, and its failure to achieve productivity improvements or absorb pricing pressures could materially adversely affect its results of operations, particularly given operational risks in developing countries and increasingly stringent service requirements.

The Company's success depends on its ability to obtain adequate pricing for its services. Depending on competitive market factors, prices the Company obtains for its services may decline from previous levels. If the Company is unable to obtain adequate pricing for its services, its results of operations and financial condition could be materially and adversely affected. In addition, the Company's contracts are increasingly requiring tighter timelines for implementation as well as more stringent service level metrics. These requirements make the bidding process for new contracts more difficult and require the Company to adequately consider these requirements in the pricing of its services.

The Company, from time to time, engages in restructuring actions to reduce its cost structure. If the Company is unable to maintain its cost base at or below current levels or sustain process and systems changes resulting from prior restructuring actions, such failures could materially adversely affect its results of operations and financial condition. The Company's ability to sustain and improve profit margins depends on a number of factors, including its ability to continue improving the cost efficiency of its operations through programs such as process automation, its capacity to absorb pricing pressures on its services through cost improvements and the successful completion of information technology initiatives. If any of these factors adversely materialize or if the Company is unable to achieve and maintain productivity improvements through restructuring actions or information technology initiatives, its ability to offset labor cost inflation and competitive price pressures would be impaired, each of which could materially adversely affect its results of operations and financial condition.

Failure to comply with data privacy and data protection laws in processing and transferring personal data across jurisdictions may subject the Company to penalties and other adverse consequences, and the enactment of more stringent data privacy and data protection laws may increase its compliance costs.

Privacy and data security regulations continue to become more complex and have greater consequences. For example, Europe's GDPR imposes several stringent requirements for controllers and processors of personal data, including higher standards for obtaining consent from individuals to process their personal data, more robust disclosures to individuals and a strengthened individual data rights regime, and shortened timelines for data breach notifications. Failure to comply with the requirements of the GDPR and the applicable national data protection laws of the European Union member states may result in fines of up to €20,000,000 or up to 4% of the total worldwide annual turnover of the preceding financial year.

In addition, data privacy laws in the United States, similarly impose or may impose obligations on the Company and many of its clients, potentially as both businesses and service providers. These laws continue to evolve, and as various states introduce similar proposals, the Company and its clients could be exposed to additional regulatory burdens. In addition, India's Digital Personal Data Protection Act and its implementing rules impose consent, processing and breach notification obligations that may apply to the Company's Indian operations and increase its compliance obligations and costs.

Evolving data privacy and data protection laws may require the Company to make changes to its practices and services and may also increase its potential liability exposure through new or higher potential penalties for noncompliance. Furthermore, privacy laws and regulations are subject to differing interpretations and may be inconsistent among jurisdictions. The Company's clients expect it to meet voluntary certification and other standards

[Table of Contents](#)

established by third parties, such as PCI Data Security Standard. If the Company is unable to maintain these certifications or meet these standards, it could adversely affect the Company's ability to provide its solutions to certain clients and could harm its business.

The costs of compliance with, and other burdens imposed by, privacy laws, regulations and standards may limit the use and adoption of the Company's services, reduce overall demand for its services, make it more difficult to meet expectations from its commitments to clients and its clients' customers, lead to significant fines, penalties or liabilities for noncompliance, impact its reputation or slow the pace at which it closes sales transactions, in particular where clients request specific warranties and indemnity for noncompliance with privacy laws, any of which could harm the Company's business.

Furthermore, the uncertain and shifting regulatory environment may cause the Company's clients or its clients' customers to resist providing the data necessary to allow the Company's clients to use its services effectively. In addition, new services developed or acquired in connection with changing events may expose the Company to liability or regulatory risk. Even the perception that the privacy and security of personal information are not satisfactorily protected or do not meet regulatory requirements could inhibit sales of the Company's products or services and could limit adoption of its cloud-based solutions.

The Company must maintain strict physical and information security standards subject to regular client and third-party audits, and failure to meet these requirements or negative audit findings could result in contract termination and reputational damage.

Many of the Company's client contracts require that it maintain certain physical and/or information security standards, and, in certain cases, the Company permits a client to audit its compliance with these standards. Any failure to meet such standards or pass such audits may have a material adverse impact on the Company's business. Further, clients from time to time may require stricter physical and/or information security than they negotiated in their contracts and may condition continued volumes and business on the satisfaction of such additional requirements. Some of these requirements may be expensive to implement or maintain and may not be factored into the Company's contract pricing. Further, on an annual basis, the Company obtains third-party audits of certain of its locations in accordance with third-party attestation standards. Many of the Company's clients expect that it will engage in such procedures and report to them the results. Negative findings in such an audit and/or the failure to adequately remediate in a timely fashion such negative findings may cause clients to terminate their contracts or otherwise have a material adverse effect on the Company's reputation, results of operations and financial condition.

The Company faces significant cybersecurity risks and vulnerability to data breaches from sophisticated cyber threats, employee errors and third-party compromises, which could result in loss of client confidence, business disruption, legal liability and substantial financial costs.

The Company collects and retains large volumes of internal and client data, including personally identifiable information and other sensitive data, both physically and electronically, and its various information technology systems enter, process, summarize and report such data. The Company also maintains personally identifiable information about its employees. Safeguarding client, employee and its own data is a key priority for the Company, and its clients and employees have come to rely on the Company for the protection of its information.

Despite the Company's efforts to protect sensitive, confidential or personal data or information, the Company can provide no assurances that its security measures designed to protect the data of its clients and its clients' customers will always be effective. The Company's services and underlying infrastructure may in the future be materially breached or compromised as a result of the following:

- third-party attempts to fraudulently induce the Company's employees, partners or clients to disclose sensitive information such as usernames, passwords or other information to gain access to the data or IT systems of the Company or its clients;
- efforts by individuals or groups of hackers and sophisticated organizations, such as state-sponsored organizations or nation-states, to launch coordinated attacks, including ransomware, destructive malware and distributed denial-of-service attacks;

[Table of Contents](#)

- third-party attempts to abuse the Company’s marketing, advertising, messaging or social products and functionalities to impersonate persons or organizations and disseminate information that is false, misleading or malicious;
- cyberattacks on the Company’s internally built infrastructure on which many of its service offerings operate, or on third-party cloud-computing platform providers;
- vulnerabilities resulting from enhancements and updates to the Company’s existing service offerings;
- vulnerabilities in the products or components across the broad ecosystem that the Company’s services operate in conjunction with and are dependent on;
- vulnerabilities existing within new technologies and infrastructures;
- attacks on, or vulnerabilities in, the many different underlying networks and services that power the Internet that the Company’s products depend on, most of which are not under the control of the Company or its vendors, partners or clients; and
- employee or contractor errors or intentional acts that compromise the Company’s security systems.

The Company has experienced, and expects to continue to experience, attempted intrusions and security incidents of varying severity. A security breach or incident could result in unauthorized parties obtaining access to, or the denial of authorized access to, the Company’s IT systems or data, or its clients’ systems or data, including intellectual property and proprietary, sensitive or other confidential information. A security breach could also result in a loss of confidence in the security of the Company’s services, damage its reputation, negatively impact its future sales, disrupt its business and lead to increases in insurance premiums and legal, regulatory and financial exposure and liability. Any resulting interruptions in the Company’s services or the ability of its clients to access its services could result in a loss of potential or existing clients and harm its business.

The Company’s increasing integration of AI into its offerings presents risks of reputational harm, legal liability, increased costs, and competitive disadvantage if AI applications generate controversy, perform inadequately or require substantial investment in development and testing.

The Company is increasingly building Artificial Intelligence (“AI”) into many of its offerings. As with many innovations, AI presents additional risks and challenges that could affect the Company’s business. If the Company enables or offers AI-enabled solutions that draw controversy due to their perceived or actual impact on human rights, privacy, employment or in other social contexts, it may experience reputational harm, competitive harm or legal liability. Data practices by the Company or others that result in controversy could also impair the acceptance of AI solutions. This in turn could undermine the decisions, predictions or analysis that AI applications produce, subjecting the Company to competitive harm, legal liability or reputational harm. The rapid evolution of AI will require the

application of resources to develop, test and maintain the Company's products and services to help ensure that AI is implemented ethically in order to minimize unintended, harmful impact.

Geopolitical tensions and global macroeconomic uncertainty could adversely affect our business, financial condition, and results of operations.

Our operations and the businesses of our clients are subject to risks associated with international geopolitical tensions and broader macroeconomic instability. Recent and ongoing global conflicts, such as those in Eastern Europe and the Middle East, as well as evolving trade policies and diplomatic tensions between the U.S. and other nations, have contributed to significant global economic uncertainty. These events have led to, and may continue to result in, increased inflationary pressures, currency exchange rate volatility, supply chain disruptions, and a heightened risk of state-sponsored cyberattacks. Changes in trade policy, including the imposition of new or increased tariffs on technology hardware, equipment, and components used in the Company's operations, could increase operating costs and, to the extent such policies affect the cost structures of the Company's clients, may reduce demand for the Company's services. Furthermore, prolonged macroeconomic uncertainty could cause our current and prospective clients to delay, reduce, or cancel their spending on workflow automation and technology services, which would result in lower transaction volumes. If global economic conditions deteriorate or current geopolitical conflicts escalate, our business, financial condition, and results of operations could be materially and adversely affected.

Currency fluctuations between the U.S. Dollar and foreign currencies in the Company's international operations could materially affect its recorded assets, liabilities, revenues, and operating margins.

The functional currencies of many of the Company's businesses outside of the United States are the local currencies. Changes in exchange rates between these foreign currencies and the U.S. Dollar will affect the recorded levels of the Company's assets, liabilities, net sales, cost of goods sold and operating margins and could result in exchange gains or losses. The primary foreign currencies to which the Company has exposure are the European Union Euro, Swedish Krona, British Pound Sterling, Canadian Dollar and Indian Rupee. Exchange rates between these currencies and the U.S. Dollar in recent years have fluctuated significantly and may do so in the future. The Company's operating results and profitability may be affected by any volatility in currency exchange rates and its ability to effectively manage currency transaction and translation risks. To the extent the U.S. Dollar strengthens against foreign currencies, the Company's foreign revenues and profits will be reduced when converted into and reported in U.S. Dollars.

Fluctuations in raw material costs, particularly paper, ink and energy, may increase the Company's operational expenses and reduce demand for its printing services, and it may be unable to pass these costs on to clients or benefit from by-product sales.

Purchases of paper, ink, energy and other raw materials represent a large portion of the Company's costs. Increases in the costs of these inputs may increase the Company's costs and it may not be able to pass these costs on to clients through higher prices. In addition, the Company may not be able to resell wastepaper and other print-related by-products or may be adversely impacted by decreases in the prices for these by-products. Increases in the cost of materials may adversely impact clients' demand for the Company's printing and printing-related services.

The Company's ability to attract and retain qualified personnel and to manage increasing labor costs and evolving employment law obligations across its global operations could materially affect its business and results of operations.

The Company's operations depend significantly on attracting and retaining personnel with specialized expertise in workflow automation, AI, and technology integration. Competition for such talent is intense, particularly from larger technology companies with greater compensation resources, and the Company's ability to attract and retain key technical and managerial personnel may be further affected by uncertainty associated with the Restructuring. The failure to attract or retain such personnel could impair the Company's ability to execute its strategy and adversely affect its operations. Competition for skilled labor is intense and the costs associated with recruiting and training employees can be significant. Increased labor costs due to competition, increased minimum wage or

employee benefits costs (including various federal, state and local actions to increase minimum wages), unionization activity or other factors would adversely impact our cost of sales and operating expenses.

The Company is also subject to applicable rules and regulations relating to its relationship with its employees, including minimum wage and break requirements, health benefits, unemployment and sales taxes, overtime, working conditions and immigration status. Legislated increases in the minimum wage and increases in additional labor cost components, such as employee benefit costs, workers' compensation insurance rates, compliance costs and fines, as well as the cost of litigation in connection with these regulations, would increase our labor costs. In addition, many employers, including the Company, have been subject to actions brought by governmental agencies and private individuals under wage-hour laws on a variety of claims, such as improper classification of workers as exempt from overtime pay requirements and failure to pay overtime wages or record breaks properly, with such actions sometimes brought as class actions or under "private attorney general" statutes. Employment litigation risks, including wage-hour disputes, could result in substantial liabilities and expenses, diverting management attention and elevating labor costs.

The Company has significant operations in India, where India's evolving Labour Codes may alter the Company's obligations with respect to wages, employee benefits, provident fund contributions, gratuity accruals, and social security. The extent and timing of adoption at the state level introduce compliance uncertainty and could adversely impact the Company's cost of sales and operating expenses.

[Table of Contents](#)

The Company has identified material weaknesses in its internal control over financial reporting, and a failure to remediate such material weaknesses in a timely manner could impair its ability to produce accurate financial statements, result in restatements, damage investor confidence and potentially lead to delisting from Nasdaq.

As a public company, the Company is subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, and the listing standards of Nasdaq. The Sarbanes-Oxley Act requires, among other things, that the Company maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and improve the effectiveness of its disclosure controls and procedures and internal control over financial reporting, the Company has expended, and anticipates that it will continue to expend, significant resources, including accounting-related costs and significant management oversight.

As disclosed in our Quarterly Report on Form 10-Q for the quarter ended September 30, 2025, the Company has previously identified material weaknesses in the areas of goodwill impairment and financial reporting processes, risk assessment, information and communication, and monitoring activities and the control environment. These material weaknesses were the result of the Company's acquisition of BPA. Material weakness in BPAs internal control over financial reporting were previously reported in the risk factors section of the Company's Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 filed with the SEC on July 15, 2025. BPA had concluded its internal control over financial reporting was not effective as of December 31, 2024 due to pervasive material weaknesses in its internal control over financial reporting. The Company reassessed the controls of the combined entity (XBP Global Holdings, Inc.) after the Business Combination and determined that the material weakness discussed above persisted.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Based on the results of its evaluation, management concluded that as of December 31, 2025, the Company's disclosure controls and procedures were not effective due to the material weaknesses in financial reporting, ineffective control environment, and ineffective information and communication, as described above.

In order to remediate these material weaknesses, the Company is taking remediation measures with appropriate executive sponsorship and with the assistance of third-party specialists. These remediation measures may be time-consuming and costly and there is no assurance that these measures will ultimately have the intended effects. Additionally, the measures taken to date, and actions that may be taken in the future, may not be sufficient to (a) remediate in a timely manner or at all the control deficiencies that led to the material weaknesses or (b) prevent or avoid potential future material weaknesses due to a failure to implement and maintain adequate internal control over financial reporting or

circumvention of these controls. In addition, even if the Company is successful in strengthening its controls and procedures, in the future these controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of its financial statements.

If the Company is unable to remediate the material weaknesses, or if any new material weaknesses are discovered in the future, then it may be unable to maintain compliance with the requirements of securities laws, stock exchange listing rules or debt instrument covenants regarding timely filing of information; it could lose access to sources of capital or liquidity; and investors may lose confidence in its financial reporting and its stock price may decline as a result. Remediation measures that have been taken to date, or any future remediation measures, may be insufficient to remediate the material weaknesses or avoid potential future material weaknesses or the perception thereof.

As a result of the material weaknesses described above and other related matters raised or that may in the future be identified, the Company faces potential for adverse regulatory consequences, including investigations, penalties or suspensions by the SEC or Nasdaq, litigation or other disputes which may include, among others, claims invoking the federal and state securities laws, contractual claims or other claims arising from the material weaknesses in its internal control over financial reporting and the preparation of its consolidated financial statements. Any such regulatory consequences, litigation, claim or dispute, whether successful or not, could subject the Company to additional costs, divert the attention of its management, or impair its reputation. Each of these consequences could have a material adverse effect on the Company's business, reputation, results of operations and financial condition.

The Company may identify future material weaknesses in its internal controls over financial reporting or fail to meet the demands that will be placed upon it as a public company, including the requirements of the Sarbanes-Oxley

[Table of Contents](#)

Act, and it may be unable to accurately report its financial results, or report them within the timeframes required by law or stock exchange regulations. We can provide no assurance that the Company's existing material weaknesses will be remediated or that additional material weaknesses will not exist or otherwise be discovered, any of which could adversely affect its reputation, results of operations and financial condition.

For a discussion of management's evaluation of the Company's disclosure controls and procedures and the material weaknesses identified, see Part II, Item 9A, "Controls and Procedures."

Risks Relating to our Indebtedness

The Company's substantial level of indebtedness could place it at a competitive disadvantage and limit its operational flexibility compared to less leveraged competitors.

As of December 31, 2025, the Company had total indebtedness of approximately \$387.6 million, which could place the Company at a competitive disadvantage to less leveraged competitors because, among other things: it could affect the Company's ability to satisfy its obligations under its indebtedness; a portion of its cash flow from operations will be used for debt service and therefore will be unavailable to support operations or for working capital, capital expenditures, expansion, acquisitions or general corporate or other purposes; the Company's ability to refinance its then-existing debt, obtain additional debt financing or equity financing or pursue mergers, acquisitions and asset sales, on terms acceptable to them or at all, may be limited and its costs of borrowing may be increased; as a result of its significant indebtedness, the Company may be more vulnerable to economic downturns and its ability to withstand competitive pressures may be limited; and the Company's operational flexibility in planning for, or reacting to, changes, opportunities and challenges in its businesses, including changes in the market sector in which it competes, changes in its business and strategic opportunities and adverse developments in its operations, may be severely limited.

The Company faces significant interest expense and principal repayment obligations, and its ability to service this debt depends on future performance and cash generation that is subject to factors beyond its control.

The Company's ability to make payments on and to refinance its debt will depend on its future financial and operating performance and its ability to generate cash in the future. This, to a certain extent, is subject to general economic, business, financial, competitive, legislative, regulatory and other factors that are beyond the Company's control.

There can be no assurance that the Company will be able to generate sufficient cash flow from operations or that sufficient future borrowings will be available to pay off the Company's debt obligations. The Company may need to refinance all or a portion of its debt on or before maturity; however, there can be no assurance that it will be able to refinance any of its debt on commercially reasonable terms or at all. If the Company's cash flows and

capital resources are insufficient to fund its debt service obligations and other cash requirements, the Company could face substantial liquidity problems and could be forced to reduce or delay investments and capital expenditures, or to sell assets or operations, seek additional capital or restructure or refinance its indebtedness and settlement obligations. The Company may not be able to effect any such alternative measures, if necessary, on commercially reasonable terms or at all and, even if successful, such alternative actions may not allow the Company to meet its scheduled debt service obligations and settlement obligations. The agreements governing the Company's indebtedness (a) have terms and conditions that restrict its ability to dispose of assets and the use of proceeds from any such disposition and (b) restrict its ability to raise debt capital.

The Company's inability to generate sufficient cash flows to satisfy its debt obligations, or to refinance its indebtedness on commercially reasonable terms or at all, would materially and adversely affect its financial position and results of operations. If the Company cannot make scheduled payments on its debt, an event of default may result. An event of default may allow the creditors to accelerate the related debt as well as any other debt to which a cross-acceleration or cross-default provision applies. Significant fluctuations in prevailing interest rates, whether driven by inflationary pressures, central bank policy or broader macroeconomic conditions, could affect the Company's ability to refinance or service its substantial indebtedness on acceptable terms or at all. If the Company is unable to repay amounts outstanding under its financing agreements when due, the lenders thereunder could, subject to the terms of the financing agreements, seek to foreclose on the collateral that is pledged to secure the indebtedness outstanding under such facility.

[Table of Contents](#)

Substantially all of the Company's assets are subject to liens that secure its indebtedness, giving secured lenders superior claims and foreclosure rights in the event of insolvency, liquidation or default.

Substantially all of the Company's assets are subject to liens that secure its indebtedness. If the Company becomes insolvent or is liquidated, or if there is a default under certain financing agreements, and payment on any obligation thereunder is accelerated, its lenders would be entitled, subject to the applicable credit documents, to exercise the remedies available to a secured lender under applicable law, including foreclosure on the collateral that is pledged to secure the indebtedness thereunder, and they would have a claim on the assets securing the obligations under the applicable facility that would be superior to any claim of the holders of unsecured debt.

Restrictive covenants in the Company's financing agreements, including financial, affirmative and negative covenants, limit management's discretion and the Company's operational and financial flexibility, and failure to comply could result in defaults, waivers, increased costs or acceleration of indebtedness.

The financing agreements governing the Company's indebtedness contain customary financial covenants, affirmative covenants and negative covenants that restrict the Company's ability to operate its business and pursue strategic objectives. These covenants, among other things, require the Company to satisfy specified financial ratios and performance metrics, comply with reporting and operational requirements, and limit its ability to incur additional indebtedness or liens, make restricted payments, dispose of certain assets, make certain investments, enter into transactions with affiliates, or engage in mergers, consolidations or other fundamental transactions.

Compliance with the Company's restrictive financial covenants is tested as of specified measurement dates and may, from time to time, depend on the Company's operating performance and the successful execution of planned transactions, including asset dispositions or other balance-sheet actions. Our ability to meet those financial covenants can be affected by events beyond our control, and we may not be able to meet those covenants. There can be no assurance that any planned transactions will be completed on a timely basis, on acceptable terms, or at all. Even if the Company is in compliance with its debt covenants as of the date of filing of this Annual Report, subsequent developments, or our inability to successfully execute planned transactions, could result in non-compliance in future periods.

As a result of these covenant restrictions, the Company may be limited in its ability to respond to changing market conditions, pursue business opportunities, fund operations or execute its growth strategy, any of which could materially and adversely affect its business, financial condition and results of operations. Any failure to comply with the restrictive covenants in the Company's financing agreements could result in an event of default. In such circumstances, the Company may be required to seek waivers or amendments from its lenders, which may not be granted, and, if granted, could impose additional costs, more

restrictive terms or other adverse conditions. The need to obtain waivers or amendments, or the occurrence of a default, may also require public disclosure and could adversely affect the Company's liquidity, access to capital, reputation and business prospects. An event of default could permit lenders to accelerate the Company's indebtedness and exercise remedies against collateral securing such indebtedness. A significant portion of our indebtedness could become immediately due and payable. We cannot be certain whether we would have, or would be able to obtain, sufficient funds to make these accelerated payments. If any such indebtedness is accelerated, our assets may not be sufficient to repay in full such indebtedness and our other indebtedness. If the Company is unable to repay amounts outstanding under its financing agreements when due, the lenders thereunder could, subject to the terms of the financing agreements, seek to foreclose on the collateral that is pledged to secure the indebtedness outstanding under such facility.

Despite restrictions in the Company's debt agreements, it may be able to incur substantial additional indebtedness in the future, which could intensify current financial risks and strain its ability to obtain necessary financing for corporate purposes on acceptable terms.

The Company may be able to incur substantial additional indebtedness in the future, which could intensify the related risks that it currently faces. Although agreements governing the Company's indebtedness restrict the incurrence of additional indebtedness, these restrictions are subject to a number of qualifications and exceptions and the additional indebtedness incurred in compliance with these restrictions could be substantial.

Moreover, the Company may need to seek additional financing for general corporate purposes. For example, it may need funds to make acquisitions or for capital expenditures needed to remain competitive in its market sector. The

[Table of Contents](#)

Company may be unable to obtain any desired additional financing on terms that are favorable or acceptable, including as a result of its debt levels or if there is a decline in the demand for its services or in the solvency of its clients, vendors or suppliers or other significantly unfavorable changes in economic conditions occur. Depending on market conditions, adequate funds may not be available to the Company on acceptable terms or at all, and it may be unable to fund expansion, successfully develop or enhance products or respond to competitive pressures, any of which could have a material adverse effect on the Company's competitive position, business, financial condition, results of operations and cash flows.

Risks Resulting from the Restructuring

BPA recently emerged from bankruptcy, which may adversely affect the Company's business and relationships.

BPA emerged from bankruptcy on July 29, 2025. It is possible that BPA's bankruptcy filing, and its subsequent emergence from bankruptcy, may adversely affect the Company's business and relationships with clients, vendors, contractors or employees. Due to uncertainties, many risks exist, including the following:

- key vendors or other contract counterparties may terminate their relationships with the Company or require additional financial assurances or enhanced performance;
- the Company's ability to renew existing contracts and compete for new business may be adversely affected;
- the Company's ability to attract, motivate and/or retain key executives and employees may be adversely affected; and
- competitors may take business away from the Company, and its ability to attract and retain clients may be negatively impacted.

The occurrence of one or more of these events could have a material and adverse effect on the Company's reputation, results of operations and financial condition.

The Company's historical financial statements are not comparable to the information contained in the Company's financial statements after the application of fresh-start accounting following the Restructuring.

Following the Restructuring, the Predecessor (as defined below) met the criteria and was required to adopt fresh start accounting in accordance with ASC 852, *Reorganizations*, which on the Emergence Date resulted in a new entity, the Successor, for financial reporting purposes, with no beginning retained earnings or deficit as of the fresh start reporting date. Financial information prior to the Emergence Date is referred to as "Predecessor" company information, which reflects the combined historical financial statements of BPA prepared using BPA's previous combined basis of accounting. The financial information beginning August 1, 2025 is referred to as "Successor" company

information and reflects the consolidated financial statements of XBP Global, including the financial statement effects of recording fair value adjustments and the capital structure resulting from the Business Combination and fresh start accounting of BPA.

Fresh start accounting requires that new fair values be established for BPA's assets, liabilities and equity as of the Convenience Date (July 31, 2025), and therefore certain values and operational results of the consolidated financial statements subsequent to July 31, 2025 are not comparable to those in the Company's consolidated financial statements prior to and including July 31, 2025. The Convenience Date fair values of the Successor's assets and liabilities differ materially from their recorded values as reflected on the historical balance sheet of the Predecessor. As a result, it may be difficult for stockholders to assess the Company's performance in relation to prior periods.

The allocation of fair value is dependent upon a number of estimates and assumptions. Whether actual future results and developments will be consistent with the Company's estimates and assumptions depends on a number of factors, including but not limited to: (i) prices received for its services; (ii) its ability to maintain customers' confidence in its viability as a continuing entity and to attract and retain sufficient business from them; and (iii) the overall strength and stability of general economic conditions of its industry. To the extent that the Company's estimates, assumptions, valuations, appraisals and the financial projections used to develop the allocation of fair value are not realized, it has recorded, and in the future may be required to record, impairment charges.

During the period August 1, 2025 to September 30, 2025, the Company experienced a sustained and significant decline in its market capitalization causing the market capitalization to fall below the Company's book value after the

[Table of Contents](#)

application of fresh start accounting at Emergence Date. Management concluded that this sustained decline, combined with revised long-term projections compared to those used to compute enterprise value of the reconstituted Successor as set forth in the Disclosure Statement for Joint Plan of Reorganization approved by the Bankruptcy Court, represented a triggering event under ASC 350. In connection with the completion of the interim impairment test, the Company recorded an impairment charge of \$215.8 million and \$80.0 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment and Technology segment, respectively, during the period August 1, 2025 to September 30, 2025. Additionally, later during the fourth quarter of 2025, the Company conducted its annual budgeting process along with an update to its long-range plan. Following the completion of that process, the Company made an evaluation based on changes in the Company's long-term projections, concluding that a triggering event for an impairment analysis had occurred for certain reporting units reported under the Applied Workflow Automation segment. Revised long-term projections resulted in lower than previously projected long-term future cash flows for certain reporting units which reduced the estimated fair values to below their carrying values. Accordingly, the Company performed quantitative impairment test as of December 31, 2025, resulting in an impairment charge of \$24.5 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment. Therefore, as a result of these two interim impairment assessments performed on September 30, 2025 and December 31, 2025, impairment charges totaling \$320.3 million, were recorded to goodwill for the period August 1, 2025 to December 31, 2025.

It is also possible that additional restructuring and related charges may be identified and recorded in future periods. Such sales, disposals, liquidations, settlements, or charges could be material to the Company's results of operations and financial condition in any given period.

Uncertainty regarding the tax treatment of the Business Combination and Restructuring could have a material adverse effect on the Company.

The tax treatment of the Business Combination and related Restructuring is complex and involves uncertainty under applicable U.S. federal, state and international tax laws. While steps have been taken in an effort to mitigate these risks in accordance with applicable laws, there can be no assurance that taxing authorities in any relevant jurisdiction will agree with the intended treatment. Any adverse determination could negatively impact the Company's financial condition, results of operations or cash flows. In addition, although certain tax indemnity arrangements have been established with ETI in connection with the Business Combination, there is no guarantee that they will fully protect the Company from adverse tax exposures. This risk is heightened if ETI, as the indemnifying party, experiences financial or liquidity constraints that impair its ability to satisfy its obligations.

Risks Related to Our Common Stock

The Company has a limited public float, which adversely affects trading volume and liquidity, and may adversely affect the price of the Common Stock and access to additional capital.

As of December 31, 2025, ETI, Gates Capital Management and Avenue Capital held approximately 25.7%, 24.4% and 9.3% of the Company's outstanding shares of Common Stock, respectively, in each case assuming the exercise of all warrants held by the Consenting ETI Parties. Due to the limited public float, the trading price of our Common Stock may fluctuate widely due to various factors, including the volume of purchases or sales of Common Stock relative to the public float. The limited public float could adversely affect the Company's business and financing opportunities and negatively impact the price of our Common Stock.

The Company is a "smaller reporting company," and its reliance on associated disclosure exemptions could make its securities less attractive to investors.

The Company is a "smaller reporting company" within the meaning of the Securities Act, and intends to elect to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not smaller reporting companies including, but not limited to, not being required to comply with the auditor internal controls attestation requirements of Section 404 of the Sarbanes-Oxley Act. As a result, holders of our securities and potential investors may not have access to certain information they may deem important. There can be no assurances whether investors will find the Company's securities less attractive because of such exemptions. If some investors find the securities less attractive as a result of reliance on these exemptions, the trading prices of the Company's securities

[Table of Contents](#)

may be lower than they otherwise would be, there may be a less active trading market for the Company's securities and the trading prices of the securities may be more volatile.

Substantial future sales of shares of Common Stock could cause the market price of the Company's Common Stock to decline.

As of December 31, 2025, ETI, Gates Capital Management and Avenue Capital held approximately 25.7%, 24.4% and 9.3% of the outstanding shares of Common Stock, respectively, in each case assuming the exercise of all warrants held by the Consenting ETI Parties. ETI, Gates Capital Management and Avenue Capital are each permitted to resell all of their shares pursuant to resale registration statements previously filed with the SEC. In addition, our board of directors could designate and sell a class of preferred stock with preferential rights over the Common Stock with respect to dividends or other distributions. We also filed a universal shelf registration statement on Form S-3 with the SEC that registers the sale of up to \$250.0 million of any combination of our common stock, preferred stock, debt securities, warrants, rights or units from time to time and at prices and on terms that we may determine. The sale or resale of a substantial number of shares of Common Stock in the public market (or the market perception that such sales or resales could occur) could adversely affect the market price for shares of Common Stock. Furthermore, the selling security holders under the resale registration statements may continue to offer the securities for a significant period of time, the precise duration of which cannot be predicted. Accordingly, the adverse market and price pressures resulting from an offering may continue for an extended period of time.

The Company has entered into a Shareholder Rights Agreement that may delay, defer or prevent a tender offer or takeover attempt that public stockholders might consider in their best interest.

On July 29, 2025, the Company entered into a Shareholder Rights Agreement (the "Shareholder Rights Agreement"), which provides for the issuance of one right per share of Common Stock, exercisable if any person or entity acquires 30% or more of the Common Stock (subject to certain exceptions). Each Right entitles the registered holder to purchase from the Company one one-thousandth of a share of Series A Preferred Stock. The Shareholder Rights Agreement is intended to protect against unsolicited takeovers and expires on January 29, 2027, unless redeemed or exchanged earlier.

The provision of the Company's Charter that authorizes the Board to issue preferred stock from time to time based on terms approved by the Board, such as pursuant to the Shareholder Rights Agreement, may delay, defer or prevent a tender offer or takeover attempt. Authorized but unissued preferred stock may enable the Board to render it more difficult or to discourage an attempt to obtain control of the Company and thereby protect continuity of or entrench its management, which may negatively impact the market price of the Common Stock. If, in the due exercise of its fiduciary obligations, for example, the Board was to determine that a takeover proposal was not in the best interests of the

Company, such preferred stock could be issued by the Board without stockholder approval in one or more private placements or other transactions that might prevent or render more difficult or make more costly the completion of any attempted takeover transaction by diluting voting or other rights of the proposed acquirer or an insurgent stockholder group, by creating a substantial voting bloc in institutional or other hands that might support the position of the incumbent board of directors, by effecting an acquisition that might complicate or preclude the takeover, or otherwise.

The Company's Charter contains forum limitations for certain disputes between the Company and its stockholders that could limit the ability of stockholders to bring claims against the Company or its directors, officers and employees in jurisdictions preferred by stockholders.

The Company's Charter provides that, unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware is the sole and exclusive forum for (i) any derivative lawsuit brought on the Company's behalf, (ii) any lawsuit against the Company's current or former directors, officers or employees or asserting a breach of a fiduciary duty owed by any such person to the Company or its stockholders, (iii) any lawsuit asserting a claim arising under any provision of the Delaware General Corporation Law, the Company's Charter or Bylaws (each, as in effect from time to time) or (iv) any lawsuit governed by the internal affairs doctrine of the State of Delaware. The foregoing forum provisions do not apply to claims arising under the Securities Act, the Exchange Act or other federal securities laws for which there is exclusive federal or concurrent federal and state jurisdiction. The Company's Charter also provides that, unless the Company consents in writing to the selection of an alternative forum, the federal district courts of the United States of America are the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act, the Exchange Act and the rules

[Table of Contents](#)

and regulations thereunder. The foregoing forum provisions may prevent or limit a stockholder's ability to file a lawsuit in a judicial forum that it prefers for disputes with the Company or its directors, officers, employees or stockholders, which may discourage such lawsuits, make them more difficult or expensive to pursue, and result in outcomes that are less favorable to such stockholders than outcomes that may have been attainable in other jurisdictions, although stockholders will not be deemed to have waived the Company's compliance with federal securities laws and the rules and regulations thereunder.

There is uncertainty as to whether a court would enforce such a forum selection provision as written in connection with claims arising under the Securities Act because Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act claims.

In addition, notwithstanding the inclusion of the foregoing forum provisions in the Company's Charter, courts may find the foregoing forum provisions to be inapplicable or unenforceable in certain cases that the foregoing forum provisions purport to address, including claims brought under the Securities Act. If this were to occur in any particular lawsuit, the Company may incur additional costs associated with resolving such lawsuit in other jurisdictions or resolving lawsuits involving similar claims in multiple jurisdictions, all of which could harm the Company's business, results of operations and financial condition.

The Company's Common Stock may be delisted from the Nasdaq Capital Market if it is unable to maintain compliance with Nasdaq's continued listing standards.

As previously disclosed, on September 16, 2025, the Company received a letter from Nasdaq notifying the Company that it was not in compliance with Nasdaq's minimum bid price requirements. On December 12, 2025, the Company effected a 1-for-10 reverse stock split of the Company's Common Stock. On December 31, 2025, Nasdaq indicated that the Company had regained compliance with Nasdaq's minimum bid price requirements. However, there can be no assurance that the Company will be able to maintain compliance with Nasdaq's continued listing standards. If the Company does not maintain compliance with these standards, its Common Stock may be delisted from Nasdaq. Any delisting of the Company's Common Stock would have significant adverse effects, including but not limited to a substantial reduction in the liquidity and market price of its Common Stock and impairment of its ability to raise additional capital on acceptable terms, or at all.

If the Company's Common Stock is delisted, there can be no assurance that it will be listed or quoted on another national securities exchange or quotation service. Consequently, it may be more difficult for investors to buy or sell the Company's Common Stock and warrants, at prices equal to or greater than the price paid or at all.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

Risk Management and Strategy

The Company has developed and maintained a comprehensive cybersecurity program which is integrated within the Company's enterprise risk management program and encompasses the corporate and operational technology environments, as well as client-facing products and services. Our cybersecurity program has implemented a governance structure and process to identify, assess, manage, mitigate, respond to and report on cybersecurity incidents and risks within an ever-changing threat landscape.

We utilize cybersecurity policies and frameworks based on industry and government standards, including the National Institute of Standards and Technology Cyber Security Framework ("NIST CSF"). This does not imply that we meet any particular technical standards, specifications, or requirements, but rather that we use NIST CSF as a guide to help us identify, assess, and manage cybersecurity risks relevant to our business.

To validate the effectiveness of our security posture, we engage third-party security experts to conduct annual deep-dive penetration tests. We maintain transparency regarding our security posture by making attestations and compliance summaries available to relevant stakeholders. Furthermore, our infrastructure is subject to regular external audits against rigorous industry standards, including SOC 2, PCI, and HITRUST. These audits validate that our internal controls are designed appropriately and are functioning effectively in practice.

Our cybersecurity program includes an incident response plan, which establishes (1) a framework for classifying security incidents according to their severity level, considering the nature and scope of the incident; and (2) protocols for the escalation of incidents.

To support this, the Company operates a 24 x 7 security operations center ("SOC") which monitors our global cybersecurity solutions and production environments to detect and respond to potential anomalies. The SOC serves as a central location for the reporting of cybersecurity matters. The roles and responsibilities of the SOC and our cybersecurity team in the incident response context are established by the incident response plan, as well as in associated playbooks and other procedural documentation. Beyond annual testing, we utilize automated scanning and continuous internal assessments designed to identify and remediate vulnerabilities in our applications, software, and networks to mitigate risks proactively.

We partner with third parties to support and evaluate our cybersecurity program. The services provided by third parties span areas including cybersecurity maturity assessments, incident response, penetration testing, and consulting on best practices.

Our processes also address cybersecurity threat risks associated with our use of third-party service providers, including those who have access to our data or our systems. Third-party risks are included within our risk assessment of vendors, as well as our cybersecurity-specific risk identification program. Cybersecurity considerations affect the selection and oversight of third-party service providers. We perform diligence on third parties—particularly those that have access to our systems, data, or facilities that house such systems or data—and continually monitor cybersecurity threat risks identified through such diligence.

We view security as a shared responsibility across the organization. We maintain a cybersecurity awareness program designed to foster a vigilant security culture, covering topics such as phishing, social networking safety, password security, and mobile device usage. This includes regular phishing simulations to test and reinforce employee awareness. We communicate these and other pertinent security issues or compliance changes through our regular internal communications cadence. Additionally, the Company has mandatory security awareness training addressing cybersecurity, privacy, and confidential information.

[Table of Contents](#)

In 2024 and 2025, we did not identify any cybersecurity threats that have materially affected or are reasonably likely to materially affect our business strategy, results of operations, or financial condition. Please refer to “*Item 1A. Risk Factors*” for further information about the material risks associated with various cybersecurity threats.

Governance

Our Board considers cybersecurity risk as part of its risk oversight function and has delegated to its Audit Committee oversight of cybersecurity and other information technology risks. Our Audit Committee oversees management’s ongoing activities related to our cybersecurity risk management and compliance programs.

Our cybersecurity program is led by our Chief Technology Officer (“CTO”), who has two decades of experience in various cybersecurity, software development, product management, and other technology-related roles. Our CTO oversees teams across the company supporting our security functions to “identify, prevent, detect, respond, and recover”. These teams are comprised of personnel with a broad range of experience across the private and public sectors, the technology industry, and different geographic regions.

Our Audit Committee receives periodic reports from our CTO and management on our cybersecurity risks and the current threat landscape trends. In addition, management will update the Board directly, as necessary, regarding cybersecurity incidents. The full Board also receives presentations on cybersecurity topics from our CTO and other security management staff as part of the Board’s continuing education on topics that impact the Company.

ITEM 2. PROPERTIES

We lease and own numerous facilities worldwide with larger concentrations of space in California, Connecticut, Illinois, Iowa, Michigan, Texas, and Washington in the United States and in Canada, France, Germany, India, and the Philippines. The size of our active property portfolio as of December 31, 2025 was approximately 1.8 million square feet comprised of 83 leased properties and 5 owned properties including offices, sales offices, service locations, and production facilities.

Many of our operating facilities are equipped with fiber connectivity and have access to other power sources. Substantially all of our operations facilities are leased under long term leases with varying expiration dates, except for the following owned locations: (i) two operations facilities in India with a combined building area of approximately 78,000 sq. ft., (ii) an operations facility in Troy, Michigan that serves as the Company’s primary data center with an approximate building area of 66,000 sq. ft. (iii) an operations facility in

Egham, England with an approximate building area of 11,000 sq. ft. and (iv) an operations facility in Dublin, Ireland with an approximate building area of 25,000 sq. ft. We also maintain an operating presence at more than 200 client sites.

Our properties are suitable to deliver services to our clients for each of our business segments. Our management believes that all of our properties and facilities are well maintained.

ITEM 3. LEGAL PROCEEDINGS

Business Interruption Insurance Claim

During the second half of 2022, certain subsidiaries of the Company experienced a network security incident (the “2022 Network Outage”) impacting certain of such subsidiaries operational and information technology systems. As a result of the 2022 Network Outage, such subsidiaries of the Company experienced lost revenue and incurred certain incremental costs. The Company had reduced its revenue for 2022 by the estimated settlement amount of the incident-related customer claims and recorded an accrued liability for the claims payable to customers. A total of \$0 and \$1.9 million that may be payable to customers to settle customer claims are recorded as customer payables in accrued liabilities on its combined and consolidated balance sheets as of December 31, 2025 and December 31, 2024, respectively.

On August 29, 2023, the Company submitted a claim to its insurers for \$44.6 million in covered losses related to the 2022 Network Outage (the “August 2023 Claim”). During the year 2023, the Company received insurance proceeds of \$10.8 million in respect of business interruption claims from its underlying and first excess carriers. On April 17, 2024, the Company commenced an action (the “Insurance Lawsuit”) against two excess-layer insurers (collectively, the “Second Excess Insurers”) seeking a declaratory judgment and alleging breach of contract and bad faith for failing to pay out their share of losses connected to the August 2023 Claim. On August 9, 2024, the Company settled its claim against one of the Second Excess Insurers for \$3.6 million, and on October 15, 2024, the Company settled its claim against the other Second Excess Insurers for \$3.6 million (less amounts already paid). On October 8, 2024, the Company moved to amend the complaint (the “Amended Complaint”) to add two additional excess-layer insurers to the Insurance Lawsuit. The Amended Complaint was filed on October 24, 2024. On December 2, 2025, the Company settled its claim against the two remaining excess-layer insurers for \$5.3 million thereby concluding all insurance-related claims brought by the Company arising from the 2022 Network Outage. The Company does not believe that any additional losses related to the 2022 Network Outage are probable, nor does the Company expect further material costs, customer claims, or insurance recoveries.

Company Subsidiary Litigation

In June 2022, a group of 71 former employees filed claims in the French Labor Court against a subsidiary of the Company arising from their dismissal following the closure of two production sites in France in 2020. Certain claims were resolved prior to litigation, and in March 2023 a French labor court granted summary judgment in favor of 67 claimants, resulting in payments of \$1.1 million. During 2024 and 2025, the subsidiary entered into

settlement agreements with the remaining claimants, and on November 7, 2025, final settlement agreements were executed, fully resolving the matter. All settlement amounts under these settlement agreements have been paid as of December 31, 2025.

Other

We are, from time to time, involved in other legal proceedings, inquiries, claims and disputes, which arise in the ordinary course of business. Although our management cannot predict the outcomes of these matters, our management believes these actions will not have a material, adverse effect on our financial position, results of operations or cash flows.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable

PART II

ITEM 5. MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our Common Stock is traded on the Nasdaq Capital Market under the symbol “XBP”. Our Public Warrants are listed on the Nasdaq Capital Market under the symbol “XBPEW”.

Stockholders

As of March 30, 2026 there were approximately 252 registered holders of record of our Common Stock. The number of holders of record does not include a substantially greater number of “street name” holders or beneficial holders, whose shares of record are held by banks, brokers and other financial institutions.

Dividends

We have not paid any cash dividends on shares of our Common Stock. The payment of cash dividends in the future will be dependent upon our revenues and earnings, capital requirements, general financial condition, and is within the discretion of our board of directors.

Equity Compensation Plan Information

The following table provides information as of December 31, 2025, with respect to the shares of our Common Stock that may be issued under our existing equity compensation plans.

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options and Restricted Stock Units		Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans(1)	
	Weighted Average Exercise Price of Outstanding Options			
Equity compensation plans approved by stockholders	278,212	\$	—	1,027,619
Equity compensation plans not approved by stockholders	—		—	—
Total	278,212	\$	—	1,027,619

- (1) The Company currently maintains the 2024 Stock Incentive Plan (the “XBP 2024 Equity Plan”), which was adopted and approved by stockholders on June 13, 2024. The XBP 2024 Equity Plan was subsequently amended following stockholder approval on July 25, 2025, to authorize additional shares, and continues to be effective after the Business Combination. Under the XBP 2024 Equity Plan, subject to adjustment for certain changes in capitalization or other corporate events, the Company was authorized to issue up to 1,727,187 shares of common stock, to be granted to eligible participants in furtherance of the Company’s broader compensation strategy and philosophy, of which 1,305,831 shares remained available for issuance (including 278,212 shares subject to outstanding awards), as of December 31, 2025.

Issuer Purchases of Equity Securities During the Year Ended December 31, 2025

None.

ITEM 6. [Reserved]

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking Statements

The following Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with a review of the other Items included in this Annual Report and our December 31, 2025 Consolidated Financial Statements included elsewhere in this report. Certain statements contained in this "Management's Discussion and Analysis of Financial Condition and Results of Operations" may be deemed to be forward-looking statements. See "Special Note Regarding Forward Looking-Statements."

Unless otherwise indicated or the context otherwise requires, references in this section to "we," "our," "us," "XBP Global", "the Company" and similar terms are to BPA before the Business Combination, and to XBP Global Holdings, Inc. following the Business Combination. Amounts disclosed are in thousands of United States dollars unless otherwise noted.

Overview

XBP Global is a multinational technology and services company powering intelligent workflows for organizations worldwide. Our proprietary platforms and agentic AI-driven automation enable our clients to entrust us with their most impactful digital transformations and mission-critical operations. Our operational foundation is further defined by deep domain expertise across industries and the public and private sectors, including decades of experience helping clients navigate shifting global regulatory frameworks and supporting compliance with the rigorous standards required by government entities and highly scrutinized industries, including banking, healthcare and insurance. We pair this expertise with platform-agnostic, end-to-end structured workflows that combine AI-driven automation with dedicated human-in-the-loop exception handling and orchestration software, enabling our clients to transition from labor-intensive, reactive operations to digitally orchestrated, exception-driven workflows. From enabling payment gateways and data exchanges across multiple systems, to matching inputs against contracts and handling exceptions, to ultimately depositing payments and distributing communications, our solutions address the full life cycle of transaction processing and enterprise information management. Our Applied Workflow Automation segment provides services powered by intelligent, AI-enabled workflows that generate outcomes for clients' systems. Revenue primarily stems from transactions processed and includes payment processing, data capture, analysis, decisioning, distribution and transformation across industries and the public and private sectors, primarily in Americas and Europe, and increasingly in Asia. Our Technology segment primarily focuses on sales of recurring software licenses and related maintenance,

hardware solutions and related maintenance and professional services. As of December 31, 2025, we had 10,600 employees in 20 countries operating either remotely from our business facilities or co-located at our clients' facilities.

History

XBP Global Holdings, Inc. was originally incorporated as CF Acquisition Corp. VIII, a blank check company formed under the laws of the State of Delaware on July 8, 2020. On March 16, 2021, the Company consummated its initial public offering. The Company's initial purpose was to effect a business combination with one or more businesses. On October 9, 2022, CF Acquisition Corp. VIII entered into a merger agreement with XBP Europe, Inc., at the time a subsidiary of ETI. The business combination was completed on November 30, 2023, at which time the Company was renamed XBP Europe Holdings, Inc., reflecting the purchase of ETI's historical European operations, and the Company's shares and public warrants started trading on The Nasdaq Stock Market LLC under the ticker symbols "XBP" and "XBPEW," respectively.

On July 29, 2025, XBP Europe Holdings, Inc. finalized its acquisition of BPA, ETI's historical operations in the Americas and Asia, as part of the Business Combination pursuant to the MIPA. The consideration for the sale was \$1.00, reflecting the encumbered nature of BPA which at the time of entry into the MIPA was involved in the Chapter 11 Cases. The Business Combination was subject to certain conditions subsequent including emergence of BPA and certain of its affiliates from the Chapter 11 Cases, which occurred on July 29, 2025. Prior to the Business Combination, the Company and BPA had both been indirect subsidiaries of ETI. ETI remains a stockholder of the Company and a related

[Table of Contents](#)

party; see Note 20, *Related-Party Transactions*. In connection with the Business Combination, the Company changed its name from “XBP Europe Holdings, Inc.” to “XBP Global Holdings, Inc.”

Together with the European operations acquired in 2023, the Company’s current global platform is built upon a portfolio of acquired and predecessor entities with more than 50 years of commercial and operational history.

The Business Combination was accounted for as a reverse acquisition in accordance with Financial Accounting Standards Board’s (“FASB”) Accounting Standards Codification Topic 805, *Business Combinations* (“ASC 805”). Under this method of accounting, XBP Europe Holdings, Inc. (now XBP Global) was treated as the “acquired” company for financial reporting purposes even though BPA survives as an indirect wholly-owned subsidiary of XBP Global.

BPA Chapter 11 Reorganization

On March 3, 2025, BPA commenced the Chapter 11 Cases. On July 29, 2025 (the “Emergence Date”), BPA consummated the Restructuring and emerged from bankruptcy having satisfied or waived all the conditions set forth in the Plan. In accordance with ASC 852, *Reorganizations* (“ASC 852”), BPA was required to apply fresh-start accounting upon its emergence from bankruptcy. The Company evaluated transaction activity of BPA between July 31, 2025 and the Emergence Date and concluded that the Convenience Date was appropriate for the adoption of fresh-start accounting which resulted in BPA becoming a new entity for financial reporting purposes as of the Convenience Date.

On the Emergence Date, in connection with the consummation of the Restructuring and pursuant to the Plan:

- The Company’s Third Amended and Restated Certificate of Incorporation was filed with the Delaware Secretary of State and became effective, increasing authorized shares to 400,000,000 shares of Common Stock, and 20,000,000 shares of preferred stock of the Company, and changing the Company’s name to XBP Global Holdings, Inc.

- The Company issued 8,179,982 shares of Common Stock to holders of Allowed Notes Claims (claims based on the 2026 Indentures (as defined below), and as further defined in the Plan) and for backstop and funding fees, resulting in 11,751,597 shares of Common Stock issued and outstanding, and new warrants to purchase 663,242 shares of Common Stock to GP 3XCV LLC and XCV-STs, LLC (two subsidiaries of ETI). The issuances reflected a Plan Equity Value based on a valuation of BPA equity at \$407.0 million and an overall implied equity valuation of the combined company of \$585.7 million and were exempt from registration under Section 1145 of the U.S. Bankruptcy Code. The warrants have standard terms and are exercisable immediately at Plan Equity Value.
- The Company entered into the Tax Funding Agreement (the “Tax Funding Agreement”) with the Reorganized Debtors (the BPA Debtors following the Restructuring), as Agent, and the Consenting ETI Parties. The Tax Funding Agreement provides for the Consenting ETI Parties to fund certain Transaction Tax Liabilities (as defined in the Plan) (up to an initial funding obligation of \$15 million and any excess over \$25 million), with security over Blocked ETI Shares (as defined therein) and provisions for release upon payment.
- The Reorganized BPA Debtors entered into certain exit financing arrangements (refer to the description of “Indebtedness” below), including:
 - An Indenture reflecting the issuance of \$183.0 million of the July 2030 Notes as defined and described further in the description of “Indebtedness” below, in a cashless rollover of a comparable amount of debtor-in-possession obligations from the Chapter 11 Cases, plus \$18.0 million in the XBP Funding, with the remaining \$10.0 million of debtor-in-possession obligations from the Chapter 11 Cases being cancelled and replaced with \$6.0 million of loans under the Super Senior Term Loan as defined and described further in the description of “Indebtedness” below.

[Table of Contents](#)

- The Super Senior Term Loan consisting of \$40.0 million of new loans used to refinance the BPA Debtors' prepetition senior secured term loan facility, which was in the aggregate principal amount of approximately \$38.9 million, plus accrued interest, fees, and expenses, and \$6.0 million of take-back loans, secured by Term Loan Priority Collateral (as defined therein).
- An Amended and Restated Credit and Security Agreement with BRF Finance Co. LLC, as Agent, and the lenders party thereto, amending and restating the Second Lien Note, dated February 27, 2023, as defined and described further in the description of "Indebtedness" below, providing for term loans bearing interest at Term SOFR plus 7.5%, and other terms as set forth therein.
- The ABL Facility, as defined and described further in the description of "Indebtedness" below, with MidCap Financial Trust as Agent and Lender, providing a \$150 million revolving credit facility, secured by ABL Priority Collateral (as defined therein), with terms including interest at SOFR plus Applicable Margin (3.75%-4.25% based on EBITDA), maturity 36 months from closing, financial covenants (e.g., Fixed Charge Coverage Ratio), and other customary provisions.

In addition, on the Emergence Date, the 2026 Indentures were terminated, and all obligations thereunder were cancelled and discharged, with holders of claims thereunder receiving distributions of Common Stock as described above. The ABL Facility also replaced BPA's then existing securitization arrangements with PNC Bank.

As a result of the Restructuring and the Business Combination, the Company was no longer considered a "controlled company" under the rules of The Nasdaq Stock Market. Prior to the Restructuring and the Business Combination, BTC, an indirect subsidiary of ETI, owned approximately 60.7% of the Company's Common Stock. Pursuant to the Plan, BTC's shares were distributed to holders of Allowed Notes Claims (including ETI). Post-issuance of new shares under the Plan, beneficial ownership is dispersed, with no beneficial holder owning more than 50% of the voting securities of the Company. As of December 31, 2025 ETI held approximately 25.7%, Gates Capital Management approximately 24.4%, and Avenue Capital approximately 9.3%, in each case, assuming the exercise of all warrants held by the Consenting ETI Parties. The Restructuring and the Business Combination represent a dissipation of control, not a "change of control" in the traditional sense, because no new third party acquired control of XBP Europe Holdings, Inc. as a result of the Restructuring of the BPA Debtors and the subsequent Business Combination. As of the date of this report, there are no known arrangements that may result in a further change in control.

Predecessor and Successor

The “Predecessor” company information refers to the financial information prior to the Emergence Date, which reflects the combined historical financial statements of BPA prepared using BPA’s previous combined basis of accounting. The “Successor” company information refers to the financial information beginning August 1, 2025 and reflects the consolidated financial statements of XBP Global, including the financial statement effects of recording fair value adjustments and the capital structure resulting from the Business Combination and fresh start accounting of BPA. Black lines have been drawn to separate the Successor’s financial information from that of the Predecessor since their financial statements are not comparable as a result of the application of acquisition accounting and the Company’s capital structure resulting from the Business Combination and fresh start accounting of BPA. The Predecessor period includes a \$1.56 billion net reorganization gain from debt discharge and fresh-start adjustments, which is non-recurring and significantly affects comparability with the Successor period. See Note 4, *Fresh Start Accounting* and Note 2, *Basis of Presentation and Summary of Significant Accounting Policies* for additional information.

Reverse Stock Split

On December 12, 2025, we effected the Reverse Stock Split of our issued and outstanding shares of our Common Stock. At the effective time of the Reverse Stock Split, every ten (10) shares of Common Stock issued and outstanding were automatically combined into one (1) share of issued and outstanding Common Stock, without any change in the par value per share. Our Common Stock began trading on The Nasdaq Capital Market on a Reverse Stock Split-adjusted basis on December 15, 2025. There was no change in our ticker symbol as a result of the Reverse Stock Split. All

[Table of Contents](#)

information related to Common Stock, stock options, restricted stock units, warrants and earnings per share have been retroactively adjusted to give effect to the Reverse Stock Split for all periods presented.

Our Segments

Our two reportable segments are Applied Workflow Automation and Technology. These segments are comprised of significant strategic business units that align our products and services with how we manage our business, approach our key markets, and interact with our clients based on their respective industries.

Applied Workflow Automation: the Applied Workflow Automation segment provides services powered by intelligent, AI-enabled workflows that generate outcomes for clients' systems. Revenue primarily stems from transactions processed and includes payment processing, data capture, analysis, decisioning, distribution and transformation across industries and the public and private sectors, primarily in Americas and Europe, and increasingly in Asia. The Applied Workflow Automation segment includes the Company's Bills & Payments, healthcare industry solutions, on-site enterprise solutions, integrated communications and enterprise legal management business units which serve leading banks, payers and providers, utilities as well as federal, regional and local government entities.

Technology: the Technology segment focuses on the sale of recurring and perpetual software licenses, software maintenance and professional services, as well as hardware solutions and maintenance. The Company offers an industry-agnostic and cross-departmental suite of products, with primary focus on scalable workflows leveraging AI through neural networks together with deep domain expertise. The Company also offers industry specific platforms for the banking and healthcare industries.

Revenues

The Company's revenues are primarily generated from a transaction based pricing model for the various types of volumes processed and a mix of fixed management fee and transactional revenue for document logistics and location services. Our healthcare services business generates revenues primarily from a transaction based pricing model for the various types of volumes processed for healthcare payers and providers. Our support services in connection with various legal matters generate revenues primarily based on time and materials pricing as well as through transactional services priced on a per item basis. In addition, the Company also sells recurring and perpetual software licenses, as well as maintenance and other professional services. Licensing options are flexible, and clients can purchase a license covering a maximum number of transactions, as well as multi-year term licenses with flexible renewal options.

People

We draw on the business and technical expertise of our talented and diverse global workforce to provide our clients with high-quality services. Our business leaders bring a strong diversity of experience in our industry and a track record of successful performance and execution.

As of December 31, 2025, we had approximately 10,600 employees globally, with 5,400 employees located in Americas and EMEA, and the remainder located primarily in India and the Philippines.

Costs associated with our employees represent the most significant expense for our business. We incurred personnel costs of \$162.9 million, \$186.8 million and \$367.7 million for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and for the year ended December 31, 2024 (Predecessor), respectively. The majority of our personnel costs are variable and are incurred only while we are providing our services. In certain jurisdictions, for example many countries in Europe, there is a statutory payment requirement for any people made redundant due to automation or relocation of delivery locations.

[Table of Contents](#)

Facilities

We lease and own numerous facilities worldwide with larger concentrations of space in California, Connecticut, Illinois, Iowa, Michigan, Texas, Washington, Canada, France, Germany, India, and the Philippines. Our owned and leased facilities house general offices, sales offices, service locations, and production facilities.

The size of our active property portfolio as of December 31, 2025 was approximately 1.8 million square feet. As of December 31, 2025, our active property portfolio comprised of 83 leased properties and 5 owned properties. We believe that our current facilities are suitable and adequate for our current business. Because of the interrelation of our business segments, each of the segments uses substantially all of these properties at least in part.

Key Performance Indicators

We use a variety of operational and financial measures to assess our performance. Among the measures considered by our management are the following:

- Revenue by segment;
- Gross profit by segment; and
- Adjusted EBITDA (which is a non-GAAP financial measure).

Revenue by segment

We analyze our revenue by comparing actual monthly revenue to internal projections and prior periods across our operating segments in order to assess performance, identify potential areas for improvement, and determine whether segments are meeting management's expectations.

Gross profit by segment

The Company defines Gross Profit as revenue less cost of revenue (exclusive of depreciation and amortization). The Company uses Gross Profit by segment to assess financial performance at the segment level.

Non-GAAP Financial Measures

To supplement its financial data presented on a basis consistent with GAAP, this report contains certain non-GAAP financial measures, including EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA. The Company has included these non-GAAP financial measures because they are financial measures used by management to evaluate the

Company's core operating performance and trends, to make strategic decisions regarding the allocation of capital and new investments. We believe these measures also provide useful information to investors by allowing consistent period-to-period comparisons of our operating results after removing the effects of our capital structure, asset base, and certain non-recurring items. These measures exclude certain expenses that are required under GAAP. The Company excludes these items because they are non-recurring or non-cash expenses that are determined based in part on the Company's underlying performance.

EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA

We define EBITDA as net income (loss), plus taxes, interest expense, and depreciation and amortization. We define Adjusted EBITDA as EBITDA plus non-recurring transaction costs, non-cash equity compensation, restructuring and related expenses, loss/(gain) on sale of assets, impairment of goodwill and other non-recurring items such as reorganization items. We define Pro forma Adjusted EBITDA as Adjusted EBITDA plus management's estimates of the impact of the acquisition of XBP Europe Holdings, Inc. and reorganization of BPA, had such transactions occurred at the beginning of the earliest period presented.

[Table of Contents](#)

Results of Operations

Year Ended December 31, 2025 Compared to Year Ended December 31, 2024:

	Successor Period from August 1, 2025 through December 31, 2025	Predecessor	Combined (Non-GAAP)	Predecessor		
		Period from January 1, 2025, through July 31, 2025	Year Ended December 31, 2025	Year Ended December 31, 2024	Change	% Change
Revenue (including related party revenue):						
Applied Workflow Automation	\$ 321,618	\$ 401,593	\$ 723,211	\$ 816,447	\$ (93,236)	(11.4)%
Technology	37,763	30,068	67,831	56,243	11,588	20.6%
Total revenue	359,381	431,661	791,042	872,690	(81,648)	(9.4)%
Cost of revenue (exclusive of depreciation and amortization):						
Applied Workflow Automation	264,474	329,433	593,907	665,401	(71,494)	(10.7)%
Technology	14,917	10,548	25,465	18,523	6,942	37.5%
Total cost of revenues (exclusive of depreciation and amortization)	279,391	339,981	619,372	683,924	(64,552)	(9.4)%
Selling, general and administrative expenses	49,669	53,946	103,615	124,440	(20,825)	(16.7)%
Depreciation and amortization	26,225	22,313	48,538	50,307	(1,769)	(3.5)%
Impairment of goodwill	320,292	—	320,292	108,489	211,803	195.2%
Related party expense	5,386	5,750	11,136	10,971	165	1.5%
Operating profit (loss)	(321,582)	9,671	(311,911)	(105,441)	(206,470)	195.8%
Interest expense, net	24,237	75,226	99,463	101,939	(2,476)	(2.4)%
Debt modification and extinguishment costs (gain), net	—	121	121	363	(242)	(66.7)%
Sundry expense (income), net	274	1,644	1,918	(2,087)	4,005	(191.9)%
Other income, net	(1,596)	(28)	(1,624)	(515)	(1,109)	215.3%
Loss before reorganization items and income taxes	(344,497)	(67,292)	(411,789)	(205,141)	(206,648)	100.7%
Reorganization items	1,615	(1,557,825)	(1,556,210)	—	(1,556,210)	100.0%
Net profit (loss) before income taxes	(346,112)	1,490,533	1,144,421	(205,141)	1,349,562	(657.9)%
Income tax expense	5,011	35,875	40,886	10,009	30,877	308.5%
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$ 1,103,535	\$ (215,150)	\$ 1,318,685	(612.9)%

Revenue

For the year ended December 31, 2025, our net revenue on a consolidated basis decreased by \$81.6 million, or 9.4%, to \$791.0 million (including related party revenue of \$3.0 million) from \$872.7 million (including related party revenue of \$5.6 million) for the year ended December 31, 2024.

Applied Workflow Automation and Technology segments constituted 91.4%, and 8.6%, respectively, of our total net revenue for the year ended December 31, 2025, compared to 93.6%, and 6.4%, respectively, for the year ended December 31, 2024. The revenue changes by reporting segment were as follows:

Applied Workflow Automation — Net revenue attributable to Applied Workflow Automation segment was \$723.2 million for the year ended December 31, 2025, compared to \$816.4 million for the year ended December 31, 2024. The revenue decline of \$93.2 million, or 11.4%, is primarily attributable to lower postage revenue, lower one-time projects and client contract ends, offset by the inclusion of a newly acquired entity in the successor period and revenue from newly won business.

Technology — For the year ended December 31, 2025, net revenue attributable to the Technology segment increased by \$11.6 million, or 20.6%, to \$67.8 million from \$56.2 million for the year ended December 31, 2024. The revenue increase in the Technology segment was largely due to inclusion of newly acquired entity in the successor period.

Cost of revenue

For the year ended December 31, 2025, the cost of revenue decreased by \$64.5 million, or 9.4%, compared to the year ended December 31, 2024.

[Table of Contents](#)

In the Applied Workflow Automation segment, the decrease was primarily attributable to reduced cost resulting from completed projects and optimization efforts. Cost of revenue to the Applied Workflow Automation segment decreased by \$71.5 million, or 10.7%.

The cost of revenue in the Technology segment increased by \$6.9 million, or 37.5%, primarily due to the inclusion of the newly acquired entity in the successor period within the Technology segment.

Cost of revenue for the year ended December 31, 2025, was 78.3% of revenue compared to 78.4% of revenue for the year ended December 31, 2024. The marginal decrease in cost of revenues as a percentage of revenue on a consolidated basis was primarily due to changes in revenue mix during the current period.

Selling, general and administrative expenses

Selling, general and administrative expenses (“SG&A expenses”) decreased \$20.8 million, or 16.7%, to \$103.6 million for the year ended December 31, 2025, compared to \$124.4 million for the year ended December 31, 2024. The decrease was primarily attributable to a lower provision for bad debts, decrease in legal and professional fees, and a one-time benefit from the write-off of certain aged liabilities, these favorable impacts were partially offset by an increase in government penalties, higher severance payouts associated with restructuring initiatives, receipt of insurance claim payment in 2024 and the inclusion of incremental SG&A expenses from the newly acquired entity. SG&A expenses decreased as a percentage of revenue to 13.1% for the year ended December 31, 2025, as compared to 14.3% for the year ended December 31, 2024.

Depreciation and amortization

Total depreciation and amortization expenses were \$48.5 million for the year ended December 31, 2025, compared to \$50.3 million for the year ended December 31, 2024.

Impairment of goodwill

Impairment of goodwill for the year ended December 31, 2025 was \$320.3 million. During the period August 1, 2025 to September 30, 2025, the Company experienced a sustained and significant decline in its market capitalization causing the market capitalization to fall below the Company’s book value after the application of fresh start accounting at Emergence Date. Management concluded that this sustained decline, combined with revised long-term projections compared to those used to compute enterprise value of the reconstituted Successor as set forth in the Disclosure Statement for Joint Plan of Reorganization approved by the Bankruptcy Court, represented a triggering event under ASC 350. In connection with the completion of the interim impairment test, the Company

recorded an impairment charge of \$215.8 million and \$80.0 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment and Technology segment, respectively, during the period August 1, 2025 to September 30, 2025. Additionally, later during the fourth quarter of 2025 (Successor), the Company conducted its annual budgeting process along with an update to its long-range plan. Following the completion of that process, the Company made an evaluation based on changes in the Company's long-term projections, concluding that a triggering event for an impairment analysis had occurred for certain reporting units reported under the Applied Workflow Automation segment. Revised long-term projections resulted in lower than previously projected long-term future cash flows for certain reporting units which reduced the estimated fair values to below their carrying values. Accordingly, the Company performed quantitative impairment test as of December 31, 2025 (Successor), resulting in an impairment charge of \$24.5 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment. Therefore, as a result of these two interim impairment assessments performed on September 30, 2025 (Successor) and December 31, 2025 (Successor), impairment charges totalling \$320.3 million, were recorded to goodwill for the period August 1, 2025 to December 31, 2025 (Successor).

Impairment of goodwill for the year ended December 31, 2024 (Predecessor) was \$108.5 million.

[Table of Contents](#)

Related party expenses

Related party expense was \$11.1 million for the year ended December 31, 2025, compared to \$11.0 million for the year ended December 31, 2024. Refer to Note 20, *Related Party Transactions* to our audited consolidated and combined financial statements as of and for the years ended December 31, 2025 and 2024 contained elsewhere in this Annual Report for additional information regarding the Company's related party transactions.

Interest expense, net

Interest expense, net was \$99.5 million for the year ended December 31, 2025, compared to \$101.9 million for the year ended December 31, 2024.

Debt modification and extinguishment costs (gain), net

There was \$0.1 million of debt modification and extinguishment cost for the year ended December 31, 2025, while there was \$0.4 million debt modification and extinguishment cost for the year ended December 31, 2024.

Sundry expense (income), net

The increase in sundry expense, net of \$4.0 million over the prior year period, was primarily attributable to exchange rate fluctuations on foreign currency transactions.

Other expense (income), net

Other income, net was a gain of \$1.6 million for the year ended December 31, 2025, compared to a gain of \$0.5 million for the year ended December 31, 2024.

Reorganization items

Reorganization items for the year ended December 31, 2025, includes a material net reorganization gain of \$1.56 billion. This gain was predominantly non-cash, stemming from two principal accounting mandates: the gain realized from the settlement of pre-petition liabilities subject to compromise, the gain recognized under Fresh Start Accounting, further augmented by a non-cash gain resulting from the mandatory derecognition of unamortized debt discount, premium and issuance costs associated with the extinguishment of the prior capital structure, reflecting the mandated revaluation of the balance sheet to fair value upon emergence. These substantial, positive adjustments were partially offset by the operational costs required to execute the plan, including essential legal and professional fees.

Income Tax Expense

We recorded an income tax expense of \$40.9 million for the year ended December 31, 2025, and an income tax expense of \$10.0 million for the year ended December 31, 2024. The tax expense for the year ended December 31, 2025 is higher than the year ended December 31, 2024, due to permanent adjustments relating to goodwill impairment and reorganization items as well as an increase in deferred tax expense relating to establishment of deferred tax liabilities on Fresh Start adjustments.

The Company's effective tax rate for the period from August 1, 2025 through December 31, 2025 (Successor) is (1.4)%. The effective tax rate for the Successor period was primarily impacted by the goodwill impairment, increase of valuation allowance on the current period disallowed interest deduction as well as increase in uncertain tax positions recorded in the period from August 1, 2025 through December 31, 2025 (Successor). The Company's effective tax rate for the period from January 1, 2025 through July 31, 2025 (Predecessor) is 2.4%. The effective tax rate for the period was primarily impacted by fresh start accounting adjustments recorded in connection with the Company's emergence from bankruptcy. The Company recorded income tax expense related to the recognition of deferred tax liabilities arising from fresh start accounting adjustment, including the remeasurement of assets and liabilities. In addition, the company recognized tax expense associated with the reduction of deferred tax assets related to debt instruments. These amounts

[Table of Contents](#)

were partially offset by tax benefits associated with the reversal of book restructuring gain and changes in the valuation allowance on deferred tax assets. The Company's effective tax rate for the year ended December 31, 2024 (Predecessor) was (4.9)%. The effective tax rate for 2024 was primarily impacted by goodwill impairment and increase in valuation allowance recorded against current year deferred tax assets. In addition, the effective tax rate was impacted by changes in uncertain tax positions recognized during the period.

Other Financial Information (Non-GAAP Financial Measures)

We view EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA as important indicators of performance. We define EBITDA as net (loss) income, plus income tax expenses, interest expense, net and depreciation and amortization. We define Adjusted EBITDA as EBITDA plus non-recurring transaction costs, non-cash equity compensation, restructuring and related expenses, loss/(gain) on sale of assets, impairment of goodwill and other non-recurring items such as reorganization items. We define Pro forma Adjusted EBITDA as Adjusted EBITDA plus management's estimates of the impact of the acquisition of XBP Europe Holdings, Inc. and reorganization of BPA, had such transactions occurred at the beginning of the earliest period presented.

We present EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA because we believe they provide useful information regarding the factors and trends affecting our business in addition to measures calculated under GAAP.

Note Regarding Non-GAAP Financial Measures

EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA are not financial measures presented in accordance with GAAP. We believe that the presentation of these non-GAAP financial measures will provide useful information to investors in assessing our financial performance and results of operations as our board of directors and management use EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA to assess our financial performance, because it allows them to compare our operating performance on a consistent basis across periods by removing the effects of our capital structure (such as varying levels of interest expense), asset base (such as depreciation and amortization) and items outside the control of our management team. Net income/loss is the GAAP measure most directly comparable to EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA. Our non-GAAP financial measures should not be considered as alternatives to the most directly comparable GAAP financial measure. Each of these non-GAAP financial measures have important limitations as analytical tools because they exclude some but not all items that affect the most directly comparable GAAP financial measures. These non-GAAP financial measures are not required to be uniformly applied, are not audited and should not be considered in isolation or as substitutes for results prepared in accordance with GAAP. Because EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA may be defined

differently by other companies in our industry, our definitions of these non-GAAP financial measures may not be comparable to similarly titled measures of other companies, thereby diminishing their utility.

[Table of Contents](#)

Year Ended December 31, 2025 Compared to the Year Ended December 31, 2024

The following table presents a reconciliation of EBITDA, Adjusted EBITDA and Pro forma Adjusted EBITDA to our net profit (loss), the most directly comparable GAAP measure, for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor) and the year ended December 31, 2024 (Predecessor).

	Successor Period from August 1, 2025 through December 31, 2025	Predecessor Period from January 1, 2025 through July 31, 2025	Combined (Non-GAAP) Year Ended December 31, 2025	Predecessor Year Ended December 31, 2024
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$ 1,103,535	\$ (215,150)
Income tax expense	5,011	35,875	40,886	10,009
Interest expense, net	24,237	75,226	99,463	101,939
Depreciation and amortization	26,225	22,313	48,538	50,307
EBITDA	(295,650)	1,588,072	1,292,422	(52,895)
Transactions costs (1)	5,426	—	5,426	608
Non-cash equity compensation (2)	886	204	1,090	1,598
Restructuring and related expenses (3)	3,713	—	3,713	—
Loss/(gain) on sale of assets (4)	2,395	1,967	4,362	(96)
Debt modification and extinguishment costs (gain), net	—	121	121	363
Network outage event related insurance recoveries, net of settlement costs	(4,733)	—	(4,733)	(7,085)
Reorganization items	1,615	(1,557,825)	(1,556,210)	—
Impairment of goodwill	320,292	—	320,292	108,489
Adjusted EBITDA	33,944	32,539	66,483	50,982
Impact of acquisition and reorganization (5)			2,937	3,021
Pro forma Adjusted EBITDA			\$ 69,420	\$ 54,003

- (1) Represents non-recurring legal, consulting and other fees and expenses incurred in connection with acquisitions, dispositions, debt-exchanges and other extraordinary transactions and events during the applicable period.
- (2) Represents the non-cash charges related to stock-based compensation.
- (3) Represents one-time costs associated with restructuring, including employee severance, legal, and lease termination costs.
- (4) Represents a loss/(gain) recognized on the disposal of property, plant, and equipment and other assets.
- (5) Represents management's estimates of the impact of the acquisition of XBP Europe Holdings, Inc. and reorganization of BPA, had such transactions occurred at the beginning of fiscal 2024.



Liquidity and Capital Resources

Overview

Our primary source of liquidity is principally cash generated from operating activities supplemented as necessary on a short-term basis by borrowings. As of December 31, 2025, we had total indebtedness of \$387.6 million following the Business Combination and emergence from Chapter 11, and we incurred interest expense of approximately \$24.2 million and \$75.2 million during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. We believe our current level of cash and short-term financing capabilities along with future cash flows from operations are sufficient to meet the needs of the business for at least the next twelve months. However, compliance with the Company's restrictive financial covenants in the Company's financing agreements is tested as of specified measurement dates and may, from time to time, depend on the Company's operating performance and the successful execution of planned transactions, including asset dispositions or other balance sheet actions. Our ability to meet those financial covenants can be affected by events beyond our control, and we may not be able to meet those covenants. There can be no assurance that any planned transactions will be completed on a timely basis, on acceptable terms, or at all. Even if the Company is in compliance with its debt covenants as of the date of filing of this Annual Report, subsequent developments or our inability to successfully execute planned transactions, could result in non-compliance in future periods.

Liquidity is the availability of adequate amounts of cash with an enterprise to meet its needs for cash requirements. At December 31, 2025 (Successor) and December 31, 2024 (Predecessor) cash, restricted cash, and cash equivalents totalled \$68.7 million and \$64.1 million, respectively, including restricted cash of \$31.6 million and \$52.4 million, respectively.

In the ordinary course of business, we enter into contracts and commitments that obligate us to make payments in the future. These obligations include borrowings, interest obligations, purchase commitments, operating and finance lease commitments, employee benefit payments and taxes. The current maturities under the Second Lien Note, the secured borrowings under the BR Exar AR Facility, the 2028 Term Loan Facilities (each as defined and further described in "Indebtedness" below) and the other debts are \$15.8 million, \$1.4 million, \$3.3 million and \$14.8 million, respectively. We were in compliance with all financial covenants as of December 31, 2025. See Note 13, *Long-Term Debt and Credit Facilities*, Note 15, *Employee Benefit Plans*, and Note 16, *Commitments and Contingencies*, to our consolidated and combined financial statements herein for further information on material cash requirements from known contractual and other obligations.

The Predecessor recently emerged from the Chapter 11 Cases. As a result, near-term liquidity is expected to be negatively impacted due to the requirement to satisfy certain pre-petition liabilities pursuant to the Plan. This constrained liquidity is expected to continue until such time as these liabilities are fully settled. In addition, our indebtedness that we incurred in connection with or that otherwise survived the Restructuring limits our financial flexibility and requires substantial ongoing cash flows for debt service.

We plan to spend approximately 1.0% of total revenue on total capital expenditures over the next twelve months. Our business model has evolved to leverage cloud hosted platforms. This has reduced our capital expenditures and increased our operating expenses. This is the primary driver of changes in our capital expenditures when compared with historical periods. Our future cash requirements will depend on many factors, including our rate of revenue growth, our investments in strategic initiatives, applications or technologies, operation centers and acquisition of complementary businesses, which may require the use of significant cash resources and/or additional equity or debt financing. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us or at all, which may adversely impact our business, operating results and financial condition.

The Company utilized COVID-19 relief measures in various European jurisdictions, including permitted deferrals of certain payroll, social security and value added taxes. At the end of the third quarter 2024, the Company paid a significant portion of these deferred payroll taxes, social security and value added taxes. The remaining balance of deferred payroll taxes, social security and value added taxes is expected to be paid by April 2027, or later, as per deferment timelines as established by local laws and regulations.

[Table of Contents](#)

The Company believes the current cash, cash equivalents and cash flows from operating and financing activities are sufficient to meet the Company's working capital and capital expenditure requirements for a period of at least twelve months. To the extent existing cash, cash from operations, and amounts available for borrowing are insufficient to fund future activities, the Company may need to raise additional capital. The Company may require funding for a variety of reasons, including, but not limited to, cost overruns for reasons outside of its control, lower-than-expected sales or compliance with restrictive financial covenants in the Company's financing agreements. If the Company's current cash on hand is not sufficient to meet its financing requirements for the next twelve months, it may have to raise funds to allow it to continue to operate its business and execute on its business plan. The Company cannot be certain that funding will be available on acceptable terms or at all, particularly given the amount of Company securities being offered, the terms of such securities and the potential duration of any offering. To the extent that the Company raises additional funds by issuing equity securities, its stockholders may experience significant dilution. Any debt financing, if available, may involve restrictive covenants that may impact the Company's ability to conduct business or return capital to investors. If the Company is unable to raise additional capital on acceptable terms, it may have to significantly scale back, delay or discontinue certain businesses, restrict its operations or obtain funds by entering into agreements on unattractive terms. Further, any failure to comply with the restrictive covenants in the Company's financing agreements could result in an event of default. In such circumstances, the Company may be required to seek waivers or amendments from its lenders, which may not be granted and, if granted, could impose additional costs, more restrictive terms or other adverse conditions. The need to obtain waivers or amendments, or the occurrence of a default, may also require public disclosure and could adversely affect the Company's liquidity, access to capital, reputation and business prospects. An event of default could permit lenders to accelerate the Company's indebtedness and exercise remedies against collateral securing such indebtedness. A significant portion of our indebtedness could become immediately due and payable. We cannot be certain whether we would have, or would be able to obtain, sufficient funds to make these accelerated payments. If any such indebtedness is accelerated, our assets may not be sufficient to repay in full such indebtedness and our other indebtedness. If the Company is unable to repay amounts outstanding under its financing agreements when due, the lenders thereunder could, subject to the terms of the financing agreements, seek to foreclose on the collateral that is pledged to secure the indebtedness outstanding under such facility.

Known Trends and Uncertainties

The workflow automation industry continues to face pricing pressure from competitive bidding, technological disruption from AI and automation, and client demand for lower-cost offshore solutions. We are exposed to these trends through our reliance on long-term contracts that may be renewed at lower rates or terminated early.

Pricing pressure in the workflow automation industry, potential loss of key client contracts (no single client exceeds 10% of revenue, but concentration exists in financial services and government sectors), and transitional challenges from the July 2025 restructuring (including client and vendor uncertainty and integration costs) are reasonably likely to affect future results of operations and liquidity. Management is addressing these through continued cost optimization, targeted client retention initiatives, and integration of the acquired operations to stabilize relationships.

Cash Flows

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

	Successor Period from August 1 through December 31, 2025	Predecessor Period from January 1 2025 through July 31, 2025	Combined (Non-GAAP) Year Ended December 31, 2025	Predecessor Year Ended December 31, 2024	Change
Net cash provided by (used in) operating activities	\$ 18,232	\$ (159,942)	\$ (141,710)	\$ 23,267	\$(164,977)
Net cash used in investing activities	(6,336)	(2,690)	(9,026)	(6,488)	(2,538)
Net cash provided by (used in) financing activities	13,109	145,264	158,373	(2,756)	161,129
Subtotal	\$ 25,005	\$ (17,368)	\$ 7,637	14,023	\$(6,386)
Effect of exchange rates on cash, restricted cash and cash equivalents	(234)	(2,804)	(3,038)	(3,451)	413
Net increase (decrease) in cash, restricted cash and cash equivalents	<u>\$ 24,771</u>	<u>\$ (20,172)</u>	<u>\$ 4,599</u>	<u>\$ 10,572</u>	<u>\$(5,973)</u>

[Table of Contents](#)

Analysis of Cash Flow Changes between the year ended December 31, 2025 and December 31, 2024

Operating Activities— The increase of \$165.0 million in net cash used in operating activities for the year ended December 31, 2025 was primarily due to return of accounts receivable of approximately \$74.5 million on the Emergence Date which were previously sold under certain Securitization Facility of the Predecessor and the refund of amounts received for such sold accounts receivables, increase in payments for accounts payable and accrued liabilities by \$11.8 million, cash paid for reorganization activities of \$70.7 million and lower gross profit (revenue less cost of revenue) by \$17.0 million. This increase in net cash used in operating activities was partially offset by lower selling, general and administrative expenses of \$20.8 million reflecting cost optimization following the Restructuring.

Investing Activities— The increase of \$2.5 million in net cash used in investing activities for the year ended December 31, 2025 was primarily due to a \$2.6 million increase in cash used for purchase of property, plant and equipment and \$2.1 million decrease in proceeds from sale of assets partially offset by a \$0.6 million reduction in additions to internally developed software.

Financing Activities— Cash provided by financing activities during the year ended December 31, 2025 was \$158.4 million, primarily as a result of \$40.7 million of proceeds from borrowings under the BR Exar AR Facility, \$18.0 million of proceeds from the Revolving Credit Facility (as defined and further described in “Indebtedness” below), \$80.0 million from new-money loans borrowed pursuant to certain debtor-in-possession (“DIP”) financing agreement in connection with the Chapter 11 Cases (“DIP New Money Loans”), \$40.0 million of proceeds from the Super Senior Term Loan, \$105.8 million of proceeds from the ABL Facility, \$14.7 million of net proceeds from other loans and \$3.5 million of net proceeds from issuance of July 2030 Notes. These inflows were partially offset by \$46.4 million of repayments made under the BR Exar AR Facility, \$48.9 million of principal repayments on BPA’s prepetition senior secured financing agreement and other loans, \$9.7 million of repayments on the Second Lien Note, \$28.8 million of repayment under the ABL Facility, \$5.0 million of principal payments on finance lease obligations, and \$5.5 million paid for debt issuance costs.

Cash used in financing activities during the year ended December 31, 2024 was \$2.8 million. This was primarily due to \$59.3 million in borrowings under the BR Exar AR Facility and \$14.8 million in proceeds from other loans, which were offset by \$52.3 million in repayments under the BR Exar AR Facility, \$6.0 million of repayments on the Second Lien Note, \$11.5 million in principal repayments on BPA’s prepetition senior secured financing agreement and other loans, \$6.6 million of principal repayments on finance lease obligations, and \$0.5 million for debt issuance costs.

Indebtedness

Following is a description of the Company's principal indebtedness outstanding as of December 31, 2025. Refer to Note 13, *Long-term Debt and Credit Facilities* within our consolidated and combined financial statements for additional information regarding the Predecessor's indebtedness outstanding as of December 31, 2024, none of which remained outstanding following the Restructuring or as of December 31, 2025.

July 2030 Notes

On July 29, 2025, Exela Technologies BPA, LLC and Exela Finance Inc., wholly-owned subsidiaries of the Company (for this purpose, together, the "2030 Notes Issuers"), certain guarantors and U.S. Bank Trust Company, National Association, as trustee, entered into an indenture (the "July 2030 Notes Indenture") governing the Company's 12.0% First-Priority Senior Secured Notes due 2030 (the "July 2030 Notes"). The Company issued approximately \$183.0 million aggregate principal amount of the July 2030 Notes pursuant to the Plan, which may be supplemented by additional issuances in accordance with the July 2030 Notes Indenture. In December 2025, the Company issued an additional \$4.0 million in aggregate of principal amount of the July 2030 Notes generating net proceeds of \$3.5 million. The July 2030 Notes bear interest at a fixed rate of 12.0% per annum, payable quarterly on January 15, April 15, July 15 and October 15 of each year, commencing January 15, 2026, and mature on July 15, 2030. Interest on overdue amounts accrues at the stated rate plus 2.0% per annum. \$187.0 million aggregate principal amount of the July 2030 Notes remained outstanding as of December 31, 2025.

[Table of Contents](#)

The July 2030 Notes may be redeemed, in whole or in part, at the 2030 Notes Issuers' option at any time, upon not less than 10 nor more than 30 days' prior notice, at a redemption price equal to 100% of the principal amount redeemed plus accrued and unpaid interest to, but excluding, the redemption date. In addition, the July 2030 Notes are subject to repurchase requirements upon the occurrence of certain specified events, including upon a change of control at 101% of principal plus accrued and unpaid interest and on certain asset sales or debt proceeds at 100% of principal plus accrued and unpaid interest.

The July 2030 Notes Indenture limits the ability of the 2030 Notes Issuers and the guarantors to incur additional debt, pay dividends or make other restricted payments, make certain investments, create or permit liens on assets, sell or dispose of assets, and enter into transactions with affiliates, in each case subject to specified exceptions. Events of default include the failure to pay principal, interest or other amounts when due, the failure to comply with covenants or other agreements in the July 2030 Notes Indenture, defaults on other material indebtedness of the 2030 Notes Issuers or the guarantors, certain bankruptcy or insolvency events, and the entry of material judgments against the 2030 Notes Issuers or the guarantors. If an event of default occurs and is continuing, the July 2030 Notes may be declared immediately due and payable, and in the case of bankruptcy or insolvency events, the July 2030 Notes automatically become immediately due and payable.

The obligations under the July 2030 Notes are fully and unconditionally guaranteed on a senior secured basis by the 2030 Notes Issuers' U.S. subsidiary guarantors, and are secured by liens on the collateral of the 2030 Notes Issuers and such guarantors, subject to permitted liens and the terms of the Super Senior, ABL and Equal Priority Intercreditor Agreements. Under these agreements, the ABL Lenders (as described below) hold first-priority liens on receivables, inventory, cash and related assets, while the Super Senior Term Loan Lenders (as described below) and July 2030 Noteholders hold junior liens on such assets. With respect to fixed assets, equity interests, intellectual property and related assets, the Super Senior Term Loan Lenders hold first-priority liens and July 2030 Noteholders share equal second-priority liens on a *pari passu* basis with holders of outstanding general unsecured claims in the Chapter 11 Cases, while the ABL Lenders hold junior liens.

Super Senior Term Loan

On July 29, 2025, Exela Technologies BPA, LLC and Exela Finance Inc. (for this purpose, together, the "Super Senior Term Loan Borrowers"), each subsidiary of the Exela Technologies BPA, LLC, as guarantors, Ankura Trust Company, LLC, as administrative agent and collateral agent, and certain lenders (the "Super Senior Term Loan Lenders") entered into a Financing Agreement (as amended, the "Super Senior Term Loan"), in accordance with the Plan. The Super Senior Term Loan provided for an aggregate principal amount of up to \$46.0 million in senior secured term loans, consisting of (i) \$40.0 million in new-money term loans, used to refinance obligations under BPA's prepetition senior secured financing agreement and pay related fees and expenses, and (ii) \$6.0 million in term loans

issued to DIP lenders in exchange for and in full satisfaction of \$10.0 million of DIP claims as contemplated by the Plan. Interest on the Super Senior Term Loan accrues, at the Super Senior Term Loan Borrowers' election, either (a) at the Reference Rate, meaning the greatest of 4.0% per annum, the Federal Funds Effective Rate plus 0.5% per annum, one-month Term SOFR plus 1.0% per annum, or the Wall Street Journal Prime Rate plus 10.7% per annum, stepping down to 7.3% per annum upon the establishment of an Incremental Facility, or (b) at Term SOFR, subject to a 4.0% floor, plus 11.7% per annum, stepping down to 8.3% per annum upon the establishment of an Incremental Facility. Interest on Reference Rate Loans is payable monthly in arrears, while interest on SOFR Loans is payable at the end of each applicable interest period. Upon the occurrence of an event of default, all outstanding amounts bear interest at the applicable rate *plus* 2.0% per annum, payable on demand.

As of December 31, 2025, there were borrowings of \$46.0 million outstanding under the Super Senior Term Loan. The Super Senior Term Loan is scheduled to mature on July 28, 2028. Voluntary prepayments are permitted at any time with five business days' notice, provided accrued interest is paid and, if applicable, a prepayment premium is payable at a rate of 2.0% if prepaid prior to the first anniversary of the Emergence Date, 1.0% if prepaid on or after the first anniversary but prior to the second anniversary, and 0% thereafter. In addition, the Super Senior Term Loan is subject to mandatory prepayments of principal with accrued interest in certain circumstances, including (a) 25.0% of annual Excess Cash Flow (beginning with the fiscal year ending December 31, 2026, payable within ten business days after delivery of annual financial statements), (b) 100% of net cash proceeds from non-permitted asset sales in excess of

[Table of Contents](#)

\$0.5 million in any fiscal year subject to reinvestment rights, (c) 100% of net cash proceeds from the issuance of indebtedness or equity securities (other than permitted issuances), and (d) certain extraordinary receipts, such as insurance recoveries and condemnation awards, subject to reinvestment rights. Upon the occurrence of an event of default such as payment defaults, covenant breaches, bankruptcy or insolvency, cross-defaults to other significant indebtedness, and judgment defaults, the obligations under the Super Senior Term Loan may be accelerated and become immediately due and payable.

The obligations under the Super Senior Term Loan are guaranteed on a joint and several basis by substantially all of the Super Senior Term Loan Borrowers' subsidiaries and are secured by a first-priority lien on substantially all of the assets of the Super Senior Term Loan Borrowers' and the guarantors, subject to permitted liens and the terms of the ABL Intercreditor Agreement (as described below) and that certain Super Senior Intercreditor Agreement. The Super Senior Term Loan contains customary affirmative and negative covenants, including limitations on additional indebtedness, the granting of liens, asset sales, restricted payments, affiliate transactions, and changes in business. It also includes a financial covenant requiring the Issuer to maintain the ratio of (a) Indebtedness to (b) Covenant Consolidated EBITDA of no greater than 1.00 to 1.00 based on the trailing 12 months ended as of the last day of the most recently ended fiscal quarter. The Super Senior Term Loan Borrowers are also required to maintain liquidity of at least \$2.0 million (or \$10.0 million after the incurrence of any Incremental Facility). The Super Senior Term Loan Borrowers were in compliance with all financial covenants as of December 31, 2025.

Second Lien Note

On February 27, 2023, BPA, through its subsidiary Exela Receivables 3, LLC, and BRF Finance Co., LLC entered into a Secured Promissory Note pursuant to which BPA borrowed \$31.5 million from BRF Finance Co., LLC secured by a second lien pledge of Exela Receivables 3, LLC, a subsidiary of BPA (as amended, the "Second Lien Note"). The Second Lien Note was originally scheduled to mature on June 17, 2025 and bears interest at a per annum rate of one-month Term SOFR plus 7.5%. On July 29, 2025, BPA entered into an Amended and Restated Second Lien Credit Agreement with BRF Finance Co., LLC. The amendment was executed in connection with BPA's emergence from the Chapter 11 Cases to align the terms of the Second Lien Note with the Company's new capital structure and intercreditor arrangements. The revised agreement extended the maturity of the Second Lien Note to March 30, 2026. At the option of the Company, the maturity of the Second Lien Note was further extended to September 30, 2026.

The obligations under the Second Lien Note are fully and unconditionally guaranteed by certain subsidiaries of BPA and are secured by liens on BPA's and certain guarantors' assets, including accounts receivable, inventory, cash and deposit accounts, equipment, real property, equity interests in subsidiaries, intercompany obligations, general intangibles, and other related assets. Pursuant to the ABL Intercreditor Agreement, BRF

Finance Co., LLC's liens are subordinated to the liens securing the Company's senior debt facilities; specifically, the ABL Facility with respect to receivables, inventory, cash, and related assets, and the Super Senior Term Loan and July 2030 Notes with respect to fixed assets, equity interests, and other non-ABL assets. As a result, the obligations under the Second Lien Note are effectively second-priority liens behind the senior secured debt. The Second Lien Notes requires the borrowers to maintain a minimum fixed charge coverage ratio, calculated on a trailing twelve-month basis. The minimum required ratio varies depending on the period: for the defined periods tested quarterly through December 31, 2025, and monthly from January 1, 2026, through June 30, 2026, the fixed charge coverage ratio must be not less than 0.85 to 1.00. Thereafter, for the defined periods tested monthly from July 1, 2026, through the maturity date, the fixed charge coverage ratio must be not less than 1.00 to 1.00. The Company was in compliance with all financial covenants as of December 31, 2025.

During 2024 (Predecessor), the Company had repaid \$6.0 million principal amount of the Second Lien Note. During the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), the Company repaid \$3.8 million and \$6.0 million, respectively, in principal amount of the Second Lien Note. The loss on early extinguishment of debt during the period August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor) totaled \$0 and \$0.1 million, respectively and represents write off of debt issuance costs. Loss on the early extinguishment of debt is reported within debt modification and extinguishment costs (gain), net within the Company's consolidated and combined statements of operations. As of December 31, 2025

[Table of Contents](#)

(Successor), there were borrowings of \$15.8 million outstanding under the Second Lien Note included in the current portion of long-term debt in the consolidated balance sheet.

ABL Facility

On July 29, 2025, Exela Technologies BPA, LLC and certain of its subsidiaries (collectively, the “ABL Borrowers”) entered into a \$150.0 million Asset-Based Lending Credit and Security Agreement (as amended, the “ABL Facility”) with MidCap Funding IV Trust, as administrative and collateral agent (the “Agent”), and a syndicate of lenders (the “ABL Lenders”). The ABL Facility was executed in connection with BPA’s emergence from the Chapter 11 Cases and provides for revolving commitments of up to \$150.0 million, with an option to increase to \$175.0 million through an additional tranche. The borrowing availability under the ABL Facility is limited to the lesser of (i) the aggregate revolving commitments and (ii) the borrowing base, which is calculated by reference to eligible billed and unbilled receivables, certain other receivables, eligible cash, and related assets, reduced by reserves established by the Agent. Borrowings under the ABL Facility bear an interest at Term SOFR plus an applicable margin ranging from 3.8% to 4.3%, depending on the ABL Borrowers’ trailing twelve-month EBITDA, subject to a 1.0% SOFR floor. Interest is payable monthly, with a 2.0% default premium. In addition to interest, the ABL Borrowers are required to pay an unused commitment fee of 0.5% per annum on the average daily unused portion of the commitments, customary letter of credit fees on the face amount of each outstanding letter of credit, a collateral management fee payable to the Agent, and a minimum balance fee if borrowings under the ABL Facility fall below 20.0% of the Borrowing Base.

As of December 31, 2025 (Successor), there were borrowings of \$76.8 million outstanding under the ABL Facility. The ABL Facility matures on July 29, 2028, and may be prepaid at any time without penalty (other than breakage costs). Mandatory repayments are required from proceeds of dispositions of the ABL Priority Collateral, certain insurance proceeds, or upon acceleration following an event of default. The events of default include failure to pay principal, interest or fees when due; breaches of covenants or other material contractual obligations; materially inaccurate representations or warranties; failure to pay specified other indebtedness above \$25.0 million; bankruptcy or insolvency; final unsatisfied judgments; ERISA-related defaults; and a change in control.

The obligations under the ABL Facility are guaranteed on a joint and several basis by substantially all of the ABL Borrowers’ U.S. subsidiaries. The liens securing the ABL Facility are subject to an Intercreditor Agreement (the “ABL Intercreditor Agreement”) dated July 29, 2025, among MidCap Funding IV Trust, Ankura Trust Company, LLC, as Term Agent, BRF Finance Co., LLC, as Riley Agent, and U.S. Bank Trust Company, National Association, as July 2030 Notes Trustee. The ABL Intercreditor Agreement governs lien priorities including (i) relative priorities for the collateral securing the ABL Facility obligations, the Super Senior Term Loan obligations, the July 2030 Notes Indenture

obligations and the Second Lien Note obligations; (ii) collateral priorities securing (a) any Second Lien Note obligations, (b) any Super Senior Term Loan obligations, (c) any July 2030 Notes Indenture obligations, or (d) any Excess ABL Debt; and (iii) prohibition on contesting liens. The ABL Facility is secured by a first-priority lien on certain ABL Priority Collateral (including receivables, cash, inventory, deposit accounts, and related assets) and a junior lien on certain Term Priority Collateral (as defined therein), subject to the ABL Intercreditor Agreement.

The ABL Facility includes customary affirmative covenants such as reporting, collateral maintenance, insurance, and inspections, and negative covenants, including restrictions on additional indebtedness, liens, asset sales, investments, affiliate transactions, and changes in business, with a minimum fixed charge coverage ratio, tested if excess availability falls below a defined threshold. The ABL Facility requires the ABL Borrowers to maintain a minimum fixed charge coverage ratio, calculated on a trailing twelve-month basis. The fixed charge coverage ratio is defined as the ratio of EBITDA *less* Unfinanced Capital Expenditures *less* Capitalized Software Expenditures, to Fixed Charges (as such terms are defined in the ABL Facility). The minimum required ratio varies depending on the period: for the defined periods tested quarterly through December 31, 2025, and monthly from January 1, 2026 through June 30, 2026, the fixed charge coverage ratio must be not less than 0.85 to 1.00. Thereafter, for the defined periods tested monthly from July 1, 2026, through the maturity date, the fixed charge coverage ratio must be not less than 1.00 to 1.00. The ABL Facility also requires maintaining minimum excess availability of not less than \$7.5 million at any time for three (3) or more consecutive business days through June 30, 2026. The Company was in compliance with all financial covenants as of December 31, 2025 (Successor).

[Table of Contents](#)

Senior Credit Facilities Agreement

In June 2024, XBP Europe, Inc., a wholly owned subsidiary of the Company, together with certain other subsidiaries, entered into a Facilities Agreement (the “Facilities Agreement”) with HSBC UK Bank plc (“HSBC”) for a £15.0 million and €10.5 million secured credit facility consisting of (i) a single draw, secured Term Loan A facility in an aggregate principal amount of £3.0 million (the “2028 Term Loan A Facility”), (ii) a single draw, secured Term Loan B facility in an aggregate principal amount of €10.5 million (the “2028 Term Loan B Facility”, collectively with the 2028 Term Loan A Facility, the “2028 Term Loan Facilities”) and (iii) a multi-draw, multi-currency secured revolving credit facility in an aggregate principal amount of £12.0 million (the “Revolving Credit Facility”), and, together with the 2028 Term Loan Facilities, (the “Senior Credit Facilities”). Pursuant to the original Facilities Agreement, the 2028 Term Loan Facilities mature on June 26, 2028, and the Revolving Credit Facility matures on June 26, 2027, with certain extension rights at the discretion of HSBC. Borrowings under the 2028 Term Loan A Facility, the 2028 Term Loan B Facility and Revolving Credit Facility bear interest at a rate per annum equal to the SONIA plus the applicable margin of 3.25%, Euro Interbank Offered Rate (“EURIBOR”) plus the applicable margin of 3.25% and Reference Rate plus the applicable margin of 3.25%, respectively. “Reference Rate” for any period means (i) Secured Overnight Financing Rate (“SOFR”) for funds extended in U.S. Dollars; (ii) the EURIBOR, for funds extended in Euros; (iii) the SONIA, for funds extended in Pounds Sterling; and the Stockholm Interbank Offered Rate (“STIBOR”) for funds extended in Swedish Krona.

On July 25, 2025, an amendment to the Facilities Agreement was executed to permit the borrowing of an additional sum of €16.1 million, the equivalent of £14.0 million, under the Revolving Credit Facility. The drawdowns were made in Euro and used for general corporate purposes. This amendment extended the maturity of the Revolving Credit Facility to June 26, 2028, and updated certain definitions and covenants reflecting the Company’s new corporate structure following the Business Combination as discussed in Note 5, *Business Combination*.

The Senior Credit Facilities continue to be secured by first-ranking security interests over substantially all assets of XBP Europe, Inc. and other borrower and guarantor subsidiaries, including cash, receivables, inventory, intercompany receivables, shares in subsidiaries, and related assets. The amendment added a new covenant restricting XBP Global Holdings, Inc., as the parent of XBP Europe, Inc., from providing certain guarantees or other credit support. Except as otherwise provided by applicable law, all obligations under the Facilities Agreement are jointly and severally unconditionally guaranteed by the European subsidiaries of XBP Europe, Inc.

The outstanding principal amount of the 2028 Term Loan A Facility is scheduled to be repaid in fifteen (15) equal quarterly installments of £150 thousand, which commenced September 30, 2024, with the remaining outstanding principal amount of £750 thousand

payable at maturity along with accrued and unpaid interest. The outstanding principal amount of the 2028 Term Loan B Facility is scheduled to be repaid in fifteen (15) equal quarterly installments of €525 thousand, which commenced September 30, 2024, with the remaining outstanding principal amount of €2.6 million payable at maturity along with accrued and unpaid interest. The Company may, at any time, prepay the principal of the Senior Credit Facilities. Each prepayment shall be accompanied by the payment of accrued interest, without any premium or penalty. However, the Company is limited to a maximum of four voluntary prepayments of the Revolving Credit Facility within any consecutive twelve-month period. During the period August 1, 2025 to December 31, 2025, the Company repaid \$1.6 million of outstanding principal amount under the 2028 Term Loan A Facility and 2028 Term Loan B Facility. As of December 31, 2025, the outstanding balance of the 2028 Term Loan A Facility, the 2028 Term Loan B Facility, and the Revolving Credit Facility was approximately \$2.8 million, \$8.6 million, and \$35.6 million, respectively.

The Facilities Agreement contains financial covenants including, but not limited to, (i) a consolidated total leverage ratio of not greater than 2.50 to 1.00 (with step-downs to (a) 2.25 to 1.00 starting January 1, 2025 and (b) 2.00 to 1.00 starting January 1, 2026); (ii) a cash flow coverage ratio of at least 1.10:1.00; and (iii) a consolidated interest coverage ratio of not less than 4.00 to 1.00. The Facilities Agreement and indenture governing the Senior Credit Facilities contains certain affirmative and negative covenants limiting the ability of the XBP Europe, Inc. to effect mergers and change of control events as well as certain other limitations, including limitations on (i) incurrence of additional indebtedness or liens, (ii) dispositions of assets, (iii) substantial changes of the general nature of the business, (iv) entering into restrictive agreements, (v) making certain investments, loans, advances, guarantees and acquisitions, (vi) prepaying certain indebtedness, (vii) the declaration and payment of dividends or other restricted payments, (viii)

[Table of Contents](#)

engaging in transactions with affiliates, or (ix) amending certain material documents. As of December 31, 2025, the Company was in compliance with all affirmative and negative covenants under its Facilities Agreement, including all financial covenants, except for a temporary technical non-compliance with the net leverage covenant arising from the timing of an intercompany cash transfer on December 31, 2025. The lender has acknowledged this matter, and no remedies were exercised or are expected to be exercised.

BR Exar AR Facility

On February 12, 2024, certain of the Company's subsidiaries entered into a receivables purchase agreement with BR Exar, LLC ("BREL"), an affiliate of B. Riley Commercial Capital, LLC (as subsequently amended on various dates in connection with each monthly sale of certain existing receivables, up to and including December 31, 2025 (the "BR Exar AR Facility")). The Company received an aggregate of \$15.2 million and \$22.1 million, net of legal and other fees of \$1.8 million and \$1.6 million, respectively, under the BR Exar AR Facility during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. Under the terms of the BR Exar AR Facility during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), certain of the Company's subsidiaries agreed to sell certain existing receivables and all of their future receivables to BREL until such time as BREL shall have collected \$17.0 million and \$25.5 million, respectively, net of any costs, expenses or other amounts paid to or owing to the buyer under the agreement. BREL collected \$23.0 million and \$25.8 million under the BR Exar AR Facility during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. As of December 31, 2025, and December 31, 2024, there was a \$1.4 million and \$7.8 million of outstanding balance, respectively, under the BR Exar AR Facility included in the current portion of long-term debt in the consolidated and combined balance sheets.

Amended Factoring Agreement

On September 15, 2023, certain European subsidiaries of the Company entered into an amendment to a secured borrowing facility (the "Amended Factoring Agreement") for a non-recourse factoring program pursuant to which an unrelated third party (the "Factor") purchases certain approved and partially approved accounts receivables (as defined in the Amended Factoring Agreement) from certain subsidiaries of the Company (the "Relevant Entities") up to a maximum amount of €15.0 million while assuming the risk of non-payment on the purchased accounts receivables up to the level of approval. The Relevant Entities have no continuing involvement in the transferred accounts receivable, other than collection and administrative responsibilities and, once sold, the accounts receivable are no longer available to satisfy creditors of the relevant entities. As of December 31, 2025, the

Company's outstanding factored accounts receivable totalled approximately \$2.6 million pursuant to the Amended Factoring Agreement, representing the face value of the factored invoices.

Key financial covenants under our credit facilities include a maximum leverage ratio and a minimum fixed charge coverage ratio. As of December 31, 2025, we were in compliance with all financial covenants and had sufficient headroom under the primary tests. A breach could result in an event of default and acceleration of indebtedness. Management monitors financial covenant compliance closely and maintains contingency plans, including potential covenant amendments or refinancing, should operating performance fall short of expectations.

Subsequent Debt Amendments

Subsequent to December 31, 2025, we entered into additional amendments to the BR Exar AR Facility, the ABL Facility and the Super Senior Term Loan. For a detailed description of the terms of these subsequent amendments, See Note 22, *Subsequent Events* to the consolidated financial statements included in Item 8 of this Annual Report.

Additional Information with Respect to the Super Senior Term Loan Borrowers

Under the terms of the Super Senior Term Loan, the Company is required to present additional information that reflects the consolidated and combined financial condition, results of operations and cash flows of the Super Senior Term Loan Borrowers separate from the consolidated financial condition, results of operations and cash flows of the rest of the Company as of and for the periods presented. This additional information for 2025 is presented below.

[Table of Contents](#)

Consolidated and Combined Balance Sheets as of December 31, 2025:

	Successor (1)	Non-Super Senior Term Loan Borrower Subsidiaries (2)	Eliminations (3)	Super Senior Term Loan Borrowers (4)=(1)-(2)-(3)
	Consolidated	Non-GAAP	Non-GAAP	Non-GAAP
	December 31, 2025	December 31, 2025	December 31, 2025	December 31, 2025
Assets				
Current assets				
Cash and cash equivalents	\$ 37,113	\$ 6,097	\$ —	\$ 31,016
Restricted cash	31,553	—	—	31,553
Accounts receivable, net	130,281	29,243	—	101,038
Related party receivables and prepaid expenses	736	—	(8,329)	9,065
Inventories, net	11,365	4,198	—	7,167
Prepaid expenses and other current assets	28,699	5,955	—	22,744
Total current assets	239,747	45,493	(8,329)	202,583
Property, plant and equipment, net	82,956	13,971	—	68,985
Operating lease right-of-use assets, net	30,339	5,104	—	25,235
Goodwill	189,881	55,955	—	133,926
Intangible assets, net	344,080	36,990	—	307,090
Other noncurrent assets	15,094	32,983	(32,000)	14,111
Total assets	\$ 902,097	\$ 190,496	\$ (40,329)	\$ 751,930
Liabilities and Stockholders' Equity (Deficit)				
Liabilities				
Current liabilities				
Current portion of long-term debt	\$ 34,334	\$ 5,917	\$ —	\$ 28,417
Accounts payable	55,700	23,613	—	32,087
Related party payables	5,343	12,727	(7,911)	527
Income tax payable (receivable)	6,158	1,943	—	4,215
Accrued liabilities	47,101	18,035	—	29,066
Accrued compensation and benefits	56,314	23,317	—	32,997
Accrued interest	13,685	192	(418)	13,911
Customer deposits	21,691	148	—	21,543
Deferred revenue	11,881	6,009	—	5,872
Obligation for claim payment	55,632	—	—	55,632
Current portion of finance lease liabilities	4,390	—	—	4,390
Current portion of operating lease liabilities	9,814	1,689	—	8,125
Total current liabilities	322,043	93,590	(8,329)	236,782
Long-term debt, net of current maturities	353,267	61,384	(32,475)	324,358
Finance lease liabilities, net of current portion	6,857	—	—	6,857

Net defined benefit liability	6,241	5,657	—	584
Deferred income tax liabilities	52,595	2,240	—	50,355
Long-term income tax liabilities	10,554	—	—	10,554
Operating lease liabilities, net of current portion	22,530	3,555	—	18,975
Other long-term liabilities	40,671	1,561	—	39,110
Total liabilities	814,758	167,987	(40,804)	687,575
Total stockholder's equity	87,339	22,509	475	64,355
Total liabilities and stockholder's equity (deficit)	\$ 902,097	\$ 190,496	\$ (40,329)	\$ 751,930

[Table of Contents](#)

Consolidated and Combined Income Statements for the year ended December 31, 2025:

	Successor (1)	Predecessor (2)	Total ((3)=(1)+(2))	Non- Super Senior Term Loan Borrower Subsidiaries (4)	Eliminations (5)	Super Senior Term Loan Borrowers ((6)=(3)- (4)-(5))
	Consolidated Period from August 1, 2025 through December 31, 2025	Consolidated and Combined Period from January 1, 2025 through July 31, 2025	Non-GAAP For the Year Ended December, 2025	Non-GAAP For the Year Ended December, 2025	Non-GAAP For the Year Ended December, 2025	Non-GAAP For the Year Ended December, 2025
Revenue	\$ 358,821	\$ 429,187	\$ 788,008	\$ 60,900	\$ —	\$ 727,108
Related party revenue	560	2,474	3,034	188	(1,360)	4,206
Cost of revenue (exclusive of depreciation and amortization)	279,391	339,981	619,372	44,888	—	574,484
Selling, general and administrative expenses (exclusive of depreciation and amortization)	49,669	53,946	103,615	15,292	—	88,323
Depreciation and amortization	26,225	22,313	48,538	2,547	—	45,991
Impairment of goodwill	320,292	—	320,292	—	—	320,292
Related party expense, net	5,386	5,750	11,136	3,621	(1,360)	8,875
Operating loss	(321,582)	9,671	(311,911)	(5,260)	—	(306,651)
Other expense (income), net:						
Interest expense, net	24,237	75,226	99,463	2,805	5	96,653
Debt modification and extinguishment costs, net	—	121	121	480	(480)	121
Sundry expense (income), net	274	1,644	1,918	82	—	1,836
Other income, net	(1,596)	(28)	(1,624)	(884)	—	(740)
Loss before reorganization items and income taxes	(344,497)	(67,292)	(411,789)	(7,743)	475	(404,521)
Reorganization items	1,615	(1,557,825)	(1,556,210)	—	—	(1,556,210)
Profit (loss) before income taxes	(346,112)	1,490,533	1,144,421	(7,743)	475	1,151,689
Income tax expense	5,011	35,875	40,886	(138)	—	41,024
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$1,103,535	\$ (7,605)	\$ 475	\$1,110,665

[Table of Contents](#)

Consolidated and Combined Cash Flow Statements for the year ended December 31, 2025:

				Non-Super Senior Term Loan Borrower		Super Senior Term Loan Borrowers
	Successor (1)	Predecessor (2)	Total (3)=(1)+(2)	Subsidiaries (4)	Eliminations (5)	(6)=(3)- (4)-(5)
	Consolidated	Consolidated and Combined	Non-GAAP	Non-GAAP	Non-GAAP	Non-GAAP
	Period from August 1, 2025 through December 31,	Period from January 1, 2025 through July 31,	For the Year Ended December 31,	For the Year Ended December 31,	For the Year Ended December 31,	For the Year Ended December 31,
	2025	2025	2025	2025	2025	2025
Cash flows from operating activities						
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$1,103,535	\$ (7,605)	\$ 475	\$1,110,665
Adjustments to reconcile net profit (loss) to cash provided by (used in) operating activities						
Depreciation and amortization	26,225	22,313	48,538	2,547	—	45,991
Original issue discount, debt premium and debt issuance cost amortization	3,336	(14,595)	(11,259)	136	5	(11,400)
Reorganization items	(167)	(1,626,790)	(1,626,957)	—	—	(1,626,957)
Interest on BR Exar AR Facility	—	(2,399)	(2,399)	—	—	(2,399)
Debt modification and extinguishment loss (gain), net	—	121	121	480	(480)	121
Impairment of goodwill	320,292	—	320,292	—	—	320,292
Provision for credit losses	2,007	(278)	1,729	194	—	1,535
Deferred income tax provision	389	36,396	36,785	(612)	—	37,397
Equity-based compensation expense	886	204	1,090	886	—	204
Unrealized foreign currency (gain) loss	849	(659)	190	(83)	—	273
Loss (gain) on sale of assets	2,395	1,967	4,362	135	—	4,227
Fair value adjustment for private warrants liability	6	—	6	6	—	—
Paid-in-kind interest	—	28,848	28,848	—	—	28,848
Change in operating assets and liabilities, net of effect from acquisitions						
Accounts receivable	12,053	(93,713)	(81,660)	2,250	—	(83,910)
Prepaid expenses and other current assets	5,975	(2,203)	3,772	(1,632)	—	5,404
Accounts payable and accrued liabilities	(8,850)	30,172	21,322	(2,974)	—	24,296
Related party receivables (payables)	4,002	6,134	10,136	9,952	—	184
Additions to outsourced contract costs	(43)	(118)	(161)	—	—	(161)
Net cash provided by (used in) operating activities	18,232	(159,942)	(141,710)	3,680	—	(145,390)
Cash flows from investing activities						
Net cash received from acquisition	—	1,485	1,485	—	1,485	—
Purchase of property, plant and equipment	(5,802)	(3,081)	(8,883)	(1,342)	—	(7,541)
Additions to internally developed software	(1,451)	(1,067)	(2,518)	(235)	—	(2,283)
Proceeds from sale of assets	917	(27)	890	533	—	357

Investment in July 2030 Notes	—	—	—	(18,000)	18,000	—
Sale of July 2030 Notes	—	—	—	3,520	(3,520)	—
Net cash provided by (used in) investing activities	(6,336)	(2,690)	(9,026)	(15,524)	15,965	(9,467)
Cash flows from financing activities						
Cash paid for debt issuance costs	(1,770)	(3,719)	(5,489)	—	—	(5,489)
Principal payments on finance lease obligations	(1,670)	(3,360)	(5,030)	—	—	(5,030)
Borrowings from other loans	10,951	3,785	14,736	326	—	14,410
Proceeds from Issuance of July 2030 Notes	3,520	—	3,520	—	(14,480)	18,000
Proceeds from Revolving Credit Facility	—	18,000	18,000	18,000	—	—
Proceeds from Super Senior Term Loan	—	40,000	40,000	—	—	40,000
Proceeds from ABL Facility	46,900	58,903	105,803	—	—	105,803
Repayments on ABL Facility	(28,800)	—	(28,800)	—	—	(28,800)
Repayment of Second Lien Note	(3,750)	(5,975)	(9,725)	—	—	(9,725)
Proceeds from DIP New Money Loans	—	80,000	80,000	—	—	80,000
Borrowing under BR Exar AR Facility	17,000	23,775	40,775	—	—	40,775
Repayments under BR Exar AR Facility	(23,025)	(23,397)	(46,422)	—	—	(46,422)
Principal repayments on senior secured term loans and other loans	(6,247)	(42,748)	(48,995)	(1,868)	—	(47,127)
Net cash provided by (used in) financing activities	13,109	145,264	158,373	16,458	(14,480)	156,395
Effect of exchange rates on cash, restricted cash and cash equivalents	(234)	(2,804)	(3,038)	(2)	—	(3,036)
Net increase (decrease) in cash, restricted cash and cash equivalents	24,771	(20,172)	4,599	4,612	1,485	(1,498)
Cash, restricted cash and cash equivalents						
Beginning of period	43,895	64,067	64,067	1,485	(1,485)	64,067
End of period	\$ 68,666	\$ 43,895	\$ 68,666	\$ 6,097	\$ —	\$ 62,569
Supplemental cash flow data:						
Income tax payments, net of refunds received	\$ 2,949	\$ 2,897	\$ 5,846	\$ 1,311	\$ —	\$ 4,535
Interest paid	7,652	10,077	17,729	1,825	—	15,904
Cash paid for reorganization items	1,782	68,965	70,747	—	—	70,747
Noncash investing and financing activities:						
Assets acquired through right-of-use arrangements	3,373	11,444	14,817	963	—	13,854
Common stock issued for the Business Combination	—	32,328	32,328	—	—	32,328
Common stock issued to settle liabilities subject to compromise	—	407,363	407,363	—	—	407,363
Issuance of July 2030 Notes for settlement of the DIP Facility	—	175,000	175,000	—	—	175,000
Conversion of DIP Facility into Super Senior Term Loan	—	6,000	6,000	—	—	6,000
Accrued capital expenditures	105	180	285	—	—	285

Potential Future Transactions

We may, from time to time, explore and evaluate possible strategic transactions, which may include joint ventures, as well as business combinations or the acquisition or disposition of assets. In order to pursue certain of these

[Table of Contents](#)

opportunities, additional funds will likely be required. Subject to applicable contractual restrictions, to obtain such financing, we may seek to use cash on hand, or we may seek to raise additional debt or equity financing through private placements or through underwritten offerings. There can be no assurance that we will enter into additional strategic transactions or alliances, nor do we know if we will be able to obtain the necessary financing for transactions that require additional funds on favorable terms, if at all. In addition, pursuant to the Registration Rights Agreement that we entered into in connection with the closing of the Business Combination, certain of our stockholders have the right to demand underwritten offerings of our Common Stock. We may from time to time in the future explore, with certain of those stockholders, the possibility of an underwritten public offering of our Common Stock held by those stockholders. There can be no assurance as to whether or when an offering may be commenced or completed, or as to the actual size or terms of the offering.

Critical Accounting Policies and Estimates

The most significant accounting estimates, each of which involves a high degree of uncertainty and could materially affect reported results if assumptions change, are fresh-start and business combination fair value measurements, goodwill impairment, revenue recognition under ASC 606, benefit plan accrual, and the income tax valuation allowance.

The preparation of financial statements requires the use of judgments and estimates. The critical accounting policies are described below to provide a better understanding of how the Company develops its assumptions and judgments about future events and related estimations and how they can impact the Company's financial statements. A critical accounting estimate is one that requires subjective or complex estimates and assessments and is fundamental to the Company's results of operations. The Company bases its estimates on historical experience and on various other assumptions it believes to be reasonable according to the current facts and circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. The Company believes the current assumptions, judgments and estimates used to determine amounts reflected in the consolidated and combined financial statements are appropriate; however, actual results may differ under different conditions. This discussion and analysis should be read in conjunction with the Company's financial statements and related notes included elsewhere in this Annual Report.

During 2025, the Company's accounting estimates were significantly impacted by the adoption of fresh-start accounting in connection with its emergence from Chapter 11 Cases and the completion of the Business Combination. These events required management to apply fair value measurements to substantially all of the Company's assets and liabilities, including tangible assets, identifiable intangible assets and goodwill. The fair value determinations incorporated updated assumptions regarding discount rates, market multiples, and projected cash flows, which represented material changes from historical estimates. As a

result, these changes have affected the comparability of the Company's results of operations for the periods presented, including changes in amortization expense related to identifiable intangible assets and changes in depreciation expense for certain tangible assets, and revised deferred tax balances based on new fair values. Management will continue to evaluate these estimates on an ongoing basis as additional information becomes available or as market conditions evolve.

Fresh Start Accounting: Upon emergence from the Restructuring, the Predecessor met the criteria and was required to adopt fresh start accounting in accordance with ASC 852, *Reorganizations*, which on the Emergence Date resulted in a new entity, the Successor, for financial reporting purposes, with no beginning retained earnings or deficit as of the fresh start reporting date. The criteria requiring fresh start accounting are: (1) the holders of the then-existing common shares of the Predecessor received less than 50 percent of the new common shares of the Successor outstanding upon emergence from bankruptcy and (2) the reorganization value of the entity's assets immediately prior to confirmation of the Plan was less than the total of all post-petition liabilities and allowed claims. The Company applied fresh start accounting effective the Convenience Date (July 31, 2025, as discussed above). Under the principles of fresh start accounting, a new reporting entity was considered to have been created, and, as a result, the Company allocated the reorganization value to its individual assets based on their estimated fair values. To facilitate discussion and analysis of our financial condition and results of operations herein, we refer to the reorganized Company as the Successor for periods subsequent to July 31, 2025, and as the Predecessor for periods on or prior to, and including, July 31, 2025. As a result of the adoption of fresh start accounting, our consolidated financial statements subsequent to July 31, 2025, are not

[Table of Contents](#)

comparable to our consolidated and combined financial statements on or prior to July 31, 2025, and as such, “black-line” financial statements are presented to distinguish between the Predecessor and Successor periods. Refer to Note 4, *Fresh Start Accounting* to our audited consolidated and combined financial statements as of and for the Successor/Predecessor period contained elsewhere in this Annual Report for additional information regarding the Company’s fresh start accounting.

Business Combinations: The Company includes the results of operations of the businesses acquired as of the respective dates of acquisition. The Company allocates the fair value of the purchase price of acquisitions to the assets acquired and liabilities assumed based on their estimated fair values. The excess of the fair value of the purchase price over the fair values of these identifiable assets and liabilities is recorded as goodwill. Refer to Note 5, *Business Combination* to our audited consolidated and combined financial statements as of and for the Successor/Predecessor period contained elsewhere in this Annual Report for additional information regarding the accounting for acquisition of XBP Europe Holdings, Inc.

Goodwill and other intangible assets: Goodwill and other intangible assets are initially recorded at their fair values. Goodwill represents the excess of the purchase price of acquisitions over the fair value of the net assets acquired. Goodwill and other intangible assets not subject to amortization are tested for impairment annually or more frequently if events or changes in circumstances indicate that the asset might be impaired. Intangible assets with finite useful lives are amortized either on a straight-line basis over the asset’s estimated useful life or on a basis that reflects the pattern in which the economic benefits of the intangible assets are realized.

Impairment of goodwill, long-lived and other intangible assets: Long lived assets, such as property and equipment and finite lived intangible assets, are evaluated for impairment whenever events or changes in circumstances indicate that their carrying value may not be recoverable. Recoverability is measured by a comparison of their carrying amount to the estimated undiscounted cash flows to be generated by those assets. If the undiscounted cash flows are less than the carrying amount, we record impairment losses for the excess of the carrying value over the estimated fair value. Fair value is determined, in part, by the estimated cash flows to be generated by those assets. Our cash flow estimates are based upon, among other things, historical results adjusted to reflect our best estimate of future market rates, and operating performance. Development of future cash flows also requires us to make assumptions and to apply judgment, including timing of future expected cash flows, using the appropriate discount rates, and determining salvage values. The estimate of fair value represents our best estimates of these factors and is subject to variability. Assets are generally grouped at the lowest level of identifiable cash flows, which is the reporting unit level for us. Changes to our key assumptions related to future performance and other economic factors could adversely affect our impairment valuation.

We conduct our annual goodwill impairment tests on October 1st of each year, or more frequently if indicators of impairment exist. When performing the annual impairment test, we have the option of performing a qualitative or quantitative assessment to determine if an impairment has occurred. If a qualitative assessment indicates that it is more likely than not that the fair value of a reporting unit is less than its carrying amount, we would be required to perform a quantitative impairment test for goodwill. A quantitative test requires comparison of fair value of the reporting unit to its carrying value, including goodwill. We use a combination of the Guideline Public Company Method of the Market Approach and the Discounted Cash Flow Method of the Income Approach to determine the reporting unit fair value. For the Guideline Public Company Method, our annual impairment test utilizes valuation multiples of publicly traded peer companies. For the Discounted Cash Flow Method, our annual impairment test utilizes discounted cash flow projections using market participant weighted average cost of capital calculation. If the fair value of goodwill at the reporting unit level is less than its carrying value, an impairment loss is recorded for the amount by which a reporting unit's carrying amount exceeds its fair value, limited to the total amount of goodwill allocated to that reporting unit. During the period August 1, 2025 to September 30, 2025, the Company experienced a sustained and significant decline in its market capitalization causing the market capitalization to fall below the Company's book value after the application of fresh start accounting at Emergence Date. We concluded that this sustained decline, combined with revised long-term projections compared to those used to compute enterprise value of the reconstituted Successor as set forth in the Disclosure Statement for Joint Plan of Reorganization approved by the Bankruptcy Court, represented a triggering event under ASC 350, *Intangibles – Goodwill and Other*. As a result, we performed an interim quantitative goodwill impairment assessment for all reporting units as of September 30, 2025 (Successor). Our interim impairment assessment as of September 30, 2025 (Successor) utilized the Discounted Cash Flow Method of the Income Approach and the

[Table of Contents](#)

Guideline Public Company Method of the Market Approach to determine the reporting units' fair values. For the Discounted Cash Flow Method, we utilized discounted cash flow projections using market participant weighted average cost of capital calculation. The Guideline Public Company Method utilized market data of similar publicly traded companies. In connection with the completion of the interim impairment test, we recorded an impairment charge of \$215.8 million and \$80.0 million to goodwill relating to the reporting units included in the Applied Workflow Automation segment and Technology segment, respectively, as of September 30, 2025 (Successor). The Company did not update its analysis for purposes of the annual impairment test as of October 1, 2025, as the measurement date of the interim impairment test performed as of September 30, 2025, was one day from the annual impairment test date. Additionally, later during the fourth quarter of 2025, the Company conducted its annual budgeting process along with an update to its long-range plan. Following the completion of that process, the Company made an evaluation based on changes in the Company's long-term projections, concluding that a triggering event for an impairment analysis had occurred for certain reporting units reported under the Applied Workflow Automation segment. Revised long-term projections resulted in lower than previously projected long-term future cash flows for certain reporting units which reduced the estimated fair values to below their carrying values. Accordingly, the Company performed quantitative impairment test as of December 31, 2025 (Successor), resulting in an impairment charge of \$24.5 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment. Therefore, as a result of these two interim impairment assessments performed on September 30, 2025 (Successor) and December 31, 2025 (Successor), impairment charges totalling \$320.3 million, were recorded to goodwill for the period August 1, 2025 to December 31, 2025 (Successor).

Application of the goodwill impairment test requires judgment, including the identification of reporting units, allocation of assets and liabilities to reporting units, and determination of fair value. The determination of reporting unit fair value is sensitive to the amount of Revenue and EBITDA generated by us, as well as the Revenue and EBITDA market multiples used in the calculation. Additionally, the fair value is sensitive to changes in the valuation assumptions such as expected income tax rate, risk-free rate, asset beta, and various risk premiums. Unanticipated changes, including immaterial revisions, to these assumptions could result in a provision for impairment in a future period. While exact quantification is not practicable due to the interrelationship of assumptions, reasonably possible changes in discount rates or growth rates would have had a material effect on the impairment amount.

Revenue: The Company accounts for revenue in accordance with ASC 606. A performance obligation is a promise in a contract to transfer a distinct good or service to the client, and is the unit of account in ASC 606. Revenue is measured as the amount of consideration the Company expects to receive in exchange for transferring goods or providing services. The contract transaction price is allocated to each distinct performance

obligation and recognized as revenue when, or as, the performance obligation is satisfied. All of the Company's material sources of revenue are derived from contracts with clients, primarily relating to the provision of business and transaction processing services. The Company does not have any significant extended payment terms, as payment for invoices issued is received shortly after goods are delivered or services are provided. Refer to Note 2, *Basis of Presentation and Summary of Significant Accounting Policies* to our audited consolidated and combined financial statements as of and for the Successor/Predecessor period contained elsewhere in this Annual Report for additional information regarding the Company's revenue recognition policy.

Income Taxes: We account for income taxes by using the asset and liability method. We account for income taxes regarding uncertain tax positions and recognize interest and penalties related to uncertain tax positions in income tax benefit/(expense) in the consolidated statements of operations.

Deferred income taxes are recognized on the tax consequences of temporary differences by applying enacted statutory tax rates applicable in future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities, as determined under tax laws and rates. A valuation allowance is provided when it is more likely than not that all or some portion of the deferred tax assets will not be realized. In the event the Company determines that it would be able to realize deferred tax assets that have valuation allowances established, an adjustment to the net deferred tax assets would be recognized as a component of income tax expense through continuing operations.

We engage in transactions (such as acquisitions) in which the tax consequences may be subject to uncertainty and examination by the varying taxing authorities. Significant judgment is required by us in assessing and estimating the

[Table of Contents](#)

tax consequences of these transactions. While our tax returns are prepared and based on our interpretation of tax laws and regulations, in the normal course of business the tax returns are subject to examination by the various taxing authorities. Such examinations may result in future assessments of additional tax, interest and penalties. For purposes of our income tax provision, a tax benefit is not recognized if the tax position is not more likely than not to be sustained based solely on its technical merits. Considerable judgment is involved in determining which tax positions are more likely than not to be sustained.

Benefit Plan Accruals: The Company has defined benefit plans in the UK, Germany, Norway and France under which participants earn a retirement benefit based upon a formula set forth in the respective plans. The Company records annual amounts relating to its pension plans based on calculations that incorporate various actuarial and other assumptions, including discount rates, mortality, assumed rates of return, and compensation increases. The Company reviews its assumptions on an annual basis and makes modifications to the assumptions based on current rates and trends when it is appropriate to do so. Refer to Note 15, *Employer Benefit Plans* to our audited consolidated and combined financial statements as of and for the Successor/Predecessor period contained elsewhere in this Annual Report for additional information regarding the Company's pension plan and related actuarial assumptions.

Recently Adopted and Recently Issued Accounting Pronouncements

See Note 3, *New Accounting Pronouncements* to the consolidated financial statements included in Item 8 of this Annual Report.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Quantitative and Qualitative Disclosure About Market Risk

Interest Rate Risk

At December 31, 2025 (Successor), we had \$389.5 million of principal amount of debt outstanding, with a weighted average interest rate of approximately 12.2%. Interest is calculated at the stated fixed rate of interest under the terms of the majority of our loans and for certain variable rate loans based on the greatest of certain specified base rates plus an applicable margin that varies based on certain factors. Assuming no change in the principal amount outstanding, the impact on interest expense of a 1% increase or decrease in the assumed weighted average interest rate would be approximately \$3.9 million per year.

Foreign Currency Risk

We are exposed to foreign currency risks that arise from normal business operations. These risks include transaction gains and losses associated with intercompany loans with foreign subsidiaries and transactions denominated in currencies other than a location's functional currency. Our contracts are denominated in currencies of major industrial countries.

Equity Price Risk

We have in the past, and may in the future, seek to acquire additional funding by sale of common stock and other equity. The price of our common stock has been volatile in the past and may also be volatile in the future. As a result, there is a risk that we may not be able to sell our Common Stock at an acceptable price should the need for new equity funding arise.

Inflation Fluctuation Risk

Inflation generally affects us by increasing our cost of labor, laboratory supplies, consumables and equipment. We believe that inflation had a material effect on our business, more specifically on our costs of revenues as discussed in the sections results of operations for the year ended December 31, 2025 of our management's discussion and analysis of our financial condition and results of operations.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The following financial statements are included herein:

Report of Independent Registered Public Accounting Firm (PCAOB ID 1195)	66
Report of Independent Registered Public Accounting Firm (PCAOB ID 274)	69
Consolidated and Combined Balance Sheets as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor)	70
Consolidated and Combined Statements of Operations for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	71
Consolidated and Combined Statements of Comprehensive Profit (Loss) for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	72
Consolidated and Combined Statements of Stockholders' Equity (Deficit) for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	73
Consolidated and Combined Statements of Cash Flows for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	75
Notes to the Consolidated and Combined Financial Statements	76

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders
of XBP Global Holdings, Inc. and Subsidiaries

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of XBP Global Holdings, Inc. and Subsidiaries (the “Company”) as of December 31, 2025 (Successor), and the related statements of operations, comprehensive loss, stockholders’ equity, and cash flows for the five-month period ended December 31, 2025 (Successor) and the seven-month period ended July 31, 2005 (Predecessor), and the related notes, (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2025 (Successor), and the results of its operations and its cash flows for the five-month period ended December 31, 2025 (Successor) and the seven-month period ended July 31, 2005 (Predecessor) in conformity with accounting principles generally accepted in the United States of America.

Fresh Start Accounting

As discussed in Note 1 to the financial statements, the United States Bankruptcy Court for the Southern District of Texas confirmed the Company’s Amended Joint Plan of Reorganization (the “Plan”) on June 23, 2025. Confirmation of the Plan and the Company’s emergence from bankruptcy resulted in the discharge of claims against the Company that arose before March 3, 2025 and the cancellation of equity interests as provided in the Plan. The Plan was substantially consummated on July 3, 2025 and the Company emerged from bankruptcy on July 29, 2025. In connection with its emergence from bankruptcy, the Company adopted fresh start accounting as of July 31, 2025.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The

Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current-period audit of the financial statements that were communicated or required to be communicated to the audit committee and that (1) relates to an account or disclosure that is material to the financial statements and (2) involved especially challenging, subjective, or complex judgments. The communication of the critical audit matters does not alter in any way our opinion on the financial

[Table of Contents](#)

statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing a separate opinion on the critical audit matters or on the accounts or disclosures to which they relate.

Critical Audit Matter – Valuation of Goodwill

As discussed in Note 11 to the financial statements, the Company evaluates goodwill for impairment at the reporting unit level at least annually, or more frequently if events or changes in circumstances indicate that the carrying value of the asset may not be recoverable. The goodwill balance as of December 31, 2025 was \$189.9 million. The Company considers potential impairment by comparing the fair value of a reporting unit to its carrying value. Fair value is estimated by management using a combination of the discounted cash flow method and the guideline public company method. The Company recorded a goodwill impairment charge of \$320.3 million for the five-month period ended December 31, 2025 (Successor).

We identified goodwill impairment as a critical audit matter because of the significant judgments made by management to estimate the fair value of the reporting units. This required a high degree of auditor judgment and an increased extent of effort, including our need to involve valuation specialists, when performing audit procedures to evaluate the reasonableness of inputs into the quantitative models driven by management's estimates and assumptions. Significant management estimates include forecasted revenue growth rates, forecasted gross profit, operating expenses and discount rates.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures performed to evaluate the reasonableness of management's estimates and assumptions included assessing the methodologies used by the Company and testing the significant assumptions used in the quantitative models. We compared current forecasts prepared by management to historical revenue and gross profit to evaluate the reasonableness of the assumptions and to evaluate management's ability to accurately forecast future revenues and gross profit. We evaluated historical trends in assessing the reasonableness of growth rate assumptions and performed sensitivity analyses of significant assumptions to evaluate the changes in the fair value of the reporting units that would result from changes in these assumptions. We performed procedures to verify the mathematical accuracy of the calculations used by management. We involved our valuation specialists to assist us in identifying the significant assumptions underlying the models, assessing the rationale and supporting documents related to these assumptions, and determining the appropriateness and reasonableness of the methodologies employed. We evaluated the Company's third-party valuation advisor's experience and qualifications. Furthermore, we assessed the appropriateness of the disclosures in the financial statements.

Critical Audit Matter – Accounting for Fresh-Start and Business Combination

On July 29, 2025, the Company finalized its acquisition of Exela Technologies BPA, LLC (“BPA”) (“Business Combination”) pursuant to a Membership Interest Purchase Agreement dated July 3, 2025 (the “MIPA”). The Business Combination was subject to certain conditions subsequent, including emergence of BPA and certain of its affiliates from the Chapter 11 Cases in the United States Bankruptcy Court for the Southern District of Texas, which occurred on July 29, 2025 (“Bankruptcy Court”).

In connection with the Business Combination, the Company changed its name from XBP Europe Holdings, Inc. (“XBP Europe”) to XBP Global Holdings Inc. (“XBP Global”). The Business Combination was accounted for as a reverse acquisition in accordance with Financial Accounting Standards Board's ("FASB") Accounting Standards Codification Topic 805, *Business Combinations* ("ASC 805"). Under this method of accounting, XBP Europe was treated as the "acquired" company for financial reporting purposes even though BPA survives as an indirectly wholly owned subsidiary of XBP Global. Accordingly, the Company allocated the purchase price of XBP Europe to the assets acquired and liabilities assumed based on their respective fair values as of the date of acquisition. The excess of the purchase price consideration over the fair value of identifiable assets acquired and liabilities assumed was recorded as goodwill.

In accordance with ASC 852, *Reorganizations* (“ASC 852”), BPA was required to apply fresh start accounting upon its emergence from bankruptcy, which resulted in a new entity, the Successor, for financial reporting purposes, with no beginning retained earnings or deficit as of the fresh start reporting date.

[Table of Contents](#)

Fresh start accounting requires that new fair values be established for BPA's assets, liabilities and equity upon emergence from bankruptcy, and therefore certain values and operational results of the consolidated financial statements subsequent to July 31, 2025 are not comparable to those in the Company's consolidated financial statements prior to and including July 31, 2025. The fair values of the Successor's assets and liabilities differ materially from their recorded values as reflected on the historical balance sheet of the Predecessor.

We identified the valuation of customer relationships and tradenames resulting from the business combination and application of fresh start accounting as a critical audit matter. This required a high degree of auditor judgment and an increased extent of effort, including our need to involve valuation specialists, when performing audit procedures to evaluate the reasonableness of inputs in the valuation models driven by management's estimates and assumptions related to royalty rate, discount rate, and revenue growth rate.

How the Critical Audit Matter Was Addressed in the Audit

We addressed this matter by, among others, (i) obtaining an understanding of management's process over the valuation process; (ii) testing the completeness and accuracy of key data inputs used in management's valuation models; (iii) involving our valuation specialists to assist in evaluating the valuation methodologies and the reasonableness of significant assumptions; (vi) comparing significant assumptions to historical information and external market and industry data; (iv) performing shadow calculations and analysis over key assumptions to assess for reasonableness; and (v) evaluating the Company's third-party valuation advisor's experience and qualifications. Furthermore, we assessed the appropriateness of the disclosures in the financial statements.

/s/ UHY LLP

We have served as the Company's auditor since 2022.

Sterling Heights, Michigan
March 31, 2026

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of
Exela Technologies BPA, LLC

Opinion on the Financial Statements

We have audited the accompanying consolidated and combined balance sheets of Exela Technologies BPA, LLC, Subsidiaries and Affiliates (the “Company” or “Predecessor”) as of December 31, 2024, and the related consolidated and combined statements of operations, comprehensive profit (loss), stockholders’ equity (deficit), and cash flows for the year then ended, and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the consolidated and combined financial position of the Company as of December 31, 2024, and the consolidated and combined results of their operations and their cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company’s management.

Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (“PCAOB”) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included

examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ EisnerAmper LLP

We have served as the Company's auditor from 2023 to 2025.

EISNERAMPER LLP

Iselin, New Jersey

July 1, 2025, except as to Note 21 and its related effects to the consolidated and combined financial statements, which is as of March 31, 2026

[Table of Contents](#)

XBP Global Holdings, Inc. and Subsidiaries
Consolidated and Combined Balance Sheets
As of December 31, 2025 (Successor) and December 31, 2024 (Predecessor)
(in thousands of United States dollars except share and per share amounts)

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined and Consolidated</u>
	<u>December 31,</u>	<u>December 31,</u>
	<u>2025</u>	<u>2024</u>
Assets		
Current assets		
Cash and cash equivalents	\$ 37,113	\$ 11,635
Restricted cash	31,553	52,432
Accounts receivable, net of allowance for credit losses of \$5,660 and \$3,279, respectively	130,281	18,663
Related party receivables and prepaid expenses	736	12,105
Inventories, net	11,365	7,204
Prepaid expenses and other current assets	28,699	22,358
Total current assets	239,747	124,397
Property, plant and equipment, net of accumulated depreciation of \$11,094 and \$193,946, respectively	82,956	45,106
Operating lease right-of-use assets, net	30,339	30,543
Goodwill	189,881	39,718
Intangible assets, net	344,080	132,842
Other noncurrent assets	15,094	17,815
Total assets	\$ 902,097	\$ 390,421
Liabilities and Stockholders' Equity (Deficit)		
Liabilities		
Current liabilities		
Current portion of long-term debt	\$ 34,334	\$ 1,433,484
Accounts payable	55,700	42,602
Related party payables	5,343	3,383
Income tax payable	6,158	5,682
Accrued liabilities	47,101	44,898
Accrued compensation and benefits	56,314	68,179
Accrued interest	13,685	80,039
Customer deposits	21,691	19,900
Deferred revenue	11,881	6,583
Obligation for claim payment	55,632	70,805
Current portion of finance lease liabilities	4,390	5,441
Current portion of operating lease liabilities	9,814	9,210

Total current liabilities	322,043	1,790,206
Long-term debt, net of current maturities	353,267	1,468
Finance lease liabilities, net of current portion	6,857	6,381
Net defined benefit liability	6,241	1,041
Deferred income tax liabilities	52,595	13,118
Long-term income tax liabilities	10,554	8,285
Operating lease liabilities, net of current portion	22,530	23,907
Other long-term liabilities	40,671	2,803
Total liabilities	814,758	1,847,209
Commitments and Contingencies (Note 16)		
Stockholders' Equity (Deficit)		
Successor's common stock, par value of \$0.0001 per share; 400,000,000 shares authorized; 11,755,434 shares issued and outstanding as of December 31, 2025	12	—
Successor's preferred stock, par value of \$0.0001 per share; 20,000,000 shares authorized; none issued and outstanding as of December 31, 2025	—	—
Additional paid in capital	437,995	—
Accumulated deficit	(351,123)	—
Predecessor's net parent investment	—	(1,449,634)
Accumulated other comprehensive loss:		
Foreign currency translation adjustment	(1,263)	(7,154)
Unrealized pension actuarial gains, net of tax	1,718	—
Total accumulated other comprehensive profit (loss)	455	(7,154)
Total stockholder's equity (deficit)	87,339	(1,456,788)
Total liabilities and stockholder's equity (deficit)	\$ 902,097	\$ 390,421

The accompanying notes are an integral part of these consolidated and combined financial statements.

[Table of Contents](#)

XBP Global Holdings, Inc. and Subsidiaries
Consolidated and Combined Statements of Operations
For the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to
July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)
(in thousands of United States dollars except share and per share amounts)

	<u>Successor</u>	<u>Predecessor</u>	
	<u>Consolidated</u>	<u>Combined and Consolidated</u>	
	<u>Period from</u>	<u>Period from January Year</u>	
	<u>August 1,</u>	<u>1, 2025 through</u>	<u>Ended</u>
	<u>2025 through</u>	<u>July 31,</u>	<u>December 31,</u>
	<u>December 31,</u>	<u>2025</u>	<u>2024</u>
	<u>2025</u>		
Revenue	\$ 358,821	\$ 429,187	\$867,109
Related party revenue	560	2,474	5,581
Cost of revenue (exclusive of depreciation and amortization)	279,391	339,981	683,924
Selling, general and administrative expenses (exclusive of depreciation and amortization)	49,669	53,946	124,440
Depreciation and amortization	26,225	22,313	50,307
Impairment of goodwill	320,292	—	108,489
Related party expense, net	5,386	5,750	10,971
Operating profit (loss)	(321,582)	9,671	(105,441)
Other expense (income), net:			
Interest expense, net	24,237	75,226	101,939
Debt modification and extinguishment costs, net	—	121	363
Sundry expense (income), net	274	1,644	(2,087)
Other income, net	(1,596)	(28)	(515)
Loss before reorganization items and income taxes	(344,497)	(67,292)	(205,141)
Reorganization items	1,615	(1,557,825)	—
Profit (loss) before income taxes	(346,112)	1,490,533	(205,141)
Income tax expense	5,011	35,875	10,009
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$(215,150)
Net loss per common share			
Basic and diluted	(29.88)		

The accompanying notes are an integral part of these consolidated and combined financial statements.

XBP Global Holdings, Inc. and Subsidiaries
Consolidated and Combined Statements of Comprehensive Profit (Loss)
For the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)
(in thousands of United States dollars except share and per share amounts)

	Successor	Predecessor	
	Consolidated	Combined and Consolidated	
	Period from	Period from January	
	August 1, 2025	1, 2025 through	Year Ended
	through	July 31,	December 31,
	December 31,	2025	2024
	2025		
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$ (215,150)
<i>Other comprehensive income (loss), net of tax</i>			
Foreign currency translation adjustments	(1,263)	(690)	(2,550)
Unrealized pension actuarial gains, net of tax	1,718	—	—
Total other comprehensive income (loss), net of tax	455	(690)	(2,550)
Comprehensive profit (loss)	\$ (350,668)	\$ 1,453,968	\$ (217,700)

The accompanying notes are an integral part of these consolidated and combined financial statements.

XBP Global Holdings, Inc. and Subsidiaries
Consolidated and Combined Statements of Stockholders' Equity (Deficit)
For the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July
31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)
(in thousands of United States dollars except share and per share amounts)

	Combined and Consolidated		
	Accumulated Other		
	Comprehensive Loss		
	Foreign		
	Currency		Total
	Net Parent	Translation	Stockholders'
	Investment	Adjustment	Deficit
Balances at January 1, 2025 (Predecessor)	\$ (1,449,634)	\$ (7,154)	\$ (1,456,788)
Net loss January 1, 2025 to July 31, 2025, excluding plan of reorganization and fresh start accounting adjustments	(53,531)	—	(53,531)
Foreign currency translation adjustment	—	(690)	(690)
Equity-based compensation	204	—	204
Net intercompany transactions with parent group entities	4,144	—	4,144
Balances prior to application of fresh start accounting and the business combination at July 31, 2025 (Predecessor)	<u>\$ (1,498,817)</u>	<u>\$ (7,844)</u>	<u>\$ (1,506,661)</u>

The accompanying notes are an integral part of these consolidated and combined financial statements.

[Table of Contents](#)

XBP Global Holdings, Inc. and Subsidiaries
Consolidated and Combined Statements of Stockholders' Equity (Deficit)
For the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July
31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)
(in thousands of United States dollars except share and per share amounts)

	Consolidated								
					Accumulated Other				
					Comprehensive Loss				
					Unrealized				
					Foreign	Pension			
					Currency	Actuarial			
	Common Stock		Additional	Net Parent	Translation	Gains,	Accumulated	Total stockholder's	
	Shares	Amount	Paid in Capital	Investment	Adjustment	net of tax	Deficit	Equity	
Balances at August 1, 2025 (Successor) (1)	11,751,597	\$ 12	\$ 437,110	\$ —	\$ —	\$ —	\$ —	\$ 437,122	
Net loss August 1, 2025 to December 31, 2025	—	—	—	—	—	—	(351,123)	(351,123)	
Equity-based compensation	—	—	886	—	—	—	—	886	
Foreign currency translation adjustment	—	—	—	—	(1,263)	—	—	(1,263)	
Net unrealized pension actuarial gains, net of tax	—	—	—	—	—	1,718	—	1,718	
RSUs vested	4,016	—	—	—	—	—	—	—	
Payment for fractional shares on reverse stock split in December 2025	(179)	—	(1)	—	—	—	—	(1)	
Balances at December 31, 2025 (Successor)	11,755,434	\$ 12	\$ 437,995	\$ —	\$ (1,263)	\$ 1,718	\$ (351,123)	\$ 87,339	

- (1) Balances after the Business Combination, Plan (as such terms are described in Note 1, *Description of the Business*) and the fresh start accounting adjustments as discussed in Note 4, *Fresh Start Accounting*. Initial equity balances of the Successor reflects the 3,591,555 shares of Common Stock of the Company (the combined entity XBP Global Holdings, Inc.) assigned to the stockholders of XBP Europe Holdings, Inc. prior to the Business Combination and the issuance of 8,160,042 shares of Common Stock of the Company to the holders of Allowed Notes Claims ((as such terms are described in Note 1, *Description of the Business*). Number of shares of Common Stock have been adjusted to reflect the reverse stock split that became effective on December 12, 2025. Refer to Note 19, *Stockholders' Equity and Warrants* for further information about reverse stock split.

	Combined and Consolidated		
	Accumulated Other Comprehensive Loss		
	Foreign		Total
	Currency		
	Net Parent	Translation	
	Investment	Adjustment	
Balances at January 1, 2024 (Predecessor)	\$ (1,239,674)	\$ (4,604)	\$ (1,244,278)

Net loss January 1, 2024 to December 31, 2024	(215,150)	—	(215,150)
Foreign currency translation adjustment	—	(2,550)	(2,550)
Equity-based compensation	1,598	—	1,598
Net intercompany transactions with parent group entities	3,592	—	3,592
Balances at December 31, 2024 (Predecessor)	<u>\$ (1,449,634)</u>	<u>\$ (7,154)</u>	<u>\$ (1,456,788)</u>

The accompanying notes are an integral part of these consolidated and combined financial statements.

[Table of Contents](#)

XBP Global Holdings, Inc. and Subsidiaries
Consolidated and Combined Statements of Cash Flows
For the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)
(in thousands of United States dollars except share and per share amounts)

	Successor	Predecessor	
	Consolidated	Combined and Consolidated	
	Period from	Period from January	
	August 1,	1, 2025 through	Year Ended
	2025 through	July 31,	December 31,
	December 31,	2025	2024
	2025		
Cash flows from operating activities			
Net profit (loss)	\$ (351,123)	\$ 1,454,658	\$ (215,150)
Adjustments to reconcile net profit (loss) to cash provided by (used in) operating activities			
Depreciation and amortization	26,225	22,313	50,307
Original issue discount, debt premium and debt issuance cost amortization	3,336	(14,595)	(65,910)
Reorganization items	(167)	(1,626,790)	—
Interest on BR Exar AR Facility	—	(2,399)	(5,226)
Debt modification and extinguishment loss (gain), net	—	121	363
Impairment of goodwill	320,292	—	108,489
Provision for credit losses	2,007	(278)	18,094
Deferred income tax provision	389	36,396	939
Equity-based compensation expense	886	204	1,599
Unrealized foreign currency (gain) loss	849	(659)	(364)
Loss (gain) on sale of assets	2,395	1,967	(96)
Fair value adjustment for private warrants liability	6	—	—
Paid-in-kind interest	—	28,848	86,688
Change in operating assets and liabilities, net of effect from acquisitions			
Accounts receivable	12,053	(93,713)	6,076
Prepaid expenses and other current assets	5,975	(2,203)	2,397
Accounts payable and accrued liabilities	(8,850)	30,172	33,097
Related party receivables (payables)	4,002	6,134	2,354
Additions to outsourced contract costs	(43)	(118)	(390)
Net cash provided by (used in) operating activities	18,232	(159,942)	23,267
Cash flows from investing activities			
Net cash received from acquisition (Refer Note 5)	—	1,485	—
Purchase of property, plant and equipment	(5,802)	(3,081)	(6,294)
Additions to internally developed software	(1,451)	(1,067)	(3,160)
Proceeds from sale of assets	917	(27)	2,966
Net cash used in investing activities	(6,336)	(2,690)	(6,488)

Cash flows from financing activities			
Cash paid for debt issuance costs	(1,770)	(3,719)	(533)
Principal payments on finance lease obligations	(1,670)	(3,360)	(6,573)
Borrowings from other loans	10,951	3,785	14,751
Proceeds from Issuance of July 2030 Notes	3,520	—	—
Proceeds from Revolving Credit Facility	—	18,000	—
Proceeds from Super Senior Term Loan	—	40,000	—
Proceeds from ABL Facility	46,900	58,903	—
Repayments on ABL Facility	(28,800)	—	—
Repayment of Second Lien Note	(3,750)	(5,975)	(6,000)
Proceeds from DIP New Money Loans	—	80,000	—
Borrowing under BR Exar AR Facility	17,000	23,775	59,349
Repayments under BR Exar AR Facility	(23,025)	(23,397)	(52,262)
Principal repayments on senior secured term loans and other loans	(6,247)	(42,748)	(11,488)
Net cash provided by (used in) financing activities	13,109	145,264	(2,756)
Effect of exchange rates on cash, restricted cash and cash equivalents	(234)	(2,804)	(3,451)
Net increase (decrease) in cash, restricted cash and cash equivalents	24,771	(20,172)	10,572
Cash, restricted cash and cash equivalents			
Beginning of period	43,895	64,067	53,495
End of period	\$ 68,666	\$ 43,895	\$ 64,067
Supplemental cash flow data:			
Income tax payments, net of refunds received	\$ 2,949	\$ 2,897	\$ 3,590
Interest paid	7,652	10,077	74,820
Cash paid for reorganization items	1,782	68,965	—
Noncash investing and financing activities:			
Assets acquired through right-of-use arrangements	3,373	11,444	22,768
Waiver and consent fee payable added to outstanding balance of Senior Secured Term Loan	—	—	1,000
Promissory note issued for assets acquisition	—	—	2,371
Common stock issued for the Business Combination	—	32,328	—
Common stock issued to settle liabilities subject to compromise	—	407,363	—
Issuance of July 2030 Notes for settlement of the DIP Facility	—	175,000	—
Conversion of DIP Facility into Super Senior Term Loan	—	6,000	—
Accrued capital expenditures	105	180	1,310

The accompanying notes are an integral part of these consolidated and combined financial statements.

XBP Global Holdings, Inc. and Subsidiaries
Notes to the Consolidated and Combined Financial Statements
(in thousands of United States dollars except share and per share amounts or unless otherwise noted)

1. Description of the Business

XBP Global Holdings, Inc. (the “Company” or “XBP Global”) is a multinational technology and services company powering intelligent workflows for organizations worldwide. The Company’s proprietary platforms, agentic AI-driven automation, and domain expertise across industries and the public and private sectors enable its clients’ digital transformations and workflows. The Company’s automation solutions allow global organizations to address challenges resulting from the massive amounts of data obtained and created from their operations. The Company’s solutions address the life cycle of transaction processing and enterprise information management, from enabling payment gateways and data exchanges across multiple systems, to matching inputs against contracts and handling exceptions, to ultimately depositing payments and distributing communications. The Applied Workflow Automation segment provides services powered by intelligent, AI-enabled workflows that generate outcomes for clients’ systems. Revenue primarily stems from transactions processed and includes payment processing, data capture, analysis, decisioning, distribution and transformation across industries and the public and private sectors, primarily in Americas and Europe, and increasingly in Asia. The Technology segment of the Company primarily focuses on sales of recurring software licenses and related maintenance, hardware solutions and related maintenance and professional services.

On July 29, 2025, the Company finalized its acquisition of Exela Technologies BPA, LLC (n/k/a XBP Americas, LLC, collectively with its subsidiaries, “BPA”, and such acquisition, the “Business Combination”) pursuant to a Membership Interest Purchase Agreement dated July 3, 2025 (the “MIPA”). The consideration for the sale was \$1.00, reflecting the encumbered nature of BPA which at the time of entry into the MIPA was involved in voluntary bankruptcy proceedings under the caption In re DocuData Solutions, L.C., Case No. 25-90023 (CML) (the “Chapter 11 Cases”). The Business Combination was subject to certain conditions subsequent, including the emergence of BPA and certain of its affiliates from the Chapter 11 Cases, which occurred on July 29, 2025. Prior to the Business Combination, the Company and BPA had both been indirect subsidiaries of Exela Technologies, Inc. (“ETI”). In connection with the Business Combination, the Company changed its name from “XBP Europe Holdings, Inc.” to “XBP Global Holdings, Inc.”

BPA is comprised of the assets and operations of (i) the following wholly-owned and indirect subsidiaries of BPA: DocuData Solutions, L.C., Exela Intermediate, LLC, Exela Finance, Inc., BancTec (Canada), Inc., BancTec (Philippines), Inc., BancTec (Puerto Rico), Inc., BancTec Group LLC, BancTec India Pvt. Ltd., BancTec Intermediate Holding, Inc.,

BancTec, Inc., BillSmart Solutions LLC, BTC Ventures, Inc., Charter Lason, Inc., CorpSource Holdings, LLC, Deliverex, LLC, DFG2 Holdings, LLC, DFG2, LLC, Digital Mailroom LLC, DrySign, LLC, Economic Research Services, Inc., Exela BR SPV, LLC, Exela Receivables 3 Holdco, LLC, Exela Receivables 3, LLC, XBP Asia Technologies Private Limited (f/k/a Exela Technologies India Private Ltd.), Exela XBP, LLC, ExelaPay, LLC, FTS Parent Inc., Glo-X, Inc., HOV Enterprise Services, Inc., HOV Services, Inc., HOV Services, LLC, HOVG, LLC, Ibis Consulting, Inc., Imagenes Digitales S.A. de C.V., J & B Software, Inc., Kinsella Media, LLC, Lason International, Inc., LexiCode Healthcare, Inc., Managed Care Professionals, LLC, Meridian Consulting Group, LLC, Novitex Government Solutions, LLC, Novitex Intermediate, LLC, Pacific Northwest United Information Services, LLC, Pangea Acquisitions, Inc., PCH Subscription Services, LLC, Plexus Global Finance, LLC, Promotora de Tecnologia, S.A. de C.V., RC4 Capital, LLC, Recognition de Mexico S.A. de C.V., Recognition Mexico Holding, Inc., Regulus America LLC, Regulus Group II LLC, Regulus Group LLC, Regulus Holding Inc., Regulus Integrated Solutions LLC, Regulus West LLC, Rust Consulting, Inc., Rustic Canyon III, LLC, S-Corp Philippines, Inc., Services Integration Group, L.P., SIG-G.P., L.L.C., SourceCorp BPS, Inc., Sourcecorp de Mexico S.A. de C.V., SourceCorp Legal, Inc., SourceCorp Management, Inc., Sourcecorp, Incorporated, SourceHOV Canada Company, SourceHOV HealthCare, Inc., SourceHOV Holdings, Inc., SourceHOV India Pvt. Ltd., SourceHOV LLC, TRAC Holdings, LLC, TransCentra, Inc., and United Information Services, Inc. and (ii) the following affiliates of BPA: Exela Enterprise Solutions, Inc., NEON Acquisition, LLC, Novitex Enterprise Solutions Canada, Inc. and Reaktr LLC.

The Business Combination was accounted for as a reverse acquisition in accordance with Financial Accounting Standards Board's ("FASB") Accounting Standards Codification Topic 805, *Business Combinations* ("ASC 805").

[Table of Contents](#)

Under this method of accounting, XBP Europe Holdings, Inc. (now XBP Global) was treated as the “acquired” company for financial reporting purposes even though BPA survives as an indirect wholly-owned subsidiary of XBP Global.

Chapter 11 Reorganization

On March 3, 2025 (the “Petition Date”), BPA along with certain affiliates (the “BPA Debtors”) commenced the Chapter 11 Cases in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). On April 16, 2025 the BPA Debtors entered into a Plan Support Agreement (as amended, the “Plan Support Agreement”) with an ad hoc group of holders of certain 11.5% secured notes issued pursuant to the 2026 Indentures (as defined below), ETI, certain non-BPA Debtor subsidiaries of ETI (together with ETI, the “Consenting ETI Entities”), and certain other parties thereto. In the Plan Support Agreement such parties agreed, subject to certain conditions, to support the BPA Debtors’ reorganization plan in the Chapter 11 Cases and to take all commercially reasonable actions necessary and appropriate to facilitate the restructuring of the BPA Debtors’ indebtedness and to complete the restructuring transactions contemplated under the Plan Support Agreement (the “Restructuring”). On May 7, 2025, the BPA Debtors filed a plan of reorganization (the “Plan”) reflecting the proposed Restructuring. The Plan was confirmed by the Bankruptcy Court on June 23, 2025.

On July 29, 2025 (the “Emergence Date”), BPA consummated the Restructuring and emerged from bankruptcy having satisfied or waived all the conditions set forth in the Plan. In accordance with ASC 852, *Reorganizations* (“ASC 852”), BPA was required to apply fresh start accounting upon its emergence from bankruptcy. The Company evaluated transaction activity of BPA between the Emergence Date and July 31, 2025 and concluded that an accounting convenience date of July 31, 2025 (the “Convenience Date”) was appropriate for the adoption of fresh start accounting which resulted in BPA becoming a new entity for financial reporting purposes as of the Convenience Date.

On the Emergence Date, in connection with the consummation of the Restructuring and pursuant to the Plan:

- The Company’s Third Amended and Restated Certificate of Incorporation was filed with the Delaware Secretary of State and became effective increasing authorized shares to 400,000,000 shares of common stock, par value \$0.0001 per share (“Common Stock”), and 20,000,000 shares of preferred stock of the Company, and changing the Company’s name to XBP Global Holdings, Inc.

- The Company issued 8,179,982 shares of Common Stock to holders of Allowed Notes Claims (claims based on the 2026 Indentures (as defined below), and as further defined in the Plan) and for backstop and funding fees, resulting in 11,751,597 shares of Common Stock issued and outstanding, and new warrants to purchase 663,242 shares of Common Stock to GP 3XCV LLC and XCV-STs, LLC (two subsidiaries of ETI). The issuances reflected a value of \$49.80 per share for purposes of the Plan (“Plan Equity Value”) based on a valuation of BPA equity at \$407.0 million and an overall implied equity valuation of the combined company of \$585.7 million and were exempt from registration under Section 1145 of the U.S. Bankruptcy Code. The warrants have standard terms and are exercisable immediately at Plan Equity Value.
- The Company entered into a Tax Funding Agreement (the “Tax Funding Agreement”) with the Reorganized Debtors (the BPA Debtors following the Restructuring), as Agent, and the Consenting ETI Parties. The Tax Funding Agreement provides for the Consenting ETI Parties to fund certain Transaction Tax Liabilities (as defined in the Plan) (up to an initial funding obligation of \$15 million and any excess over \$25 million), with security over Blocked ETI Shares (as defined therein) and provisions for release upon payment.
- The Reorganized Debtors entered into exit financing arrangements (refer to Note 13, *Long-term Debt and Credit Facilities*), including:
 - An Indenture reflecting the issuance of \$183.0 million of July 2030 Notes as described in Note 13, *Long-term Debt and Credit Facilities*, in a cashless rollover of a comparable amount of debtor-in-possession obligations from the Chapter 11 Cases, plus \$18.0 million in additional funding

[Table of Contents](#)

provided by the Company in exchange for July 2030 Notes (the “XBP Funding”), with the remaining \$10.0 million of debtor-in-possession obligations from the Chapter 11 Cases being cancelled and replaced with \$6.0 million of loans under the Super Senior Term Loan as described in Note 13, *Long-term Debt and Credit Facilities*.

- The Super Senior Term Loan consisting of \$40.0 million of new loans used to refinance the BPA Debtors’ prepetition senior secured term loan facility, which was in the aggregate principal amount of approximately \$38.9 million, plus accrued interest, fees, and expenses, and \$6.0 million of take-back loans, secured by Term Loan Priority Collateral (as defined therein).
- An Amended and Restated Credit and Security Agreement with BRF Finance Co. LLC, as Agent, and the lenders party thereto, amending and restating the Second Lien Note, dated February 27, 2023, as described in Note 13, *Long-term Debt and Credit Facilities*, providing for term loans bearing interest at Term SOFR plus 7.5%, and other terms as set forth therein.
- The ABL Facility, as described in Note 13, *Long-term Debt and Credit Facilities*, with MidCap Financial Trust as Agent and Lender, providing a \$150 million revolving credit facility, secured by ABL Priority Collateral (as defined therein), with terms including interest at SOFR plus Applicable Margin (3.75%-4.25% based on EBITDA).

In addition, on the Emergence Date, the indenture dated as of December 9, 2021 (as amended, supplemented or otherwise modified from time to time), among Exela Intermediate LLC and Exela Finance Inc., as issuers, the guarantors party thereto (including certain of the Debtors, as defined therein), and U.S. Bank Trust Company, National Association, as trustee and collateral agent, governing the 11.500% first-priority senior secured notes due 2026, and the indenture dated as of July 11, 2023 (as amended, supplemented or otherwise modified from time to time), among Exela Intermediate LLC and Exela Finance Inc., as issuers, the guarantors party thereto (including certain of the Debtors), and U.S. Bank Trust Company, National Association, as trustee and collateral agent, governing the 11.500% first-priority senior secured notes due 2026 (together, the “2026 Indentures”), were terminated, and all obligations thereunder were cancelled and discharged, with holders of claims thereunder receiving distributions of Common Stock as described above. The ABL Facility also replaced BPA’s then existing securitization arrangements with PNC Bank.

As a result of the Restructuring and the Business Combination, the Company was no longer considered a “controlled company” under the rules of The Nasdaq Stock Market LLC. Prior to the Restructuring and the Business Combination, BTC International Holdings, Inc. (“BTC”), an indirect subsidiary of ETI, owned approximately 60.7% of the Company’s Common Stock. Pursuant to the Plan, BTC’s shares were distributed to holders of Allowed Notes Claims (including ETI). Post-issuance of new shares under the Plan, beneficial ownership is dispersed, with no beneficial holder owning more than 50% of the voting securities of the Company. As of December 31, 2025, ETI held approximately 25.7%, Gates Capital Management approximately 24.4%, and Avenue Capital approximately 9.3%, in each case, assuming the exercise of all warrants held by the Consenting ETI Parties. The Restructuring and the Business Combination represent a dissipation of control, not a “change of control” in the traditional sense, because no new third party acquired control of XBP Europe Holdings, Inc. as a result of the Restructuring of the BPA Debtors and the subsequent Business Combination. As of the date of this report, there are no known arrangements that may result in a further change in control.

2. Basis of Presentation and Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies consistently applied in the preparation of the accompanying consolidated and combined financial statements. There were certain changes to accounting policies implemented during the period from August 1, 2025 to December 31, 2025, as described below. These policy changes were made in connection with the adoption of fresh start accounting and the Business Combination.

[Table of Contents](#)

Basis of Presentation

Financial information prior to the Emergence Date is referred to as “Predecessor” company information, which reflects the combined historical financial statements of BPA prepared using BPA’s previous combined basis of accounting. The financial information beginning August 1, 2025 is referred to as “Successor” company information and reflects the consolidated financial statements of XBP Global, including the financial statement effects of recording fair value adjustments and the capital structure resulting from the Business Combination and fresh start accounting of BPA. Black lines have been drawn to separate the Successor’s financial information from that of the Predecessor since their financial statements are not comparable as a result of the application of acquisition accounting and the Company’s capital structure resulting from the Business Combination and fresh start accounting of BPA.

Successor:

The accompanying consolidated financial statements as of and for the period August 1, 2025 to December 31, 2025, includes the consolidated balance sheet, and statement of operations, comprehensive income (loss), changes in equity, and cash flows of XBP Global. All significant intercompany items and transactions have been eliminated in consolidation. In the opinion of management, the accompanying consolidated financial statements have been prepared pursuant to the rules and regulations of the United States Securities and Exchange Commission (the “SEC”). Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with generally accepted accounting principles (“GAAP”) have been omitted pursuant to the SEC’s rules and regulations. However, management believes that the disclosures contained herein are adequate to make the information presented not misleading. In the opinion of management, the consolidated financial statements reflect all adjustments (which are of a normal recurring nature) necessary to present fairly the Company’s financial position, results of operations and cash flows. The results of operations and cash flows for the period from August 1, 2025 to December 31, 2025 are not necessarily indicative of the results of operations or cash flows that may be expected for future periods.

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Predecessor:

The consolidated and combined BPA financial statements (the “BPA financial statements”) include the accounts of the wholly-owned direct and indirect subsidiaries and affiliates of BPA (as listed above). Throughout fiscal 2024 and the period January 1, 2025 to the Petition Date that are covered by the BPA financial statements, BPA operated as part of ETI. The accompanying consolidated and combined financial statements have been prepared from ETI’s historical accounting records and are presented on a stand-alone basis as if BPA’s operations had been conducted independently from ETI. The operations of BPA are in various legal entities either with a direct ownership relationship or affiliate relationship through ETI. Accordingly, ETI and its subsidiaries’ net parent investment in these operations is shown in lieu of a statement of member’s equity in the consolidated and combined financial statements. The consolidated and combined financial statements and related notes to the consolidated and combined financial statements have been prepared in accordance with GAAP.

The consolidated and combined statements of operations and comprehensive loss include all revenues and costs directly attributable to BPA, including costs for facilities, functions and services used by BPA. Costs for certain functions and services delivered by ETI are directly charged to BPA based on specific identification when possible or based on a reasonable allocation driver or other allocation methods. Current and deferred income taxes have been determined based on the stand-alone results of BPA. However, because BPA filed as part of ETI’s tax group in certain jurisdictions, BPA’s actual tax balances may differ from those reported. BPA’s portion of its domestic and certain income taxes for jurisdictions outside the United States are deemed to have been settled in the period the related tax expense was recorded.

[Table of Contents](#)

All intercompany transactions and balances within BPA have been eliminated. The Predecessor financial statements include assets and liabilities that have been determined to be specifically identifiable or otherwise attributable to BPA. Transactions with affiliated companies owned by ETI or its subsidiaries which are not a part of BPA are reflected as related party transactions.

All of the allocations and estimates in the consolidated and combined financial statements are based on assumptions that management believes are reasonable. However, the consolidated and combined financial statements included herein may not be indicative of the financial position, results of operations, and cash flows of BPA if BPA had been a separate, stand-alone entity during the periods presented.

Actual costs that would have been incurred if BPA had been a stand-alone business would depend on multiple factors, including organizational structure and strategic decisions.

As described below, as a result of the application of fresh start accounting and the effects of the implementation of the Plan, the consolidated financial statements after the Emergence Date are not comparable with the consolidated and combined financial statements on or before the Emergence Date. Refer to Note 4, *Fresh Start Accounting*, for additional information.

As part of Business Combination, the Company reevaluated its segment reporting, resulting in the presentation of two businesses: Applied Workflow Automation and Technology.

- *Applied Workflow Automation.* The Applied Workflow Automation segment provides services powered by intelligent, AI-enabled workflows that generate outcomes for clients' systems. Revenue primarily stems from transactions processed and includes payment processing, data capture, analysis, decisioning, distribution and transformation across industries and the public and private sectors, primarily in Americas and Europe, and increasingly in Asia. The Applied Workflow Automation segment includes the Company's Bills & Payments, healthcare industry solutions, on-site enterprise solutions, integrated communications and enterprise legal management business units which serve leading banks, payers and providers, utilities as well as federal, regional and local government entities.
- *Technology.* The Technology segment focuses on the sale of recurring and perpetual software licenses, software maintenance and professional services, as well as hardware solutions and maintenance. The Company offers an industry-agnostic and cross-departmental suite of products, with primary focus on scalable workflows leveraging AI through neural networks together with deep domain expertise. The Company also offers industry specific platforms for the banking and healthcare industries.

Prior periods have been recast to reflect the Company's current segment presentation. See Note 21, *Segment Information*.

Certain prior period amounts have been reclassified to conform to the 2025 presentation.

Use of Estimates in Preparation of the Consolidated and Combined Financial Statements

The preparation of consolidated and combined financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period.

Estimates and judgments relied upon in preparing these consolidated and combined financial statements include, among others, revenue recognition for multiple element arrangements, allowance for expected credit losses, income taxes, depreciation, amortization, employee benefits, equity-based compensation, contingencies, goodwill, intangible assets, right of use assets, pension obligations, pension assets, and asset and liability valuations. The Company regularly assesses these estimates and records changes in estimates in the period in which they become known. The

[Table of Contents](#)

Company bases its estimates on historical experience and various other assumptions that the Company believes to be reasonable under the circumstances. Actual results could differ from those estimates.

Fresh Start Accounting

Upon emergence from bankruptcy the Company adopted fresh start accounting. Refer to Note 4, *Fresh Start Accounting* for further details.

Cash and Cash Equivalents

Cash and cash equivalents include cash deposited with financial institutions and liquid investments acquired with maturity dates equal to or less than three months. All bank deposits and money market accounts are considered cash and cash equivalents. The Company holds cash and cash equivalents at major financial institutions, which often exceed Federal Deposit Insurance Corporation insured limits. Historically, the Company has not experienced any losses due to bank depository concentration.

Certificates of deposit and fixed deposits whose maturity, when acquired, is greater than three months and less than or equal to one year are classified as short-term investments, and certificates of deposit and fixed deposits whose maturity is greater than one year at the balance sheet date are classified as non-current assets in the consolidated and combined balance sheets. The purchase of any certificates of deposit or fixed deposits that are classified as short-term investments or non-current assets appears in the investing section of the consolidated and combined statements of cash flows.

Restricted Cash

Restricted cash is the carrying amount of cash and cash equivalents which are restricted under contract or otherwise as to withdrawal or usage. These include deposits held for claim payments on behalf of clients or under agreements entered into with others but exclude compensating balance arrangements that do not legally restrict the use of cash amounts shown on the consolidated and combined balance sheets.

Obligation for Claim Payment

As part of the Company's legal claims processing service, the Company holds cash for various settlement funds. Some of the cash is used to pay tax obligations and other liabilities of the settlement funds. The Company has recorded a liability for the settlement funds received, which is included in obligation for claim payment in the consolidated and combined balance sheets, of \$55.6 million and \$70.8 million at December 31, 2025 (Successor) and 2024 (Predecessor), respectively.

Accounts Receivable and Allowance for Expected Credit Losses

Accounts receivable are carried at the original invoice amount less allowances for expected credit losses. Revenue that has been earned but remains unbilled at the end of the period is recorded as a component of accounts receivable, net. The Company specifically analyzes accounts receivable mainly based on client type and related aging schedules, historical collection experience, current and future economic and market conditions to estimate the probability of default in the future when evaluating the adequacy of its allowance for expected credit losses. The Company writes off accounts receivable balances against the allowances for expected credit losses, net of any amounts recorded in deferred revenue, when it becomes probable that the receivable will not be collected.

Inventories

Our inventories primarily include heavy-duty scanners and related parts, toner, paper stock, envelopes and postage supplies. Inventories are stated at the lower of cost or net realizable values and include the cost of raw materials, labor, and purchased subassemblies. Cost is determined by using the weighted average method.

[Table of Contents](#)

Property, Plant and Equipment

Property, plant, and equipment are recorded at cost less accumulated depreciation. Depreciation is computed using the straight-line method (which approximates the use of the assets) over the estimated useful lives of the assets. When these assets are sold or otherwise disposed of, the asset and related depreciation is relieved, and any gain or loss is included in the consolidated and combined statements of operations for the period of sale or disposal. Leasehold improvements are amortized over the lease term or the useful life of the asset, whichever is shorter. Repair and maintenance costs are expensed as incurred.

Intangible Assets

Customer Relationships

Customer relationship intangible assets represent client contracts and relationships obtained as part of acquired businesses. Customer relationship values are estimated by evaluating various factors including historical attrition rates, contractual provisions and client growth rates, among others. The estimated average useful lives of client relationships range from 6 to 17 years depending on facts and circumstances. These intangible assets are primarily amortized on a straight-line basis over their estimated useful life. The Company evaluates the remaining useful life of intangible assets on an annual basis to determine whether events and circumstances warrant a revision to the remaining useful life.

Trade Names

The Company has determined that its Rust and Lexicode trade name intangible assets are indefinite-lived assets and therefore are not subject to amortization. Rust and Lexicode trade names are tested for impairment as per the Company's policy for impairment of indefinite-lived assets. The Company has determined that its XBP trade name intangible asset is a definite-lived asset and therefore is subject to amortization on a straight-line basis over its estimated useful life.

Capitalized Software Costs

The Company capitalizes certain costs incurred to develop software products to be sold, leased or otherwise marketed after establishing technological feasibility in accordance with ASC section 985-20, *Software—Costs of Software to Be Sold, Leased, or Marketed*, and the Company capitalizes costs to develop or purchase internal-use software in accordance with ASC section 350-40, *Intangibles—Goodwill and Other— Internal-Use Software*. Significant estimates and assumptions include determining the appropriate period over which to amortize the capitalized costs based on estimated useful lives and estimating the

marketability of the commercial software products and related future revenues. The Company amortizes capitalized software costs on a straight-line basis over the estimated useful life, which is typically 3 to 5 years.

Outsourced Contract Costs

Costs of outsourcing contracts, including costs incurred for bid and proposal activities, are generally expensed as incurred. However, certain costs incurred upon initiation of an outsourcing contract are deferred and expensed on a straight-line basis over the estimated contract term. These costs represent incremental external costs or certain specific internal costs that are directly related to the contract acquisition or fulfillment activities and can be separated into two principal categories: contract commissions and set-up/fulfillment costs. Contract fulfillment costs are capitalized only if they are directly attributable to a specifically anticipated future contract; represent the enhancement of resources that will be used in satisfying a future performance obligation (the services under the anticipated contract); and are expected to be recovered.

Impairment of Indefinite-Lived Assets

The Company conducts its annual indefinite-lived assets impairment tests on October 1st of each year for its indefinite-lived assets, including trade names, or more frequently if indicators of impairment exist. When performing the

[Table of Contents](#)

impairment test, the Company has the option of performing a qualitative or quantitative assessment to determine if an impairment has occurred. A quantitative assessment requires comparison of the fair value of the asset to its carrying value. If the carrying value of the indefinite-lived assets exceeds fair value, the Company recognizes an impairment loss by an amount which is equal to the excess of carrying value over fair value. The Company utilizes the “Income Approach,” specifically the “Relief-from-Royalty Method” (“RFR”), which has the basic tenet that a user of an intangible asset would have to make a stream of payments to the owner of the asset in return for the rights to use that asset. Refer to Note 11, *Intangible Assets and Goodwill* for additional discussion of impairment of trade names.

Impairment of Long-Lived Assets

The Company reviews the recoverability of its long-lived assets, including its finite-lived XBP trade name, customer relationships, developed technology, capitalized software costs, outsourced contract costs, acquired software, and property, plant and equipment, when events or changes in circumstances occur that indicate that the carrying value of the asset may not be recoverable. The assessment of possible impairment is based on the ability to recover the carrying value of the asset from the expected future cash flows (undiscounted and without interest charges) of the related operations. If these cash flows are less than the carrying value of such asset, an impairment loss is recognized for the difference between estimated fair value and carrying value. The primary measure of fair value is based on discounted cash flows based in part on the financial results and the expectation of future performance.

The Company did not record any material impairment related to its property, plant, and equipment, XBP trade name, customer relationships, developed technology, capitalized software cost or outsourced contract costs for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor).

Goodwill

Goodwill represents the excess purchase price over tangible and intangible assets acquired less liabilities assumed arising from business combinations. Goodwill is generally allocated to reporting units based upon relative fair value (taking into consideration other factors such as synergies) when an acquired business is integrated into multiple reporting units. The Company’s reporting units are at the component level, for which discrete financial information is prepared and regularly reviewed by management. When a business within a reporting unit is disposed of, goodwill is allocated to the disposed business using the relative fair value method.

The Company conducts its annual goodwill impairment tests on October 1st of each year, or more frequently if indicators of impairment exist. When performing the annual impairment test, the Company has the option of performing a qualitative or quantitative assessment to determine if an impairment has occurred. If a qualitative assessment indicates that it is more likely than not that the fair value of a reporting unit is less than its carrying amount, the Company would be required to perform a quantitative impairment analysis for goodwill. The quantitative analysis requires a comparison of fair value of the reporting unit to its carrying value, including goodwill. If the carrying value of the reporting unit exceeds its fair value, an impairment loss is recognized in an amount equal to that excess, limited to the total amount of goodwill allocated to that reporting unit. The Company uses a combination of the “Guideline Public Company Method of the Market Approach” and the “Discounted Cash Flow Method of the Income Approach” to determine the reporting unit fair value. Refer to Note 11, *Intangible Assets and Goodwill* for additional discussion of the consideration of impairment of goodwill.

Benefit Plan Accruals

The Company has defined benefit plans in the UK, Germany, Norway and France under which participants earn a retirement benefit based upon a formula set forth in the respective plans. The Company records annual amounts relating to its pension plans based on calculations that incorporate various actuarial and other assumptions, including discount rates, mortality, assumed rates of return, and compensation increases. The Company reviews its assumptions on an annual basis and makes modifications to the assumptions based on current rates and trends when it is appropriate to do so.

[Table of Contents](#)

Leases

The Company determines if a contract is, or contains, a lease at contract inception. Operating leases are included in operating lease right-of-use (“ROU”) assets, current portion of operating lease liabilities and operating lease liabilities, net of current portion in the Company’s consolidated and combined balance sheets. Finance leases are included in property, plant and equipment, current portion of finance lease liabilities and finance lease liabilities, net of current portion in the Company’s consolidated and combined balance sheets.

ROU assets represent the right to use an underlying asset for the lease term and lease liabilities represent the obligation to make lease payments arising from the lease. ROU assets and lease liabilities are recognized at the commencement date based on the present value of lease payments over the lease term. In addition, ROU assets include initial direct costs incurred by the lessee as well as any lease payments made at or before the commencement date and exclude lease incentives. As most of the Company’s leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at the commencement date in determining the present value of lease payments. The Company uses the implicit rate when readily determinable. Lease terms include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Leases with a term of one year or less are not recorded on the balance sheet.

Finance lease ROU assets are amortized over the lease term or the useful life of the asset, whichever is shorter. The amortization of finance lease ROU assets is recorded in depreciation expense in the consolidated and combined statements of operations. For operating leases, the Company recognizes expense for lease payments on a straight-line basis over the lease term.

Stock-Based Compensation

The Company accounts for all equity-classified awards under stock-based compensation plans at their fair value. This fair value is measured at the fair value of the awards at the grant date and recognized as compensation expense on a straight-line basis over the vesting period. The fair value of the awards on the grant date is determined using the stock price on the respective grant date in the case of restricted stock units and using an option pricing model in the case of stock options. The Company accounts for forfeitures as they occur. The expense resulting from share-based payments is recorded in selling, general and administrative expense in the consolidated and combined statements of operations.

Warrants

The Company accounts for warrants as either equity-classified or liability-classified instruments based on an assessment of the warrant's specific terms and applicable authoritative guidance in Financial Accounting Standards Board ("FASB") ASC 480, *Distinguishing Liabilities from Equity* ("ASC 480") and ASC 815, *Derivatives and Hedging* ("ASC 815"). The assessment considers whether the warrants are freestanding financial instruments pursuant to ASC 480, meet the definition of a liability pursuant to ASC 480, and meet all of the requirements for equity classification under ASC 815, including whether the warrants are indexed to Company's own shares of common stock and whether the warrant holders could potentially require "net cash settlement" in a circumstance outside of the Company's control, among other conditions for equity classification. This assessment, which requires the use of professional judgment, is conducted at the time of warrant issuance and as of each subsequent quarterly period end date while the warrants are outstanding. For issued or modified warrants that meet all of the criteria for equity classification, the warrants are required to be recorded as a component of equity at the time of issuance.

The Company determined that while the Public Warrants and ETI Warrants meet the definition of a derivative, they meet the equity scope exception in ASC 815 to be classified in stockholders' equity (deficit) and are not subject to remeasurement provided that the warrants continue to meet the criteria for equity classification.

While the Private Warrants also meet the definition of a derivative, they don't meet the equity scope exception in ASC 815 and are subject to remeasurement. Private Warrant liability shall be measured at fair value on the transaction

[Table of Contents](#)

closing date, with changes in fair value recognized in the consolidated and combined statements of operations each period.

Business Combinations

The Company includes the results of operations of the businesses acquired as of the respective dates of acquisition. The Company allocates the fair value of the purchase price of acquisitions to the assets acquired and liabilities assumed based on their estimated fair values. The excess of the fair value of the purchase price over the fair values of these identifiable assets and liabilities is recorded as goodwill.

Segment Reporting

The Company consists of two segments: Applied Workflow Automation and Technology (as further described in *Basis of Presentation*, above, and Note 21, *Segment Information*, below).

Revenue Recognition

The Company accounts for revenue by first evaluating whether a performance obligation exists. A performance obligation is a promise in a contract to transfer a distinct good or service to a client and is the unit of account. Revenue is measured as the amount of consideration the Company expects to receive in exchange for transferring goods or providing services. The contract transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied. All of the Company's material sources of revenue are derived from contracts with clients, primarily relating to the provision of business and transaction processing services and sales of recurring software licenses and professional services within each of the Company's segments. The Company does not have any significant extended payment terms, as payment is typically received shortly after goods are delivered or services are provided.

Nature of Services

The Company's primary performance obligations are to stand ready to provide various forms of workflow automation services, consisting of a series of distinct services, but that are substantially the same, and have the same pattern of transfer over time, and accordingly are combined into a single performance obligation. The Company's obligation to its clients is typically to perform an unknown or unspecified quantity of tasks and the consideration received is contingent upon the clients' use (i.e., number of transactions processed, requests fulfilled, etc.); as such, the total transaction price is variable. The Company allocates variable fees to the single performance obligation charged to the distinct service period in which the Company has the contractual right to bill under the contract.

Revenue from the sale of software licenses is recognized as a single performance obligation at the point in time that the software license is delivered to the client. Perpetual licenses or non-cancelable licenses are granted for a non-refundable fee, which are recognized at a point in time. No significant obligations or contingencies exist with regard to delivery, client acceptance or rights of return at the time revenue is recognized. Professional services revenue consists of implementation services for new clients, or implementations of new products for existing clients. Professional services are typically sold on a time-and-materials basis and billed monthly based on actual hours incurred.

Revenue from the sale of hardware solutions is recognized on a point in time basis and related maintenance is recognized ratably over the contractual term.

[Table of Contents](#)

Disaggregation of Revenues

The Company is organized into two segments: Applied Workflow Automation and Technology (See Note 21, *Segment Information*). The following tables disaggregate revenue from contracts by segment and by geographic region for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor) and the year ended December 31, 2024 (Predecessor):

	Successor			Predecessor					
	Consolidated			Combined and Consolidated					
	Period from August 1 2025 through December 31, 2025			Period from January 1 2025 through July 31, 2025			Year ended December 31, 2024		
	Applied Workflow			Applied Workflow			Applied Workflow		
	Automation	Technology	Total	Automation	Technology	Total	Automation	Technology	Total
U.S.A. \$	271,050	\$ 20,644	\$ 291,694	\$ 390,987	\$ 30,068	\$ 421,055	\$ 790,933	\$ 56,243	\$ 847,176
EMEA	43,781	17,119	60,900	—	—	—	—	—	—
Other	6,787	—	6,787	10,606	—	10,606	25,514	—	25,514
Total	\$ 321,618	\$ 37,763	\$ 359,381	\$ 401,593	\$ 30,068	\$ 431,661	\$ 816,447	\$ 56,243	\$ 872,690

Contract Balances

The following table presents contract assets, contract liabilities and contract costs recognized at December 31, 2025 (Successor), December 31, 2024 (Predecessor) and January 1, 2024 (Predecessor):

	Successor	Predecessor	
	Consolidated	Combined and Consolidated	
	December 31,	December 31,	January 1,
	2025	2024	2024
Accounts receivable, net	\$130,281	\$ 18,663	\$42,833
Deferred revenues (1)	12,192	6,940	6,466
Customer deposits	21,691	19,900	23,302
Costs to obtain and fulfill a contract	1,039	1,164	1,397

- (1) Includes \$0.3 million and \$0.4 million of non-current portion of deferred revenues reported as part of other long-term liabilities on the Company's consolidated and combined balance sheets as of December 31, 2025 and December 31, 2024, respectively. Non-current portion of deferred revenues was \$1.0 million as of January 1, 2024.

Accounts receivable, net includes \$25.4 million and \$13.5 million as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor), respectively, representing amounts not yet billed to clients. The Company has accrued the unbilled receivables for work performed in accordance with the terms of its contracts with clients.

Deferred revenues relate to payments received in advance of performance under a contract. A significant portion of this balance relates to maintenance contracts or other service contracts where the Company received payments for upfront conversions or implementation activities which do not transfer a service to the client but rather are used in fulfilling the related performance obligations that transfer over time. The advance consideration received from clients is deferred over the contract term. The Company recognized revenue of \$0.6 million and \$6.4 million during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively, that had been deferred as of January 1, 2025 (Predecessor). The Company recognized revenue of \$3.7 million during the period August 1, 2025 to December 31, 2025 (Successor) out of \$5.1 million of the deferred revenue acquired as part of the Business Combination on July 31, 2025 (Refer to Note 5, *Business Combination*). The Company recognized revenue of \$5.8 million during the year ended December 31, 2024 (Predecessor) that had been deferred as of January 1, 2024 (Predecessor).

Costs incurred to obtain and fulfill contracts are deferred and presented as part of intangible assets, net and expensed on a straight-line basis over the estimated benefit period. The Company recognized \$0.1 million and \$0.2 million of amortization for these costs during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively, within depreciation and amortization expense in the Company's consolidated and combined statements of operations. The Company recognized \$0.6 million of amortization for these

[Table of Contents](#)

costs during the year ended December 31, 2024 (Predecessor) within depreciation and amortization expense in the Company's consolidated and combined statements of operations. These costs represent incremental external costs or certain specific internal costs that are directly related to the contract acquisition or fulfillment and can be separated into two principal categories: contract commissions and fulfillment costs. Applying the practical expedient in ASC 340-40-25-4, the Company recognizes the incremental costs of obtaining contracts as an expense when incurred, if the amortization period would have been one year or less. These costs are included in selling, general and administrative expenses. The effect of applying this practical expedient was not material.

Customer deposits consist primarily of amounts received from clients in advance for postage. These advanced postage deposits are used to cover the costs associated with postage, with the corresponding postage revenue being recognized as services are performed.

Performance Obligations

At the inception of each contract, the Company assesses the goods and services promised in its contracts and identifies each distinct performance obligation. The majority of the Company's contracts have a single performance obligation, as the promise to transfer the individual goods or services is not separately identifiable from other promises in the contracts. For the majority of the Company's business and transaction processing service contracts, revenues are recognized as services are provided based on an appropriate input or output method, typically based on the related labor or transactional volumes.

Certain of the Company's contracts have multiple performance obligations, including contracts that combine software implementation services with post-implementation customer support. For contracts with multiple performance obligations, the Company allocates the contract's transaction price to each performance obligation using its best estimate of the standalone selling price of each distinct good or service in the contract. The primary method used to estimate standalone selling price is the expected cost plus a margin approach, under which the Company estimates its expected costs of satisfying a performance obligation and adds an appropriate margin for that distinct good or service. The Company also uses the adjusted market approach whereby it estimates the price that customers in the market would be willing to pay. In assessing whether to allocate variable consideration to a specific part of the contract, the Company considers the nature of the variable payment and whether it relates specifically to its efforts to satisfy a specific part of the contract. Certain of the Company's software implementation performance obligations are deemed satisfied at a point in time, typically when client acceptance is obtained.

When evaluating the transaction price, the Company analyzes, on a contract-by-contract basis, all applicable variable consideration. The nature of the Company's contracts gives rise to variable consideration, including volume discounts, contract penalties, and

other similar items that generally decrease the transaction price. The Company estimates these amounts based on the expected amount to be provided to clients and reduces revenues recognized. The Company does not anticipate significant changes to its estimates of variable consideration.

The Company includes reimbursements from clients, such as postage costs, in revenue, while the related costs are included in cost of revenue.

[Table of Contents](#)

Transaction Price Allocated to the Remaining Performance Obligations

In accordance with optional exemptions available under GAAP, the Company does not disclose the value of unsatisfied performance obligations for (a) contracts with an original expected length of one year or less, and (b) contracts for which variable consideration relates entirely to an unsatisfied performance obligation, which comprise the majority of the Company's contracts. The Company has certain non-cancellable contracts where the Company receives a fixed monthly fee in exchange for a series of distinct services that are substantially the same and have the same pattern of transfer over time, with the corresponding remaining performance obligations as of December 31, 2025 (Successor) in each of the future periods below:

**Estimated Remaining Fixed Consideration for Unsatisfied
Performance Obligations**

2026	\$ 13,900
2027	8,437
2028	4,401
2029	1,084
2030	860
2031 and thereafter	2,855
Total	<u>\$31,537</u>

Research and Development

Research and development costs are expensed as incurred and recorded in selling, general and administrative expense. Research and development costs expensed for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year December 31, 2024 (Predecessor) were \$0.1 million, \$0.2 million and \$0.3 million, respectively.

Advertising

Advertising costs are expensed as incurred and recorded in selling, general and administrative expense. Advertising expense for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year December 31, 2024 (Predecessor) were \$0.2 million, \$0.1 million and \$0.1 million, respectively.

Income Taxes

The Company accounts for income taxes by using the asset and liability method. The Company accounts for income taxes regarding uncertain tax positions and recognized interest and penalties related to income taxes in income tax benefit/(expense) in the consolidated and combined statements of operations.

Deferred income taxes are recognized on the tax consequences of temporary differences by applying enacted statutory tax rates applicable in future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities, as determined under tax laws and rates. A valuation allowance is provided when it is more likely than not that all or some portion of the deferred tax assets will not be realized. Due to numerous ownership changes, the Company is subject to limitations on existing net operating losses under Section 382 of the Internal Revenue Code (the "Code"). Accordingly, valuation allowances have been established against a portion of the net operating losses to reflect estimated Section 382 limitations. The Company also considered the realizability of net operating losses not limited by Section 382. The Company did not consider future book income as a source of taxable income when assessing if a portion of the deferred tax assets are more likely than not to be realized. However, scheduling the reversal of existing deferred tax liabilities indicated that a portion of the deferred tax assets are likely to be realized. Therefore, partial valuation allowances were established against a portion of the Company's deferred tax assets. In the event the Company determines that it would be able to realize deferred tax assets that have valuation

[Table of Contents](#)

allowances established, an adjustment to the net deferred tax assets would be recognized as a component of income tax expense through continuing operations.

The Company engages in transactions (i.e. acquisitions) in which the tax consequences may be subject to uncertainty and examination by the various tax authorities. Therefore, judgment is required by the Company in assessing and estimating the tax consequences of these transactions. While the Company's tax returns are prepared and based on the Company's interpretation of tax laws and regulations, in the normal course of business the tax returns are subject to examination by the various taxing authorities. Such examinations may result in future assessments of additional tax, interest and penalties. For purposes of the Company's income tax provision, a tax benefit is not recognized if the tax position is not more likely than not to be sustained based solely on its technical merits. Considerable judgment is involved in determining which tax positions are more likely than not to be sustained. *Refer to Note 14, Income Taxes* for further information.

Loss Contingencies

The Company reviews the status of each significant matter, if any, and assesses its potential financial exposure considering all available information including, but not limited to, the impact of negotiations, settlements, rulings, advice of legal counsel and other updated information and events pertaining to a particular matter. If the potential loss from any claim or legal proceeding is considered probable and the amount can be reasonably estimated, the Company accrues a liability for the estimated loss. Judgment is required in both the determination of probability and the determination as to whether an exposure is reasonably estimable. Because of uncertainties related to loss contingencies, accruals are based on the best information available at the time they are made. As additional information becomes available, the Company reassesses the potential liability related to its pending claims and litigation and may revise its estimates. These revisions in the estimates of the potential liabilities could have a material impact on the results of operations and financial position of the Company. The Company's liabilities exclude any estimates for legal costs not yet incurred associated with handling these matters.

Operations

A portion of the Company's labor and operations is situated outside of the United States. The carrying value of long-lived assets that are situated outside of the United States is approximately \$28.5 million and \$13.3 million as of December 31, 2025 (Successor) and 2024 (Predecessor), respectively.

Foreign Currency Translation

The functional currency for the Company's subsidiaries located in India, the Philippines, and Mexico is the United States dollar. Included in other expense as sundry expense (income), net in the consolidated statements of operations are net exchange loss of \$0.8 million, net exchange gain of \$0.7 million and net exchange gain of \$0.4 million for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year December 31, 2024 (Predecessor), respectively.

The Company has determined all other international subsidiaries' functional currency is the local currency. The assets and liabilities of such subsidiaries are translated at exchange rates in effect at the balance sheet date while income and expense amounts are translated at average exchange rates during the period. The resulting foreign currency translation adjustments are disclosed as a separate component of other comprehensive profit (loss).

Net Profit (Loss) per Share

Earnings per share ("EPS") is computed by dividing net profit (loss) attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period, excluding the effects of any potentially dilutive securities. Diluted EPS gives effect to the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock, using the more dilutive of the two-class method and the if-converted method in the period of earnings. The two-class method is an earnings allocation method that determines earnings per share (when there are earnings) for common stock and participating securities. The

[Table of Contents](#)

if-converted method assumes all convertible securities are converted into common stock. Diluted EPS excludes all dilutive potential shares of common stock if their effect is anti-dilutive.

As the Company experienced a net loss for the period August 1, 2025 to December 31, 2025 (Successor), the Company did not include the effect of 1,326,740 shares of Common Stock issuable upon exercise of 13,267,398 outstanding warrants as of December 31, 2025 (refer to Note 19, *Stockholders' Equity and Warrants*) or the effect of the aggregate number of shares issuable pursuant to outstanding restricted stock units (278,212 as of December 31, 2025, refer to Note 18, *Stock-Based Compensation*) in the calculation of diluted profit (loss) per share for the period August 1, 2025 to December 31, 2025 (Successor), because their effects were anti-dilutive (i.e., if included, would reduce the net loss per share).

The following table provides details underlying Company's loss per basic and diluted share calculation for the period from August 1, 2025 to December 31, 2025 (Successor). All shares and per share amounts have been adjusted for a one share-for-ten shares Reverse Stock Split which took effect on December 12, 2025:

	Successor
	Consolidated
	Period from August 1, 2025 through December 31, 2025
Net loss attributable to common stockholders (A)	\$ (351,123)
Weighted average common shares outstanding – basic and diluted (B)	11,752,078
Loss Per Share:	
Basic and diluted (A/B)	\$ (29.88)

Fair Value Measurements

The Company records the fair value of assets and liabilities in accordance with ASC 820, *Fair Value Measurement* ("ASC 820"). ASC 820 defines fair value as the price received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date and in the principal or most advantageous market for that asset or liability. The fair value should be calculated based on assumptions that market participants would use in pricing the asset or liability, not on assumptions specific to the entity.

In addition to defining fair value, ASC 820 expands the disclosure requirements around fair value and establishes a fair value hierarchy for valuation inputs. The hierarchy prioritizes the inputs into three levels based on the extent to which inputs used in measuring fair value are observable in the market. Each fair value measurement is reported in one of the three levels, which is determined by the lowest level input that is significant to the fair value measurement in its entirety. These levels are:

Level 1 — quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2 — quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument.

Level 3 — unobservable inputs reflecting management's own assumptions about the inputs used in pricing the asset or liability at fair value.

Refer to Note 17, *Fair Value Measurement* for further discussion.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentration of credit risk consist primarily of cash and cash equivalents and trade receivables. The Company maintains its cash and cash equivalents and certain other financial instruments with highly rated financial institutions and limits the amount of credit exposure with any one financial institution. From time to time, the Company assesses the credit worthiness of its clients. Credit risk on trade receivables is minimized because of the large number of entities comprising the Company's client base and their dispersion across many industries and geographic areas. The Company generally has not experienced any material losses related to receivables from any individual client or groups of clients. The Company does not require collateral. Due to these factors, no additional credit risk beyond amounts provided for collection losses is believed by management to be probable in the Company's accounts receivable, net. The Company does not have any clients that account for 10% or more of the total consolidated revenues.

3. New Accounting Pronouncements

Recently Adopted Accounting Guidance

Effective January 1, 2025 for the annual reporting, the Company adopted Accounting Standards Update ("ASU") No. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, which requires an annual tabular effective tax rate reconciliation disclosure including information for specified categories and jurisdiction levels, as well as, disclosure of income taxes paid, net of refunds received, disaggregated by federal, state/local, and significant foreign jurisdiction. The adoption of this standard did not have a material impact on our consolidated financial statements and related disclosures. See Note 14 for further information.

There have been no other new accounting pronouncements made effective during fiscal 2025 that have significance, or potential significance, to our consolidated financial statements and related disclosures.

Recent Accounting Pronouncements Not Yet Effective

In November 2024, the Financial Accounting Standards Board (the "FASB") issued ASU 2024-04, *Debt-Debt with Conversion and Other Options (Subtopic 470-20): Induced Conversions of Convertible Debt Instruments*, which amends ASC 470-20 to clarify the requirements related to accounting for the settlement of a debt instrument as an induced conversion. This ASU is intended to improve the relevance and consistency in application of the induced conversion guidance in Subtopic 470-20 for (a) convertible debt instruments with cash conversion features and (b) debt instruments that are not currently convertible. This ASU is effective for all entities for annual reporting periods beginning after December

15, 2025, and interim reporting periods within those annual reporting periods, with early adoption permitted. The Company does not expect the adoption of this standard to have a material impact on the consolidated financial statements.

In November 2024, the FASB issued ASU 2024-03, *Income Statement-Reporting Comprehensive Income-Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses*, which is intended to provide more detailed information about specified categories of expenses (purchases of inventory, employee compensation, depreciation and amortization) included in certain expense captions presented on the consolidated statement of operations. This new standard is effective for fiscal years beginning after December 15, 2026, and interim periods within fiscal years beginning after December 15, 2027. Early adoption is permitted. The amendments may be applied either (1) prospectively to financial statements issued for periods after the effective date of this ASU or (2) retrospectively to all prior periods presented in the consolidated financial statements. The Company is currently assessing the impact this ASU adoption will have on its consolidated financial statements.

In May 2025, the FASB issued ASU 2025-03, *Determining the Accounting Acquirer in the Acquisition of a Variable Interest Entity*, which revises the guidance in ASC 805 on identifying the accounting acquirer in a business combination in which the legal acquiree is a variable interest entity (“VIE”). This ASU is intended to improve comparability between business combinations that involve VIEs and those that do not. Under this ASU, a reporting entity involved in a business combination effected primarily by the exchange of equity interests must consider the factors

[Table of Contents](#)

in ASC 805-10-55-12 through 55-15 to determine which entity is the accounting acquirer regardless of whether the legal acquiree is a VIE. More specifically, when considering those factors, the reporting entity can determine that a transaction in which the legal acquiree is a VIE represents a reverse acquisition (in which the legal acquirer is identified as the acquiree for accounting purposes). As a result, comparability is increased with business combinations in which the legal acquiree is a VIE. This ASU is effective for fiscal years beginning after December 15, 2026, including interim periods within those fiscal years. Early adoption is permitted. The amendments in this ASU must be applied prospectively to any business combination that occurs after the initial adoption date. The Company does not expect the adoption of this standard to have a material impact on the consolidated financial statements.

In July 2025, the FASB issued ASU 2025-05, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses for Accounts Receivable and Contract Assets*. This ASU provides a practical expedient that all entities can use when estimating expected credit losses for current accounts receivable and current contract assets arising from transactions accounted for under ASC 606, *Revenue from Contracts with Customers*. Under this practical expedient, an entity is allowed to assume that the current conditions it has applied in determining credit loss allowances for current accounts receivable and current contract assets remain unchanged for the remaining life of those assets. This ASU is effective for fiscal years beginning after December 15, 2025, and interim reporting periods in those years, with early adoption permitted. Entities should apply the new guidance prospectively. The Company is currently assessing the impact this ASU adoption will have on its consolidated financial statements.

In September 2025, the FASB issued ASU 2025-06, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Targeted Improvements to the Accounting for Internal-Use Software*, to modernize the accounting guidance for the costs to develop software for internal use. The standard applies to costs incurred to develop or obtain software for internal use. ASU 2025-06 amends the existing standard that refers to various stages of a software development project to align better with current software development methods, such as agile programming. Under the new standard, entities will commence capitalizing eligible costs when (i) management has authorized and committed to funding the software project, and (ii) it is probable that the project will be completed, and the software will be used to perform the function intended. The new standard also supersedes the guidance related to costs incurred to develop a website. The ASU's amendments are effective for all entities for annual reporting periods beginning after December 15, 2027, and interim reporting periods within those annual reporting periods. Early adoption is permitted as of the beginning of an annual reporting period. The guidance can be applied on a prospective basis, a modified basis for in-process projects or on a retrospective basis. The Company is currently assessing the impact this ASU adoption will have on its consolidated financial statements.

In September 2025, the FASB issued ASU 2025-07, *Derivatives Scope Refinements and Scope Clarification for Share-Based Noncash Consideration from a Customer in a Revenue Contract*. This ASU expands the population of contracts that are excluded from the scope of derivative accounting in ASC 815. It also clarifies that the revenue guidance in ASC 606 initially applies to share-based noncash consideration received from a customer for the transfer of goods or services. This ASU is effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods within those annual reporting periods, with early adoption permitted. The Company does not expect the adoption of this standard to have a material impact on the consolidated financial statements.

In November 2025, the FASB issued ASU 2025-08, *Purchased Loans*, which amends the guidance in ASC 326 on the accounting for certain purchased loans. Under the ASU, entities must account for acquired loans (excluding credit cards) that meet certain criteria at acquisition by recognizing them at their purchase price plus an allowance for expected credit losses. The ASU's amendments align the accounting for purchased seasoned loans with the treatment of financial assets purchased with more-than-insignificant credit deterioration since origination. This ASU is effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods within those annual reporting periods, with early adoption permitted. The Company does not expect the adoption of this standard to have a material impact on the consolidated financial statements.

In November 2025, the FASB issued ASU 2025-09, *Hedge Accounting Improvements*, which amends certain aspects of the hedge accounting guidance in ASC 815. In addition to addressing stakeholder concerns, the amendments are intended to more closely align hedge accounting with the economics of an entity's risk management activities. The main amendments relate to cash flow hedging, but some of the amendments affect certain fair value and net investment

[Table of Contents](#)

hedges. This ASU is effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods within those annual reporting periods, with early adoption permitted. The Company does not expect the adoption of this standard to have a material impact on the consolidated financial statements.

In December 2025, the FASB issued ASU 2025-10, *Accounting for Government Grants Received by Business Entities*, which adds guidance to ASC 832 on the recognition, measurement, and presentation of government grants. ASC 832 as originally promulgated contained only disclosure requirements concerning the receipt of government assistance by business entities. In the absence of such guidance, many for-profit entities historically have analogized to other GAAP, including IAS 203 or ASC 958-605, when accounting for government grants. This ASU is effective for annual reporting periods beginning after December 15, 2028, and interim reporting periods within those annual reporting periods, with early adoption permitted. The Company does not expect the adoption of this standard to have a material impact on the consolidated financial statements.

In December 2025, the FASB issued ASU 2025-11, *Interim Reporting (Topic 270): Narrow-Scope Improvements*, which is intended to improve the navigability of the guidance in ASC 270 and clarify when it applies. Under the amendments, an entity is subject to ASC 270 if it provides “interim financial statements and notes in accordance with GAAP.” The ASU also addresses the form and content of such financial statements, adds lists to ASC 270 of the interim disclosures required by all other Codification topics, and establishes a principle under which an entity must “disclose events since the end of the last annual reporting period that have a material impact on the entity.” The amendments in ASU 2025-11 are effective for interim reporting periods within annual reporting periods beginning after December 15, 2027. The Company is currently assessing the impact this ASU adoption will have on its condensed consolidated interim financial statements.

4. Fresh Start Accounting

Upon emergence from the Restructuring, the Predecessor met the criteria and was required to adopt fresh start accounting in accordance with ASC 852, *Reorganizations*, which on the Emergence Date resulted in a new entity, the Successor, for financial reporting purposes, with no beginning retained earnings or deficit as of the fresh start reporting date. The criteria requiring fresh start accounting are: (1) the holders of the then-existing common shares of the Predecessor received less than 50 percent of the new common shares of the Successor outstanding upon emergence from bankruptcy and (2) the reorganization value of the entity’s assets immediately prior to confirmation of the Plan was less than the total of all post-petition liabilities and allowed claims.

Fresh start accounting requires that new fair values be established for BPA's assets, liabilities and equity as of the Convenience Date (July 31, 2025, as discussed above), and therefore certain values and operational results of the consolidated financial statements subsequent to July 31, 2025 are not comparable to those in the Company's consolidated financial statements prior to and including July 31, 2025. The Convenience Date fair values of the Successor's assets and liabilities differ materially from their recorded values as reflected on the historical balance sheet of the Predecessor.

Reorganization Value

The reorganization value derived from the range of enterprise values associated with the Plan was allocated to BPA's identifiable tangible and intangible assets and liabilities based on their fair values. Under ASC 852, *Reorganization*, value generally approximates the fair value of the entity before considering liabilities and is intended to approximate the amount a willing buyer would pay for the assets immediately after the effects of the restructuring. The value of the reconstituted entity (i.e., Successor) was based on management projections and the valuation models as determined by the Company's financial advisors in setting an estimated range of enterprise values. As set forth in the Disclosure Statement for Joint Plan of Reorganization approved by the Bankruptcy Court, the valuation analysis resulted in an enterprise value between \$682 million and \$800 million, with a mid-point of \$741 million. For GAAP purposes, we valued the Successor's individual assets, liabilities, and equity instruments and determined the value of the enterprise was approximately \$733 million as of the Emergence Date, which is between the low-point and the mid-point of the forecast enterprise value ranges approved by the Bankruptcy Court. Specific valuation approaches and key assumptions

[Table of Contents](#)

used to arrive at reorganization value, and the value of discrete assets and liabilities resulting from the application of fresh start accounting, are described below in greater detail within the valuation process.

The following table reconciles the enterprise value to the equity value of the Successor as of the Convenience Date:

	<u>July 31, 2025</u>
Enterprise value	\$ 732,730
Plus: Cash and cash equivalents	11,667
Less: Total debt	(337,034)
Equity value	<u><u>\$ 407,363</u></u>

The following table reconciles enterprise value to reorganization value of the Successor (i.e., value of the reconstituted entity) and total reorganization value:

	<u>July 31, 2025</u>
Enterprise value	\$ 732,730
Plus: Cash and cash equivalents	11,667
Plus: Current liabilities excluding current maturities of long-term debt	218,109
Plus: Non-interest bearing noncurrent liabilities	125,993
Reorganization value of the reconstituted Successor	<u><u>\$ 1,088,469</u></u>

With the assistance of third-party valuation advisors, the Company determined the enterprise and corresponding equity value of the Successor using various valuation approaches and methods, including: (i) income approach using a calculation of the present value of future cash flows based on financial projections, (ii) the market approach using selling prices of similar assets and (iii) the cost approach.

The enterprise value and corresponding equity value are dependent upon achieving the future financial results set forth in the Company's valuation model using an asset-based methodology of estimated financial information, considerations and projections, applying a combination of the income, cost and market approaches as of the Convenience Date. All estimates, assumptions, valuations and financial projections, including the fair value adjustments, the financial projections, the enterprise value and equity value projections, are inherently subject to significant uncertainties and the resolution of contingencies beyond the Company's control. Accordingly, there is no assurance that the estimates, assumptions, valuations or financial projections will be realized, and actual results could vary materially.

Reorganization Items, net

Reorganization items represent (i) expenses incurred relating to the Chapter 11 Cases as a direct result of the Plan, (ii) gains or losses from liabilities settled and (iii) fresh start accounting adjustments, and are recorded in “Reorganization items, net” in the Company’s consolidated and combined statements of operations. Contractual interest expense from the Petition Date through the Emergence Date associated with BPA’s 2026 Indentures was accrued or recorded in the consolidated and combined statement of operations in interest expense, net. Professional service provider charges associated with reorganization that were incurred before the Petition Date are recorded in selling, general and administrative expense in the consolidated and combined statements of operations.

[Table of Contents](#)

The following table summarizes the losses (gains) on reorganization items, net:

	Successor Consolidated Period from August 1, 2025 through December 31, 2025	Predecessor Combined and Consolidated Period from January 1, 2025 through July 31, 2025
Legal and professional fees	\$ 1,782	\$ 68,404
Derecognition of unamortized debt discount, premium and issuance costs	—	(81,384)
Gain on settlement of liabilities subject to compromise	—	(902,162)
Fresh start accounting adjustments	—	(639,040)
Cost of debt refinancing pursuant to reorganization plan	—	1,591
Gain on rejected contracts and leases	(167)	(1,260)
Gain on settlement of DIP facility	—	(4,000)
DIP credit agreement fees	—	26
Total reorganization items, net	\$ 1,615	\$ (1,557,825)

Valuation Process

The fair values of BPA’s principal assets, including trade names, customer relationships, internally developed product suite, leased real property, owned real property and personal property were estimated as of the Emergence Date.

Trade Names

The fair value of trade names was estimated using the RfR method under the income approach. RfR estimates the value of the trade names based on the royalty payments that would be avoided by owning the assets. The analysis considered projected revenues attributable to the trade names over their expected useful life, royalty rates derived from market data for trade names/trademarks in the business services industry, and discount rates reflecting the risk profile of the cash flows. The royalty savings were tax-affected and discounted to present value using a rate consistent with market participant expectations.

Customer Relationships

The fair value of customer relationships was estimated using the multi-period excess earnings method (“MPEEM”) under the income approach. The MPEEM attributes cash flow to a specific intangible asset based on residual cash flows from a set of assets generating revenues after accounting for appropriate returns on and of other assets contributing to that revenue generation. Cash flows were forecasted based on expected revenue from existing customers, adjusted for renewal probabilities/attrition rates, and

anticipated operating costs required to service these relationships. After-tax cash flows were discounted using a rate considering the risk of these customers relative to the overall risk of the business.

Internally Developed Product Suite

The fair value of the internally developed product suite was estimated using the replacement cost method under the cost approach. This method estimates the value based on the cost a market participant would incur to recreate the existing internally developed software, adjusted for physical, functional, and economic obsolescence. The analysis considered historical development costs, current labor and overhead rates, and an allowance for developer profit and entrepreneurial incentive. The resulting cost was tax-affected and adjusted to reflect the economic benefits of the software/developed product suite in its current state.

[Table of Contents](#)

Leased Real Property

The off-market component of the right of use assets (“ROUA”) was estimated using the Income Approach. Under this approach, the cash flow differential between the contract and market rents for each lease are present valued using a market-derived discount rate. Leases with a present value of contract rent cash flows within 5.0% of the present value of market rent cash flows were assumed to have no off-market component.

Owned Real Property

The fair values of the buildings and land improvements were estimated via the Cost Approach, and the underlying land was valued via the Sales Comparison Approach.

For the buildings and land improvements, utilizing the direct method of the Cost Approach, the replacement cost new (“RCN”) was estimated using construction cost information obtained from published data sources such as Marshall Valuation Service (for the owned location located in the U.S.) or CBRE market reports as well as publicly available data from the Central Public Works Department (for the owned location located in India).

For the land, utilizing the Sales Comparison Approach, comparable land sale data and listings of land for sale were compiled and qualitatively compared to the subject properties. Variances in market conditions at the time of sale, property characteristics, and other relevant factors were considered and analyzed when necessary.

Personal Property

The fair value of the personal property such as machinery and equipment, leasehold improvements, office furniture and equipment, computer hardware and software were estimated using the indirect method of the Cost Approach. Under the indirect method of the Cost Approach, the reproduction cost new (“CRN”) for each asset or group of assets was estimated by indexing historical costs recorded in the Fixed Asset Registers based on asset type and acquisition dates. Given the assets have been in use for a period of time, consideration was given to physical deterioration, economical and functional obsolescence. The estimate of physical deterioration was primarily conducted under the age/life concept. Under this concept, the physical loss in value was attributed to the relationship between the estimated useful life of an asset and its remaining useful life at a given point in time. Hold factors were estimated depreciation floors used to establish a minimal value for assets remaining in use that have met or exceeded their expected normal useful life (“NUL”). Construction in progress was reported at its cost as of the Convenience Date.

[Table of Contents](#)

Consolidated and Combined Balance Sheet

The following illustrates the effects on the Company's consolidated and combined balance sheet due to the reorganization and fresh start accounting adjustments. The explanatory notes following the table below provide further details on the adjustments, including the assumptions and methods used to determine fair value for the Company's assets, liabilities, and warrants as of the Convenience Date.

	As of July 31, 2025			
	Predecessor	Reorganization Adjustments	Fresh Start Adjustments	Predecessor (a)
Assets				
Current assets				
Cash and cash equivalents	\$ 17,958	\$ (6,291)(1)	\$ —	\$ 11,667
Restricted cash	30,743	—	—	30,743
Accounts receivable, net	38,187	74,467 (2)	—	112,654
Related party receivables and prepaid				
expenses	3,938	—	—	3,938
Inventories, net	6,508	—	—	6,508
Prepaid expenses and other current assets	32,164	(5,413)(3)	—	26,751
Total current assets	129,498	62,763	—	192,261
Property, plant and equipment, net	42,785	—	30,330 (16)	73,115
Operating lease right-of-use assets, net	29,542	—	—	29,542
Goodwill	39,718	—	414,499 (17)	454,217
Intangible assets, net	119,032	—	201,741 (18)	320,773
Other noncurrent assets	16,297	2,264 (4)	—	18,561
Total assets	\$376,872	\$ 65,027	\$ 646,570	\$1,088,469
Liabilities and Stockholders' Equity (Deficit)				
Liabilities				
Current liabilities				
Current portion of long-term debt	\$247,322	(217,344)(5)	\$ —	\$ 29,978
Accounts payable	23,008	19,115 (6)	—	42,123
Related party payables	39	1,311 (7)	—	1,350
Income tax payable	10,126	(7,814)(8)	—	2,312
Accrued liabilities	21,181	20,185 (9)	—	41,366
Accrued compensation and benefits	25,376	8,562 (10)	—	33,938
Accrued interest	—	1,877 (11)	—	1,877
Customer deposits	83	17,696 (7)	—	17,779
Deferred revenue	9,701	—	—	9,701
Obligation for claim payment	53,176	—	—	53,176

Current portion of finance lease liabilities	4,884	290 (7)	—	5,174
Current portion of operating lease liabilities	9,283	—	—	9,283
Total current liabilities	404,179	(156,122)	—	248,057
Long-term debt, net of current maturities	1,465	305,591 (12)	—	307,056
Finance lease liabilities, net of current portion	7,303	—	—	7,303
Net defined benefit liability	1,069	—	—	1,069
Deferred income tax liabilities	13,721	35,793 (8)	—	49,514
Long-term income tax liabilities	8,496	(545)(8)	—	7,951
Operating lease liabilities, net of current portion	22,533	—	—	22,533
Other long-term liabilities	288	37,335 (13)	—	37,623
Total liabilities not subject to compromise	459,054	222,052	—	681,106
Liabilities subject to compromise	1,424,479	(1,424,479)(14)	—	—
Total liabilities	1,883,533	(1,202,427)	—	681,106
Stockholders' Equity (Deficit)				
Predecessor's net parent investment	(1,498,817)	859,777 (15)	639,040 (19)	—
Predecessor's accumulated other comprehensive loss (income):				
Foreign currency translation adjustment	(7,844)	314 (8)	7,530 (20)	—
Predecessor total accumulated other comprehensive loss (income)	(7,844)	314	7,530	—
Successor's common stock	—	8 (14)	—	8
Successor's paid-in-capital in excess of par	—	407,355 (14)	—	407,355
Total stockholder's equity (deficit)	(1,506,661)	1,267,454	646,570	407,363
Total liabilities and stockholder's equity (deficit)	\$376,872	\$ 65,027	\$ 646,570	\$1,088,469

(a) Excluding the assets acquired, liabilities assumed and shares issued as part of the Business Combination (as discussed in the Note 5, *Business Combination*).

[Table of Contents](#)

Reorganization Adjustments

(1) Represents the net cash payments that occurred on the Emergence Date as follows:

Sources:	
Cash proceeds from XBP Funding	\$ 18,000
Cash proceeds from Super Senior Term Loan	40,000
Cash proceeds from BR Exar AR Facility	8,000
Cash proceeds from ABL Facility	58,653
Cash proceeds from previously made deposit under ABL Facility	250
	<u>\$ 124,903</u>
Uses:	
Debt issuance costs related to Super Senior Secured Notes	\$ (50)
Debt issuance costs related to BR Exar AR Facility	(1,400)
Paydown of the Second Lien Note	(1,500)
Repayment on Securitization Facility	(74,467)
Payment of legal fees on Securitization Facility	(172)
Debt issuance costs related to ABL Facility	(2,269)
Payment of Senior Secured Term Loan	(38,500)
Payment of Interest on Senior Secured Term Loan	(596)
Payment of Fees on Senior Secured Term Loan	(535)
Payment of legal fees	(11,705)
Net uses:	\$ (6,291)

(2) On the Emergence Date, BPA's securitization arrangement with PNC Bank was terminated. The arrangement was previously accounted for as an off-balance sheet financing. The increase in accounts receivable, net on the Emergence Date was due to return of the accounts receivables previously sold to PNC and the repayment of amounts received for such sold accounts receivables.

(3) Represents reversal of deferred tax asset as of the Emergence Date.

(4) Represents debt issuance costs related to the ABL Facility.

(5) Current maturities of long-term debt were adjusted as follows in accordance with the Plan:

Reinstatement of liabilities subject to compromise	\$1,178,002
Borrowing from BR Exar Facility	8,000
Amortization of Unamortized Balance of Debt Issuance Cost	1,056

Issuance of Common Stock to holders of Allowed Notes Claims (April 2026 and July 2026)	(68)
Debt issuance costs related to BR Exar AR Facility	(1,400)
Paydown of the Second Lien Note	(1,500)
Gain on settlement of DIP Facility	(4,000)
Conversion of DIP Facility into Super Senior Term Loan	(6,000)
Repayment of Senior Secured Term Loan	(38,500)
Conversion of DIP Facility into July 2030 Notes	(175,000)
APIC generated on issuance of Successor common stock	(407,355)
Gain on reinstatement of current portion of debt	(770,639)
Total adjustments to current portion of long-term debt	\$(217,344)

[Table of Contents](#)

(6) Adjustments to accounts payable were made as follows:

Reinstatement of accounts payable from liabilities subject to compromise	\$	35,048
Amount paid/transferred to long term		(4,633)
Gain on Reinstatement of accounts payable		(11,300)
Total adjustments to accounts payable	\$	19,115

(7) Reinstatement of various liabilities from liabilities subject to compromise were made as follows:

Customer Deposits	\$	17,696
Related Party Payable		1,311
Current portion of finance lease liabilities		290

(8) Represents income tax effects of the reorganization including changes in current and deferred tax balances as of the Emergence Date.

(9) Adjustments to Accrued Liabilities were made as follows:

Reinstatement of accrued liabilities from liabilities subject to compromise	\$	25,565
Gain on reinstatement of accrued liabilities		(5,380)
Total adjustments to accrued liabilities	\$	20,185

(10) Adjustments to Accrued Compensation and Benefits were made as follows:

Reinstatement of Accrued Compensation and Benefits from liabilities subject to compromise	\$	15,715
Gain on settlement of Accrued Compensation and Benefits		(7,031)
Amount transferred to long term		(30,124)
Total adjustments to accrued compensation and benefits	\$	8,562

(11) Adjustments to Accrued Interest were made as follows:

Reinstatement of accrued interest from liabilities subject to compromise	\$	118,272
Gain on settlement of accrued interest		(107,811)
Payment of accrued interest on Senior Secured Term Loan		(596)
Conversion of Accrued Interest on the DIP Facility to July 2030 Notes		(7,988)
Total adjustments to accrued interest	\$	1,877

(12) Adjustments to Long-term debt, net of current maturities were made as follows:

Issuance of July 2030 Notes (a)	\$	200,988
Borrowing from ABL Facility		58,653

Borrowing from Super Senior Term Loan	40,000
Conversion of DIP Facility to July 2030 Notes	6,000
Debt Issuance cost on Super Senior Secured Facility	(50)
Total adjustments to long-term debt, net of current maturities	\$ 305,591

- (a) Includes \$18.0 million of principal amount of July 2030 Notes held by a subsidiary of the Company other than the issuer or a guarantor as of July 31, 2025 that are eliminated on consolidation.

[Table of Contents](#)

(13) Adjustments to other long-term liabilities were made as follows:

Reinstatement of Other long-term liabilities balance from liabilities subject to compromise	\$ 2,578
Accounts payable to be paid in long term as per the Plan considered long term	4,633
Accrued compensation and benefits to be paid in long term as per the Plan considered long term	30,124
Total adjustments to other long-term liabilities	\$ 37,335

(14) Liabilities subject to compromise were settled as follows in accordance with the Plan:

Liabilities subject to compromise prior to the Emergence Date	
Settled liabilities subject to compromise	
Current portion of debt	\$ 1,178,002
Accounts payable	35,048
Accrued liabilities	25,565
Accrued compensation and benefits	45,717
Accrued Interest	118,272
Total settled liabilities subject to compromise	\$ 1,402,604
Reinstated liabilities subject to compromise	
Customer deposits	\$ 17,696
Other long-term liabilities	2,578
Related party payables	1,311
Current portion of capital lease obligations	290
Total reinstated liabilities subject to compromise	\$ 21,875
Total liabilities subject to compromise	\$ 1,424,479

Issuance of common stock to holders of Allowed Notes Claims (April 2026 and July 2026) (Noteholders)	
Paid in capital in excess of par	(407,355)
Settlement of accounts payable as per the Plan	(23,748)
Settlement of accrued liabilities as per the Plan	(20,185)
Settlement of accrued compensation and benefit as per the Plan	(38,686)
Settlement of accrued interest as per the Plan	(10,460)
Reinstated liabilities subject to compromise	(21,875)
Gain on settlement of liabilities subject to compromise	\$ 902,162

(15) Predecessor's Net Parent Investment was adjusted for the following activity on the Effective Date:

Gain on settlement of liabilities subject to compromise	\$ (902,162)
Gain recognition on DIP Facility forgiveness	(4,000)

Payment of legal fees	11,705
Amortization of Debt Issuance Cost on Super Senior Term Loan	1,056
Tax Expenses on Reorganization	33,162
Payment of Closing Fee for the Super Senior Term Loan	535
Payment of Legal Fee for the Securitization Facility	172
Amortization of Debt Issuance Cost on the ABL Facility	5
Reversal of the ABL Facility Deposit from Reorganization Items	(250)
Total adjustment to Predecessor's net parent investment	\$ (859,777)

[Table of Contents](#)

Fresh Start Adjustments

(16) Reflects fair value adjustments to personal property as well as the elimination of accumulated depreciation and amortization.

(17) Represents implied Goodwill as of the Emergence Date.

(18) Represents step-up to fair value of intangible assets as follows:

	Predecessor	Fresh Start Adjustments	Successor
Intangible Assets, Net			
Customer relationships	\$90,344	\$ 173,656	\$264,000
Internally developed software	7,290	30,510	37,800
Purchased software	15,008	—	15,008
Trade names	5,300	(2,425)	2,875
Outsourced contract costs	1,090	—	1,090
Total	\$119,032	\$ 201,741	\$320,773

(19) Represents the cumulative effect of the fresh start accounting adjustments discussed above.

(20) Upon adoption of fresh start accounting, foreign currency translation adjustment was reset to zero as part of the revaluation of BPA's equity structure to reflect the fair value of the reorganized entity.

5. Business Combination

On July 3, 2025, pursuant to the MIPA, a wholly owned subsidiary of the Company agreed to purchase, subject to certain terms and conditions, BPA. The consideration for the sale was \$1.00, reflecting the encumbered nature of BPA, which at the time was involved in the Chapter 11 Cases. This transaction, referred to herein as the Business Combination, was subject to certain conditions subsequent, including emergence of BPA and certain of its affiliates from the Chapter 11 Cases, which occurred on July 29, 2025. On July 3, 2025, XBP Europe Holdings, Inc., entered into a Transaction Support Agreement with the BPA Debtors. Pursuant to the Transaction Support Agreement, XBP Europe Holdings, Inc. agreed to, among other things, support the Plan, including seeking stockholder approvals at XBP Europe Holdings, Inc.'s annual shareholder meeting and issuing shares of the Company's Common Stock, as described in XBP Europe Holdings, Inc.'s definitive proxy statement filed with the SEC on July 15, 2025. On July 29, 2025, BPA consummated the transaction under the Plan and emerged from bankruptcy having satisfied or waived all the conditions set forth in the Plan and therefore, the conditions subsequent to the MIPA were cleared and the acquisition transaction was deemed closed from an accounting perspective on July 29, 2025.

Under ASC 805, *Business Combinations*, BPA was determined as the accounting acquirer based on the following predominate factors: following the Emergence Date BPA's former noteholders (who received the Company's Common Stock as part of the Plan), had the largest portion of voting rights in the Company relative to the owners of the Company's Common Stock prior to the Emergence Date, following the Emergence Date, the Company's seven person board of directors has four new individuals nominated by the former noteholders of BPA pursuant to a one time right under the Plan, compared to three individuals remaining from the Company's board of directors prior to the Emergence Date, and BPA was the significantly larger entity by revenue and by assets. The Company elected to apply business acquisition accounting effective July 31, 2025, to coincide with the timing of its normal accounting period close as well as the Convenience Date used for fresh start accounting of BPA (as discussed above). The Company evaluated the events between July 29, 2025 and July 31, 2025 and concluded that the use of an accounting convenience date of July 31, 2025 did not have a material impact on the results of operations or financial position.

In connection with the Business Combination, certain of Company's subsidiaries acquired debt facilities totaling \$49.0 million outstanding under the Senior Credit Facilities Agreement as discussed in Note 13, *Long Term Debt and Credit Facilities*. Following the guidance under ASC 805 total fair value of purchase consideration for the transaction was measured at \$32.3 million representing the 3,591,555 shares of Common Stock of the Company (the

[Table of Contents](#)

combined entity XBP Global Holdings, Inc.) previously issued to the stockholders of XBP Europe Holdings, Inc. The Company incurred \$0.1 million of equity issuance costs and \$0.2 million of debt issuance costs in connection with the Business Combination.

The acquired assets and assumed liabilities of XBP Europe Holdings, Inc. were recorded at their estimated fair values. The purchase price allocation for the Business Combination is preliminary and subject to change within the respective measurement period, which will not extend beyond one year from the acquisition date. Measurement period adjustments will be recognized in the reporting period in which the adjustment amounts are determined.

The following table summarizes the consideration paid for XBP Europe Holdings, Inc. by BPA for accounting purposes and the preliminary fair value of the assets acquired and liabilities assumed as of the Convenience Date, including adjustments made in the last three months of 2025 (measurement period adjustments) with a corresponding change to goodwill.

	Amounts Recognized as of Convenience Date (as previously reported)	Measurement Period Adjustments (a)	Amounts Recognized as of Convenience Date (as adjusted)
Cash and cash equivalents	\$ 1,485	\$ -	\$ 1,485
Accounts receivable	29,467	-	29,467
Inventory	4,292	-	4,292
Prepaid expenses and other current assets	6,824	2,174 (c)	8,998
Property, plant and equipment	14,156	-	14,156
Right-of-use assets	4,774	-	4,774
Deferred income tax assets	3,177	(2,347)(c)	830
Related party long term notes receivable	19,864	-	19,864
Other noncurrent assets	944	-	944
Intangible assets, net	38,360	-	38,360
Implied goodwill	55,847	109 (b), (c)	55,956
Total identifiable assets acquired	<u>\$ 179,190</u>	<u>\$ (64)</u>	<u>\$ 179,126</u>
Liabilities Assumed:			
Accounts payable	17,290	-	17,290
Related party payables	4,129	-	4,129
Accrued liabilities	24,946	3,739 (b), (c)	28,685
Accrued compensation and benefits	23,056	-	23,056
Customer deposits	378	-	378
Deferred revenue	5,123	-	5,123
Operating lease liabilities	4,828	-	4,828

Long-term debts	49,014	-	49,014
Related party notes payable	1,597	-	1,597
Deferred tax liabilities	3,525	-	3,525
Pension liabilities (b)	11,141	(3,803)(b)	7,338
Other long-term liabilities	1,835	-	1,835
Total liabilities assumed	\$ 146,862	\$ (64)	\$ 146,798
Total Consideration	\$ 32,328	\$ -	\$ 32,328

- (a) The change in the estimated fair value is primarily to better reflect market participant assumptions about facts and circumstances existing as of the convenience date. The measurement period adjustments did not result from intervening events subsequent to the convenience date.
- (b) As adjusted, comprised of \$3.8 million decrease in pension liabilities and \$0.7 million increase in accrued liabilities due to pension related adjustments with a resulting \$3.1 million decrease in implied goodwill. This measurement period adjustment did not have a material impact on our earnings.
- (c) As adjusted, comprised of \$2.2 million increase in prepaid expenses and other current assets due to income tax receivables, \$3.0 million increase in accrued liabilities due to income tax payable, \$2.3 million decrease in net deferred income tax assets with a resulting \$3.2 million increase in implied goodwill. This measurement period adjustment did not have a material impact on our earnings.

[Table of Contents](#)

The identifiable intangible assets include trade name and trademarks, customer relationships and internally developed software. Trade name and trademarks names were valued using the Income Approach, specifically the RfR method. Customer relationships were valued using the Income Approach, specifically the Multi-Period Excess Earnings method. Internally developed software was valued based on the replacement cost method under the cost approach. All of these intangibles acquired represent a Level 3 measurement as they are based on unobservable inputs reflecting the Company's management's own assumptions about the inputs used in pricing the asset or liability at fair value.

	Weighted Average Useful Life (in years)	Fair value
Trade name and trademarks	8 years	\$ 9,030
Customer relationships	13 years	28,840
Internally developed software	5 years	490
		<u>\$ 38,360</u>

As of the date of the Business Combination, the weighted-average useful life of total identifiable intangible assets acquired in the Business Combination, excluding goodwill, is 11.7 years.

The Company expects to realize revenue synergies, leverage, brand awareness, stronger margins, greater free cash flow generation, and expand its existing sales channels, and utilize the existing workforce. The Company also anticipates opportunities for growth through the ability to leverage additional future services and capabilities. These factors, among others, contributed to a purchase price in excess of the estimated fair value of XBP Europe Holdings, Inc.'s identifiable net assets assumed, and as a result, the Company has recorded goodwill in connection with this acquisition. The Company engaged a third-party valuation firm to aid management in its analysis of the fair value of the assets and liabilities. All estimates, key assumptions, and forecasts were either provided by or reviewed by the Company. \$60.9 million of revenue and \$7.1 million of net loss for XBP Europe Holdings, Inc. are included in consolidated revenues and net loss, respectively, in the consolidated statements of operations for the period August 1, 2025 to December 31, 2025.

Transaction Costs

The Company incurred approximately \$2.5 million in advisory, legal, accounting and management fees in conjunction with the Business Combination. These costs do not include the legal and other fees paid for the Restructuring as discussed in Note 1, *Description of the Business*. These costs were expensed as incurred and are included in selling, general and administrative expenses in the consolidated statement of operations for the period August 1, 2025 to December 31, 2025 (Successor).

Pro-Forma Information

Following are the supplemental consolidated results of the Company on an unaudited pro forma basis, as if the acquisition had been consummated on January 1, 2024 for the years ended December 31, 2025 and 2024.

	Year Ended December 31,	
	2025	2024
Net Revenue	\$ 879,629	\$ 1,017,896
Net Loss	(95,039)	(67,869)

These pro forma results were based on estimates and assumptions which the Company believes are reasonable. They are not the results that would have been realized had the Company been a combined company during the periods presented and are not necessarily indicative of consolidated results of operations in future periods. The pro forma results include adjustments primarily related to purchase accounting adjustments. Acquisition costs and other non-recurring charges incurred are included in the earliest period presented.

6. Inventories

Inventories, net consist of the following:

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined and Consolidated</u>
	<u>December 31,</u>	<u>December 31,</u>
	<u>2025</u>	<u>2024</u>
Work in process	\$ 582	\$ 610
Finished goods	5,852	576
Supplies and parts	6,370	6,070
Less: Allowance for obsolescence	(1,439)	(52)
	<u>\$ 11,365</u>	<u>\$ 7,204</u>

Finished goods inventory includes \$1.4 million and \$0.1 million of allowance for obsolescence as of December 31, 2025 (Successor) and 2024 (Predecessor), respectively. The Company's allowance for obsolescence is based on a policy developed by historical experience and management judgment.

7. Accounts Receivable

Accounts receivable, net consist of the following:

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined and Consolidated</u>
	<u>December 31,</u>	<u>December 31,</u>
	<u>2025</u>	<u>2024</u>
Billed receivables	\$ 104,244	\$ 3,099
Unbilled receivables	25,364	13,459
Other	6,333	5,384
Less: Allowance for credit losses	(5,660)	(3,279)
	<u>\$ 130,281</u>	<u>\$ 18,663</u>

Unbilled receivables represent balances recognized as revenue that have not been billed to the client. The Company's allowance for credit losses is based on a policy developed by historical experience and management judgment. Adjustments to the allowance for credit losses may occur based on market conditions or specific client circumstances.



[Table of Contents](#)

The following table describes the changes in the allowance for expected credit losses for the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor) and the year ended December 31, 2024 (Predecessor) (all related to accounts receivable):

	December 31, 2025
Balance at January 1 of the allowance for expected credit losses (Predecessor)	\$ 3,279
Provision for expected loss	914
Write-off charged against the allowance	(162)
Recoveries collected	(1,192)
Foreign currency exchange rate adjustment	8
Balance at July 31 of the allowance for expected credit losses (Predecessor)	\$ 2,847
Balance at August 1 of the allowance for expected credit losses (Successor)	3,764
Provision for expected loss	2,367
Write-off charged against the allowance	(132)
Recoveries collected	(360)
Foreign currency exchange rate adjustment	21
Balance at December 31 of the allowance for expected credit losses (Successor)	<u>\$ 5,660</u>
	December 31, 2024
Balance at January 1 of the allowance for expected credit losses (Predecessor)	\$ 5,580
Provision for expected loss	18,094
Write-off charged against the allowance (a)	(17,887)
Recoveries collected	(2,517)
Foreign currency exchange rate adjustment	9
Balance at December 31 of the allowance for expected credit losses (Predecessor)	<u>\$ 3,279</u>

- (a) The significant increase in the write-off of receivables for the year ended December 31, 2024, is primarily attributable to a write-off resulting from a contract modification with a major client. This was a unique event, and no similar trends or material write-offs due to contract modifications have been noted in the current reporting year.

8. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following:

<u>Successor</u>	<u>Predecessor</u>

	Consolidated	Combined and Consolidated
	December 31,	December 31,
	2025	2024
Prepays	\$ 25,786	\$ 21,422
Deposits	2,913	936
	<u>\$ 28,699</u>	<u>\$ 22,358</u>

9. Leases

The Company leases numerous facilities worldwide with larger concentrations of space in Texas, Michigan, Connecticut, California, India, Mexico and the Philippines. The Company's facilities house general offices, sales offices, service locations, and production facilities. Substantially all of the Company's operations facilities are leased under long-term leases with varying expiration dates, except for the few owned locations. The Company regularly obtains various machinery, equipment, vehicles and furniture on leases. The machinery and equipment leases mainly include leasing of computers, servers, other IT equipment, mailing system, production equipment, generators, office equipment, printers, copiers and miscellaneous warehouse equipment.

[Table of Contents](#)

The Company's ROU assets and lease liabilities as of December 31, 2025 (Successor) and 2024 (Predecessor) recorded on the consolidated and combined balance sheets are as follows:

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined and Consolidated</u>
	<u>December 31,</u>	<u>December 31,</u>
	<u>2025</u>	<u>2024</u>
<i>Balance sheet location:</i>		
Operating Lease		
Operating lease right-of-use assets, net	\$ 30,339	\$ 30,543
Current portion of operating lease liabilities	9,814	9,210
Operating lease liabilities, net of current portion	22,530	23,907
Finance Lease		
Finance lease right-of-use assets, net (included in property, plant and equipment, net)	16,043	15,778
Current portion of finance lease liabilities	4,390	5,441
Finance lease liabilities, net of current portion	6,857	6,381

Supplemental balance sheet information related to leases is as follows:

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined and Consolidated</u>
	<u>December 31,</u>	<u>December 31,</u>
	<u>2025</u>	<u>2024</u>
Weighted-average remaining lease term		
Operating leases	3.4 Years	3.6 Years
Finance leases	3.3 Years	2.4 Years
Weighted-average discount rate		
Operating leases	16.9%	16.8%
Finance leases	20.2%	18.4%

The interest on financing lease liabilities was \$1.0 million, \$1.3 million and \$1.8 million for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and for the year ended December 31, 2024 (Predecessor), respectively. The amortization expense on finance lease ROU assets was \$3.1 million, \$2.5

million and \$4.7 million for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and for the year ended December 31, 2024 (Predecessor), respectively.

Maturities of finance and operating lease liabilities based on lease term for the next five years are as follows:

	Finance Leases	Operating Leases
2026	\$ 6,373	\$ 14,287
2027	3,666	12,391
2028	2,655	7,871
2029	1,644	4,709
2030	659	1,678
2031 and thereafter	584	981
Total lease payments	15,581	41,917
Less: Imputed interest	(4,334)	(9,573)
Present value of lease liabilities	<u>\$ 11,247</u>	<u>\$ 32,344</u>

[Table of Contents](#)

Consolidated rental expense for all operating leases was \$15.5 million, \$21.2 million and \$30.1 million for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and for the year ended December 31, 2024 (Predecessor), respectively.

The following table summarizes the cash paid and related ROU operating finance or operating lease recognized for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and for the year ended December 31, 2024 (Predecessor).

	Successor	Predecessor	
	Consolidated	Combined and Consolidated	
	Period from August 1, 2025 through December 31, 2025	Period from January 1, 2025 through July 31, 2025	Year Ended December 31, 2024
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash flows for operating leases	\$ 6,971	\$ 8,791	\$ 15,137
Financing cash flows for finance leases	2,700	2,947	6,573
Right-of-use lease assets obtained in the exchange for lease liabilities:			
Operating leases	1,353	7,870	10,740
Finance leases	2,020	3,574	12,028

10. Property, Plant and Equipment, Net

Property, plant, and equipment, which include assets recorded under finance leases, are stated at cost less accumulated depreciation and amortization, and consist of the following:

	Estimated Useful Lives (in Years)	Successor Consolidated December 31, 2025	Predecessor Combined and Consolidated December 31, 2024
Land	N/A	\$ 8,515	\$ 6,288
Buildings and improvements	7 – 40	13,663	12,203
	Shorter of life of improvement or lease term		
Leasehold improvements		15,712	36,328
Vehicles	5 – 7	335	558
Machinery and equipment	5 – 15	18,134	32,300
Computer equipment and software	3 – 8	16,678	77,719

Furniture and fixtures	5 – 15	3,173	5,777
	Shorter of life of the		
Finance lease right-of-use assets	asset or lease term	17,840	67,879
		94,050	239,052
Less: Accumulated depreciation and amortization		(11,094)	(193,946)
Property, plant and equipment, net		\$ 82,956	\$ 45,106

Depreciation and amortization expense related to property, plant and equipment was \$10.0 million, \$7.1 million and \$16.0 million for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and for the year ended December 31, 2024 (Predecessor), respectively.

11. Intangible Assets and Goodwill

Intangible Assets

Intangible assets are stated at the Convenience Date fair values less accumulated amortization as of December 31, 2025 (Successor) and consist of the following:

	Weighted Average Remaining Useful Life (in Years)	Successor		
		Consolidated		
		December 31, 2025		
		Gross Carrying Amount (a)	Accumulated Amortization	Intangible Asset, net
Customer relationships	11.0	\$292,855	\$(11,076)	\$281,779
Trade names—indefinite-lived (b)	Indefinite-lived	2,875	—	2,875
Trade names—others (c)	8.0	9,029	(470)	8,559
Outsourced contract costs	5.0	1,133	(94)	1,039
Internally developed software	5.0	39,381	(3,311)	36,070
Purchased software	8.0	15,009	(1,251)	13,758
Intangibles, net		<u>\$360,282</u>	<u>\$(16,202)</u>	<u>\$344,080</u>

	Weighted Average Remaining Useful Life (in Years)	Predecessor		
		Combined and Consolidated		
		December 31, 2024		
		Gross Carrying Amount (a)	Accumulated Amortization	Intangible Asset, net
Customer relationships	7.8	\$490,166	\$(388,565)	\$101,601
Developed technology	0.2	88,554	(88,501)	53
Trade names—indefinite-lived (b)	Indefinite-lived	5,300	—	5,300
Outsourced contract costs	2.0	17,660	(16,496)	1,164
Internally developed software	2.2	56,285	(47,610)	8,675
Purchased software	9.0	26,749	(10,700)	16,049
Intangibles, net		<u>\$684,714</u>	<u>\$(551,872)</u>	<u>\$132,842</u>

- (a) Amounts include intangible assets acquired in business combinations and asset acquisitions. \$14.6 million of gross carrying amount of intangible assets was fully amortized and written off during the year 2024.

- (b) The carrying amounts of trade names—indefinite-lived as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor) represent indefinite-lived intangible assets and is net of accumulated impairment losses of \$0 and \$44.1 million, respectively.
- (c) The carrying amount of trade names—others as of December 31, 2025 (Successor) represents definite-lived intangible asset and is net of accumulated impairment losses of \$0.

Aggregate amortization expense related to intangible assets was \$16.2 million and \$15.1 million for the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. Aggregate amortization expense related to intangible assets was \$34.3 million for the year ended December 31, 2024 (Predecessor).

[Table of Contents](#)

Estimated intangibles amortization expense for the next five years and thereafter consists of the following:

	Estimated Amortization Expense
2026	\$ 37,427
2027	37,144
2028	37,144
2029	37,033
2030	33,480
2031 and thereafter	158,977
Total	\$ 341,205

Goodwill

The Company's operating segments are significant strategic business units that align its products and services with how it manages its business, approaches the markets and interacts with clients. The Company is organized into two segments: Applied Workflow Automation and Technology (See Note 21, *Segment Information*).

Goodwill by reporting segment consists of the following:

Successor						
Consolidated						
Balances as at August 1, 2025 (a)	Additions	Deletions	Impairments	Currency Translation Adjustments	Balances as at December 31, 2025 (a)	
Applied Workflow Automation	\$356,777	\$ —	\$ (683)(b)	\$(240,292)	\$ —	\$ 115,802
Technology	153,287	792 (b)	—	(80,000)	—	74,079
Total	\$510,064	\$ 792	\$ (683)	\$(320,292)	\$ —	\$ 189,881

Predecessor						
Combined and Consolidated						
Balances as at January 1, 2025 (a)	Additions	Deletions	Impairments	Currency Translation Adjustments	Balances as at July 31, 2025 (a)	
Applied Workflow Automation	\$39,718	\$ —	\$ —	\$ —	\$ —	\$ 39,718
Technology	—	—	—	—	—	—
Total	\$39,718	\$ —	\$ —	\$ —	\$ —	\$ 39,718

	Predecessor					
	Combined and Consolidated					
	Balances					
	as				Currency	Balances as
	at January 1,				Translation	at December 31,
	2024 (a)	Additions	Deletions	Impairments	Adjustments	2024 (a)
Applied Workflow Automation	\$147,542	\$ —	\$ —	\$(108,489)	\$ 665	\$ 39,718
Technology	—	—	—	—	—	—
Total	\$147,542	\$ —	\$ —	\$(108,489)	\$ 665	\$ 39,718

- (a) The goodwill amount for all periods presented is net of accumulated impairment amounts. Accumulated impairment relating to Applied Workflow Automation and Technology was \$240.3 million and \$80.0 million, respectively, at December 31, 2025 (Successor). Accumulated impairment relating to Applied Workflow Automation was \$309.3 million and \$731.1 million at December 31, 2024 (Predecessor) and January 1, 2024 (Predecessor), respectively.
- (b) Additions/Deletions represent measurement period adjustments as discussed in Note 5, *Business Combination*.

[Table of Contents](#)

The Company tests for goodwill impairment at the reporting unit level on October 1 of each year and between annual tests if a triggering event indicates the possibility of an impairment. The Company monitors changing business conditions as well as industry and economic factors, among others, for events which could trigger the need for an interim impairment analysis.

During the period August 1, 2025 to September 30, 2025 (Successor), the Company experienced a sustained and significant decline in its market capitalization causing the market capitalization to fall below the Company's book value after the application of fresh start accounting at Emergence Date. Management concluded that this sustained decline, combined with revised long-term projections compared to those used to compute enterprise value of the reconstituted Successor as set forth in the Disclosure Statement for Joint Plan of Reorganization approved by the Bankruptcy Court, represented a triggering event under ASC 350, *Intangibles – Goodwill and Other*. As a result, the Company performed an interim quantitative goodwill impairment assessment for all reporting units as of September 30, 2025 (Successor).

The Company's interim impairment assessment as of September 30, 2025 (Successor) utilized Discounted Cash Flow Method of the Income Approach and the Guideline Public Company Method of the Market Approach to determine the reporting units' fair values. For the Discounted Cash Flow Method, we utilized discounted cash flow projections using market participant weighted average cost of capital calculation. The Guideline Public Company Method utilizes market data of similar publicly traded companies. In connection with the completion of the interim impairment test, the Company recorded an impairment charge of \$215.8 million and \$80.0 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment and Technology segment, respectively as of September 30, 2025 (Successor). The Company did not update its analysis for purposes of the annual impairment test as of October 1, 2025 as the measurement date of the interim impairment test performed as of September 30, 2025 was one day from the annual impairment test date.

Additionally, later during the fourth quarter of 2025 (Successor), the Company conducted its annual budgeting process along with an update to its long-range plan. Following the completion of that process, the Company made an evaluation based on changes in the Company's long-term projections, concluding that a triggering event for an impairment analysis had occurred for certain reporting units reported under the Applied Workflow Automation segment. Revised long-term projections resulted in lower than previously projected long-term future cash flows for certain reporting units which reduced the estimated fair values to below their carrying values. Accordingly, the Company performed quantitative impairment test as of December 31, 2025 (Successor), resulting in an impairment charge of \$24.5 million to goodwill relating to the reporting units reported under the Applied Workflow Automation segment. Therefore, as a result of these two interim

impairment assessments performed on September 30, 2025 (Successor) and December 31, 2025 (Successor), impairment charges totaling \$320.3 million, were recorded to goodwill for the period August 1, 2025 to December 31, 2025 (Successor).

The impairment charges are included within impairment of goodwill in the consolidated and combined statements of operations.

12. Accrued Liabilities and Other Long-Term Liabilities

Accrued liabilities consist of the following:

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined</u>
	<u>December 31,</u>	<u>and</u>
	<u>2025</u>	<u>Consolidated</u>
		<u>December 31,</u>
		<u>2024</u>
Accrued taxes (exclusive of income taxes)	\$ 8,528	\$ 7,020
Accrued lease exit obligations	420	108
Accrued professional and legal fees	2,964	3,418
Accrued expenses	30,625	20,124
Accrued legal reserve for pending litigation (including legal service fee)	2,787	9,940
Accrued transaction costs	514	2,777
Other accruals	1,263	1,511
	<u>\$ 47,101</u>	<u>\$ 44,898</u>

Other Long-term liabilities consist of the following:

	<u>Successor</u>	<u>Predecessor</u>
	<u>Consolidated</u>	<u>Combined</u>
	<u>December 31,</u>	<u>and</u>
	<u>2025</u>	<u>Consolidated</u>
		<u>December 31,</u>
		<u>2024</u>
Deferred revenue	\$ 311	\$ 357
Accrued lease exit obligations	208	373
Accrued compensation expense	366	476
Private warrants liability	3	—
Customer deposits under long term contracts	2,311	763
BPA's general unsecured claims	6,847	—
BPA's Priority Tax Claims (1)	29,518	—
Other	1,107	834
	<u>\$ 40,671</u>	<u>\$ 2,803</u>

- (1) Consists of BPA's pre-petition governmental tax obligations accorded priority status under the Plan per U.S. Bankruptcy Code. These claims are non-dischargeable and will be paid in full, with statutory interest, over a maximum five-year period from the Petition Date pursuant to the Plan.

13. Long-term Debt and Credit Facilities

Disclosure under this footnote should be read in conjunction with the "*Chapter 11 Reorganization*" disclosure included under Note 1, *Description of the Business*.

Successor Indebtedness (outstanding following the Restructuring)

July 2030 Notes

On July 29, 2025, Exela Technologies BPA, LLC and Exela Finance Inc., wholly-owned subsidiaries of the Company (for this purpose, together, the "2030 Notes Issuers"), certain guarantors and U.S. Bank Trust Company, National Association, as trustee, entered into an indenture (the "July 2030 Notes Indenture") governing the Company's 12.0% First-Priority Senior Secured Notes due 2030 (the "July 2030 Notes"). The Company issued approximately \$183.0 million aggregate principal amount of the July 2030 Notes pursuant to the Plan, which may be supplemented by additional issuances in accordance with the July 2030 Notes Indenture. In December 2025, the Company issued an additional \$4.0 million in aggregate of principal amount of the July 2030 Notes generating net proceeds of \$3.5 million.

[Table of Contents](#)

The July 2030 Notes bear interest at a fixed rate of 12.0% per annum, payable quarterly on January 15, April 15, July 15 and October 15 of each year, commencing January 15, 2026, and mature on July 15, 2030. Interest on overdue amounts accrues at the stated rate plus 2.0% per annum. \$187.0 million aggregate principal amount of the July 2030 Notes remained outstanding as of December 31, 2025.

The July 2030 Notes may be redeemed, in whole or in part, at the 2030 Notes Issuers' option at any time, upon not less than 10 nor more than 30 days' prior notice, at a redemption price equal to 100% of the principal amount redeemed plus accrued and unpaid interest to, but excluding, the redemption date. In addition, the July 2030 Notes are subject to repurchase requirements upon the occurrence of certain specified events, including upon a change of control, at 101% of principal plus accrued and unpaid interest and on certain asset sales or debt proceeds at 100% of principal plus accrued and unpaid interest.

The July 2030 Notes Indenture limits the ability of the 2030 Notes Issuers and the guarantors to incur additional debt, pay dividends or make other restricted payments, make certain investments, create or permit liens on assets, sell or dispose of assets, and enter into transactions with affiliates, in each case subject to specified exceptions. Events of default include the failure to pay principal, interest or other amounts when due, the failure to comply with covenants or other agreements in the July 2030 Notes Indenture, defaults on other material indebtedness of the 2030 Notes Issuers or the guarantors, certain bankruptcy or insolvency events, and the entry of material judgments against the 2030 Notes Issuers or the guarantors. If an event of default occurs and is continuing, the July 2030 Notes may be declared immediately due and payable, and in the case of bankruptcy or insolvency events, the July 2030 Notes automatically become immediately due and payable.

The obligations under the July 2030 Notes are fully and unconditionally guaranteed on a senior secured basis by the 2030 Notes Issuers' U.S. subsidiary guarantors and are secured by liens on the collateral of the 2030 Notes Issuers and such guarantors, subject to permitted liens and the terms of the Super Senior, ABL and Equal Priority Intercreditor Agreements. Under these agreements, the ABL Lenders (as described below) hold first-priority liens on receivables, inventory, cash and related assets, while the Super Senior Term Loan Lenders (as described below) and July 2030 Noteholders hold junior liens on such assets. With respect to fixed assets, equity interests, intellectual property and related assets, the Super Senior Term Loan Lenders hold first-priority liens and July 2030 Noteholders share equal second-priority liens on a pari passu basis with holders of outstanding general unsecured claims in the Chapter 11 Cases, while the ABL Lenders hold junior liens.

Super Senior Term Loan

On July 29, 2025, Exela Technologies BPA, LLC and Exela Finance Inc. (for this purpose, together, the "Super Senior Term Loan Borrowers"), each subsidiary of the Exela Technologies BPA, LLC, as guarantors, Ankura Trust Company, LLC, as administrative

agent and collateral agent, and certain lenders (the “Super Senior Term Loan Lenders”) entered into a Financing Agreement (as amended, the “Super Senior Term Loan”), in accordance with the Plan. The Super Senior Term Loan provided for an aggregate principal amount of up to \$46.0 million in senior secured term loans, consisting of (i) \$40.0 million in new-money term loans, used to refinance obligations under BPA’s prepetition senior secured financing agreement and pay related fees and expenses, and (ii) \$6.0 million in term loans issued to DIP lenders in exchange for and in full satisfaction of \$10.0 million of DIP claims as contemplated by the Plan. Interest on the Super Senior Term Loan accrues, at the Super Senior Term Loan Borrowers’ election, either (a) at the Reference Rate, meaning the greatest of 4.0% per annum, the Federal Funds Effective Rate plus 0.5% per annum, one-month Term SOFR plus 1.0% per annum, or the Wall Street Journal Prime Rate plus 10.7% per annum, stepping down to 7.3% per annum upon the establishment of an Incremental Facility, or (b) at Term SOFR, subject to a 4.0% floor, plus 11.7% per annum, stepping down to 8.3% per annum upon the establishment of an Incremental Facility. Interest on Reference Rate Loans is payable monthly in arrears, while interest on SOFR Loans is payable at the end of each applicable interest period. Upon the occurrence of an event of default, all outstanding amounts bear interest at the applicable rate *plus* 2.0% per annum, payable on demand.

As of December 31, 2025, there were borrowings of \$46.0 million outstanding under the Super Senior Term Loan. The Super Senior Term Loan is scheduled to mature on July 28, 2028. Voluntary prepayments are permitted at any time with five business days’ notice, provided accrued interest is paid and, if applicable, a prepayment premium is

[Table of Contents](#)

payable at a rate of 2.0% if prepaid prior to the first anniversary of the Emergence Date, 1.0% if prepaid on or after the first anniversary but prior to the second anniversary, and 0% thereafter. In addition, the Super Senior Term Loan is subject to mandatory prepayments of principal with accrued interest in certain circumstances, including (a) 25.0% of annual Excess Cash Flow (beginning with the fiscal year ending December 31, 2026, payable within ten business days after delivery of annual financial statements), (b) 100% of net cash proceeds from non-permitted asset sales in excess of \$0.5 million in any fiscal year subject to reinvestment rights, (c) 100% of net cash proceeds from the issuance of indebtedness or equity securities (other than permitted issuances), and (d) certain extraordinary receipts, such as insurance recoveries and condemnation awards, subject to reinvestment rights. Upon the occurrence of an event of default such as payment defaults, covenant breaches, bankruptcy or insolvency, cross-defaults to other significant indebtedness, and judgment defaults, the obligations under the Super Senior Term Loan may be accelerated and become immediately due and payable.

The obligations under the Super Senior Term Loan are guaranteed on a joint and several basis by substantially all of the Super Senior Term Loan Borrowers' subsidiaries and are secured by a first-priority lien on substantially all of the assets of the Super Senior Term Loan Borrowers' and the guarantors, subject to permitted liens and the terms of the ABL Intercreditor Agreement (as described below) and that certain Super Senior Intercreditor Agreement. The Super Senior Term Loan contains customary affirmative and negative covenants, including limitations on additional indebtedness, the granting of liens, asset sales, restricted payments, affiliate transactions, and changes in business. It also includes a financial covenant requiring the Issuer to maintain the ratio of (a) Indebtedness to (b) Covenant Consolidated EBITDA of no greater than 1.00 to 1.00 based on the trailing 12 months ended as of the last day of the most recently ended fiscal quarter. The Super Senior Term Loan Borrowers are also required to maintain liquidity of at least \$2.0 million (or \$10.0 million after the incurrence of any Incremental Facility). The Super Senior Term Loan Borrowers were in compliance with all financial covenants as of December 31, 2025.

Second Lien Note

On February 27, 2023, BPA, through its subsidiary Exela Receivables 3, LLC, and BRF Finance Co., LLC entered into a Secured Promissory Note pursuant to which BPA borrowed \$31.5 million from BRF Finance Co., LLC secured by a second lien pledge of Exela Receivables 3, LLC, a subsidiary of BPA (as amended, the "Second Lien Note"). The Second Lien Note was originally scheduled to mature on June 17, 2025 and bears interest at a per annum rate of one-month Term SOFR plus 7.5%. On July 29, 2025, BPA entered into an Amended and Restated Second Lien Credit Agreement with BRF Finance Co., LLC. The amendment was executed in connection with BPA's emergence from the Chapter 11 Cases to align the terms of the Second Lien Note with the Company's new capital structure and

intercreditor arrangements. The revised agreement extended the maturity of the Second Lien Note to March 30, 2026. At the option of the Company, the maturity of the Second Lien Note was further extended to September 30, 2026.

The obligations under the Second Lien Note are fully and unconditionally guaranteed by certain subsidiaries of BPA and are secured by liens on BPA's and certain guarantors' assets, including accounts receivable, inventory, cash and deposit accounts, equipment, real property, equity interests in subsidiaries, intercompany obligations, general intangibles, and other related assets. Pursuant to the ABL Intercreditor Agreement, BRF Finance Co., LLC's liens are subordinated to the liens securing the Company's senior debt facilities; specifically, the ABL Facility with respect to receivables, inventory, cash, and related assets, and the Super Senior Term Loan and July 2030 Notes with respect to fixed assets, equity interests, and other non-ABL assets. As a result, the obligations under the Second Lien Note are effectively second-priority liens behind the senior secured debt. The Second Lien Notes requires the borrowers to maintain a minimum fixed charge coverage ratio, calculated on a trailing twelve-month basis. The minimum required ratio varies depending on the period: for the defined periods tested quarterly through December 31, 2025, and monthly from January 1, 2026, through June 30, 2026, the fixed charge coverage ratio must be not less than 0.85 to 1.00. Thereafter, for the defined periods tested monthly from July 1, 2026, through the maturity date, the fixed charge coverage ratio must be not less than 1.00 to 1.00. The Company was in compliance with all financial covenants as of December 31, 2025.

During 2024 (Predecessor), the Company had repaid \$6.0 million principal amount of the Second Lien Note. The loss on early extinguishment of the debt during the year ended December 31, 2024 (Predecessor) totaled \$0.4 million and is inclusive of \$0.4 million write off of debt issuance costs. As of December 31, 2024 (Predecessor), there

[Table of Contents](#)

were borrowings of \$25.5 million outstanding under the Second Lien Note payable at maturity. During the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), the Company repaid \$3.8 million and \$6.0 million, respectively, in principal amount of the Second Lien Note. The loss on early extinguishment of debt during the period August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor) totaled \$0 and \$0.1 million, respectively and represents write off of debt issuance costs. Loss on the early extinguishment of debt is reported within debt modification and extinguishment costs (gain), net within the Company's consolidated and combined statements of operations. As of December 31, 2025 (Successor), there were borrowings of \$15.8 million outstanding under the Second Lien Note included in the current portion of long-term debt in the consolidated balance sheet.

ABL Facility

On July 29, 2025, Exela Technologies BPA, LLC and certain of its subsidiaries (collectively, the "ABL Borrowers") entered into a \$150.0 million Asset-Based Lending Credit and Security Agreement (as amended, the "ABL Facility") with MidCap Funding IV Trust, as administrative and collateral agent (the "Agent"), and a syndicate of lenders (the "ABL Lenders"). The ABL Facility was executed in connection with BPA's emergence from the Chapter 11 Cases and provides for revolving commitments of up to \$150.0 million, with an option to increase to \$175.0 million through an additional tranche. The borrowing availability under the ABL Facility is limited to the lesser of (i) the aggregate revolving commitments and (ii) the borrowing base, which is calculated by reference to eligible billed and unbilled receivables, certain other receivables, eligible cash, and related assets, reduced by reserves established by the Agent. Borrowings under the ABL Facility bear an interest at Term SOFR plus an applicable margin ranging from 3.8% to 4.3%, depending on the ABL Borrowers' trailing twelve-month EBITDA, subject to a 1.0% SOFR floor. Interest is payable monthly, with a 2.0% default premium. In addition to interest, the ABL Borrowers are required to pay an unused commitment fee of 0.5% per annum on the average daily unused portion of the commitments, customary letter of credit fees on the face amount of each outstanding letter of credit, a collateral management fee payable to the Agent, and a minimum balance fee if borrowings under the ABL Facility fall below 20.0% of the Borrowing Base.

As of December 31, 2025 (Successor), there were borrowings of \$76.8 million outstanding under the ABL Facility. There were unamortized debt issuance costs of \$1.9 million on the ABL Facility as of December 31, 2025 included in other noncurrent assets on the consolidated balance sheet. The ABL Facility matures on July 29, 2028, and may be prepaid at any time without penalty (other than breakage costs). Mandatory repayments are required from proceeds of dispositions of the ABL Priority Collateral, certain insurance proceeds, or upon acceleration following an event of default. The events of default include failure to pay principal, interest or fees when due; breaches of covenants or other material

contractual obligations; materially inaccurate representations or warranties; failure to pay specified other indebtedness above \$25.0 million; bankruptcy or insolvency; final unsatisfied judgments; ERISA-related defaults; and a change in control.

The obligations under the ABL Facility are guaranteed on a joint and several basis by substantially all of the ABL Borrowers' U.S. subsidiaries. The liens securing the ABL Facility are subject to an Intercreditor Agreement (the "ABL Intercreditor Agreement") dated July 29, 2025, among MidCap Funding IV Trust, Ankura Trust Company, LLC, as Term Agent, BRF Finance Co., LLC, as Riley Agent, and U.S. Bank Trust Company, National Association, as July 2030 Notes Trustee. The ABL Intercreditor Agreement governs lien priorities including (i) relative priorities for the collateral securing the ABL Facility obligations, the Super Senior Term Loan obligations, the July 2030 Notes Indenture obligations and the Second Lien Note obligations; (ii) collateral priorities securing (a) any Second Lien Note obligations, (b) any Super Senior Term Loan obligations, (c) any July 2030 Notes Indenture obligations, or (d) any Excess ABL Debt; and (iii) prohibition on contesting liens. The ABL Facility is secured by a first-priority lien on certain ABL Priority Collateral (including receivables, cash, inventory, deposit accounts, and related assets) and a junior lien on certain Term Priority Collateral (as defined therein), subject to the ABL Intercreditor Agreement.

The ABL Facility includes customary affirmative covenants such as reporting, collateral maintenance, insurance, and inspections, and negative covenants, including restrictions on additional indebtedness, liens, asset sales, investments, affiliate transactions, and changes in business, with a minimum fixed charge coverage ratio, tested if excess availability falls below a defined threshold. The ABL Facility requires the ABL Borrowers to maintain a minimum fixed charge coverage ratio, calculated on a trailing twelve-month basis. The fixed charge coverage ratio is defined as the ratio

[Table of Contents](#)

of EBITDA *less* Unfinanced Capital Expenditures *less* Capitalized Software Expenditures, to Fixed Charges (as such terms are defined in the ABL Facility). The minimum required ratio varies depending on the period: for the defined periods tested quarterly through December 31, 2025, and monthly from January 1, 2026 through June 30, 2026, the fixed charge coverage ratio must be not less than 0.85 to 1.00. Thereafter, for the defined periods tested monthly from July 1, 2026, through the maturity date, the fixed charge coverage ratio must be not less than 1.00 to 1.00. The ABL Facility also requires maintaining minimum excess availability of not less than \$7.5 million at any time for three (3) or more consecutive business days through June 30, 2026. The Company was in compliance with all financial covenants as of December 31, 2025 (Successor).

Senior Credit Facilities Agreement

In June 2024, XBP Europe, Inc., a wholly owned subsidiary of the Company, together with certain other subsidiaries, entered into a Facilities Agreement (the “Facilities Agreement”) with HSBC UK Bank plc (“HSBC”) for a £15.0 million and €10.5 million secured credit facility consisting of (i) a single draw, secured Term Loan A facility in an aggregate principal amount of £3.0 million (the “2028 Term Loan A Facility”), (ii) a single draw, secured Term Loan B facility in an aggregate principal amount of €10.5 million (the “2028 Term Loan B Facility”, collectively with the 2028 Term Loan A Facility, the “2028 Term Loan Facilities”) and (iii) a multi-draw, multi-currency secured revolving credit facility in an aggregate principal amount of £12.0 million (the “Revolving Credit Facility”), and, together with the 2028 Term Loan Facilities, (the “Senior Credit Facilities”). Pursuant to the original Facilities Agreement, the 2028 Term Loan Facilities mature on June 26, 2028, and the Revolving Credit Facility matures on June 26, 2027, with certain extension rights at the discretion of HSBC. Borrowings under the 2028 Term Loan A Facility, the 2028 Term Loan B Facility and Revolving Credit Facility bear interest at a rate per annum equal to the SONIA plus the applicable margin of 3.25%, Euro Interbank Offered Rate (“EURIBOR”) plus the applicable margin of 3.25% and Reference Rate plus the applicable margin of 3.25%, respectively. “Reference Rate” for any period means (i) Secured Overnight Financing Rate (“SOFR”) for funds extended in U.S. Dollars; (ii) the EURIBOR, for funds extended in Euros; (iii) the SONIA, for funds extended in Pounds Sterling; and the Stockholm Interbank Offered Rate (“STIBOR”) for funds extended in Swedish Krona.

On July 25, 2025, an amendment to the Facilities Agreement was executed to permit the borrowing of an additional sum of €16.1 million, the equivalent of £14.0 million, under the Revolving Credit Facility. The drawdowns were made in Euro and used for general corporate purposes. This amendment extended the maturity of the Revolving Credit Facility to June 26, 2028, and updated certain definitions and covenants reflecting the Company’s new corporate structure following the Business Combination as discussed in Note 5, *Business Combination*.

The Senior Credit Facilities continue to be secured by first-ranking security interests over substantially all assets of XBP Europe, Inc. and other borrower and guarantor subsidiaries, including cash, receivables, inventory, intercompany receivables, shares in subsidiaries, and related assets. The amendment added a new covenant restricting XBP Global Holdings, Inc., as the parent of XBP Europe, Inc., from providing certain guarantees or other credit support. Except as otherwise provided by applicable law, all obligations under the Facilities Agreement are jointly and severally unconditionally guaranteed by the European subsidiaries of XBP Europe, Inc.

The outstanding principal amount of the 2028 Term Loan A Facility is scheduled to be repaid in fifteen (15) equal quarterly installments of £150 thousand, which commenced September 30, 2024, with the remaining outstanding principal amount of £750 thousand payable at maturity along with accrued and unpaid interest. The outstanding principal amount of the 2028 Term Loan B Facility is scheduled to be repaid in fifteen (15) equal quarterly installments of €525 thousand, which commenced September 30, 2024, with the remaining outstanding principal amount of €2.6 million payable at maturity along with accrued and unpaid interest. The Company may, at any time, prepay the principal of the Senior Credit Facilities. Each prepayment shall be accompanied by the payment of accrued interest, without any premium or penalty. However, the Company is limited to a maximum of four voluntary prepayments of the Revolving Credit Facility within any consecutive twelve-month period. During the period August 1, 2025 to December 31, 2025, the Company repaid \$1.6 million of outstanding principal amount under the 2028 Term Loan A Facility and 2028 Term Loan B Facility. As of December 31, 2025, the outstanding balance of the 2028 Term Loan A Facility, the 2028 Term Loan B Facility, and the Revolving Credit Facility was approximately \$2.8 million, \$8.6 million, and \$35.6 million, respectively.

[Table of Contents](#)

The Facilities Agreement contains financial covenants including, but not limited to, (i) a consolidated total leverage ratio of not greater than 2.50 to 1.00 (with step-downs to (a) 2.25 to 1.00 starting January 1, 2025 and (b) 2.00 to 1.00 starting January 1, 2026); (ii) a cash flow coverage ratio of at least 1.10:1.00; and (iii) a consolidated interest coverage ratio of not less than 4.00 to 1.00. The Facilities Agreement and indenture governing the Senior Credit Facilities contains certain affirmative and negative covenants limiting the ability of the XBP Europe, Inc. to effect mergers and change of control events as well as certain other limitations, including limitations on (i) incurrence of additional indebtedness or liens, (ii) dispositions of assets, (iii) substantial changes of the general nature of the business, (iv) entering into restrictive agreements, (v) making certain investments, loans, advances, guarantees and acquisitions, (vi) prepaying certain indebtedness, (vii) the declaration and payment of dividends or other restricted payments, (viii) engaging in transactions with affiliates, or (ix) amending certain material documents. As of December 31, 2025, the Company was in compliance with all affirmative and negative covenants under its Facilities Agreement, including all financial covenants, except for a temporary technical non-compliance with the net leverage covenant arising from the timing of an intercompany cash transfer on December 31, 2025. The lender has acknowledged this matter, and no remedies were exercised or are expected to be exercised.

BR Exar AR Facility

On February 12, 2024, certain of the Company's subsidiaries entered into a receivables purchase agreement with BR Exar, LLC ("BREL"), an affiliate of B. Riley Commercial Capital, LLC (as subsequently amended on various dates in connection with each monthly sale of certain existing receivables, up to and including December 31, 2025 (the "BR Exar AR Facility")). The Company received an aggregate of \$15.2 million and \$22.1 million, net of legal and other fees of \$1.8 million and \$1.6 million, respectively, under the BR Exar AR Facility during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. Under the terms of the BR Exar AR Facility during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), certain of the Company's subsidiaries agreed to sell certain existing receivables and all of their future receivables to BREL until such time as BREL shall have collected \$17.0 million and \$25.5 million, respectively, net of any costs, expenses or other amounts paid to or owing to the buyer under the agreement. BREL collected \$23.0 million and \$25.8 million under the BR Exar AR Facility during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. As of December 31, 2025, and December 31, 2024, there was a \$1.4 million and \$7.8 million of outstanding balance, respectively, under the BR Exar AR Facility included in the current portion of long-term debt in the consolidated and combined balance sheets.

Under the BR Exar AR Facility, transfers of accounts receivable from certain of the Company's subsidiaries to BREL are treated as secured borrowings under ASC 860, *Transfers and Servicing* and are not accounted for as a reduction in accounts receivable. Accordingly, the Company treated the aggregate \$1.8 million and \$1.6 million of legal fee and other expense incurred under the BR Exar AR Facility as debt issuances cost, and \$0 and \$1.7 million of difference between the net proceeds received by the Company and total amount collected by BREL under the BR Exar AR Facility as original issue discount during the periods August 1, 2025 to December 31, 2025 (Successor) and January 1, 2025 to July 31, 2025 (Predecessor), respectively. Amortizations of the debt issuance cost and original issue discount relating to the BR Exar AR Facility are included in interest expense, net in the consolidated and combined statements of operations.

Amended Factoring Agreement

On September 15, 2023, certain European subsidiaries of the Company entered into an amendment to a secured borrowing facility (the "Amended Factoring Agreement") for a non-recourse factoring program pursuant to which an unrelated third party (the "Factor") purchases certain approved and partially approved accounts receivables (as defined in the Amended Factoring Agreement) from certain subsidiaries of the Company (the "Relevant Entities") up to a maximum amount of €15.0 million while assuming the risk of non-payment on the purchased accounts receivables up to the level of approval. The Relevant Entities have no continuing involvement in the transferred accounts receivable, other than collection and administrative responsibilities and, once sold, the accounts receivable are no longer available to satisfy creditors of the relevant entities.

[Table of Contents](#)

The Company accounts for the transactions under the Amended Factoring Agreement as a sale under ASC 860, Transfers and Servicing, and as an off-balance sheet arrangement. Net funds received from the transfers reflect the face value of the account less a fee, which is recorded as an increase to cash and a reduction to accounts receivable outstanding in the consolidated balance sheets. The Company reports the cash flows attributable to the sale of accounts receivables to the Factor and the cash receipts from collections made on behalf of and paid to the Factor under the Amended Factoring Agreement, on a net basis as trade accounts receivables in cash flows from operating activities in the Company's consolidated statements of cash flows.

As of December 31, 2025, the Company's outstanding factored accounts receivable totalled approximately \$2.6 million pursuant to the Amended Factoring Agreement, representing the face value of the factored invoices. The Company recognizes factoring costs upon disbursement of funds. The Company incurred a loss on sale of accounts receivables including expenses pursuant to the Amended Factoring Agreement totalling approximately \$0.3 million for the period August 1, 2025 to December 31, 2025 (Successor), which is presented in selling, general and administrative expenses on the consolidated statements of operations.

Predecessor Indebtedness (not outstanding following the Restructuring)

Predecessor's July 2026 Notes

As of December 31, 2024, there was outstanding \$24.0 million aggregate principal amount of 11.5% First-Priority Senior Secured Notes scheduled to mature July 15, 2026 (the "July 2026 Notes") issued by Exela Intermediate LLC and Exela Finance Inc., wholly-owned subsidiaries of the Predecessor. The July 2026 Notes were guaranteed by nearly all U.S. subsidiaries of Exela Intermediate LLC. The July 2026 Notes bore interest at a rate of 11.5% per year. The Predecessor was required to pay interest on the July 2026 Notes on January 15 and July 15 of each year and commenced making such interest payments on July 15, 2022. Following the Restructuring, the July 2026 Notes were reclassified as liabilities subject to compromise and were discharged on July 29, 2025 by issuance of Common Stock of the Company to holders of claims relating to such notes in the Restructuring. Refer to Note 4, *Fresh Start Accounting*.

Predecessor's April 2026 Notes

As of December 31, 2024, there was outstanding \$1,231.1 million aggregate principal amount of 11.5% First-Priority Senior Secured Notes scheduled to mature April 15, 2026 (the "April 2026 Notes") issued by Exela Intermediate LLC and Exela Finance Inc., wholly-owned subsidiaries of the Predecessor. The April 2026 Notes were guaranteed, by the same guarantors that guaranteed the July 2026 Notes (other than certain guarantors that had ceased to have operations or assets) and by certain of the Predecessor's other affiliates. The

April 2026 Notes bore interest at a rate of 11.5% per year. The Predecessor was required to pay interest on the April 2026 Notes on January 15 and July 15 of each year, and commenced making such interest payments on July 15, 2023. Interest historically was payable in cash or, subject to the terms of the governing indenture, in kind through the issuance of additional April 2026 Notes.

Following the Restructuring, the April 2026 Notes were reclassified as liabilities subject to compromise and were discharged on July 29, 2025, by issuance of Common Stock of the Company to holders of claims relating to such notes in the Restructuring. Refer to Note 4, *Fresh Start Accounting*.

Predecessor's Senior Secured Term Loan

As of December 31, 2024, there was \$38.5 million outstanding under a financing agreement among Exela Intermediate LLC and Exela Finance Inc., wholly-owned subsidiaries of the Predecessor, as borrowers and certain lenders and Blue Torch Finance LLC, as administrative agent, pursuant to which the lenders extended a term loan maturing January 14, 2026 ("Senior Secured Term Loan"). The Senior Secured Term Loan was, at the option of the Company, either a Reference Rate Loan, or a Secured Overnight Financing Rate ("SOFR") Loan. Each portion of the Senior Secured Term Loan that was a Reference Rate Loan bore interest on the principal amount outstanding from the date of the Senior Secured Term Loan until repaid, at a rate per annum equal to the Reference Rate plus the Applicable Margin. "Reference Rate" for any period meant the greatest of (i) 4.00% per annum, (ii) the federal funds rate plus 0.50% per annum, (iii) the Adjusted Term SOFR (which rate was to be calculated based upon an interest period of 1

[Table of Contents](#)

month and should be determined on a daily basis) plus 1.00% per annum, and (iv) the rate last quoted by the Wall Street Journal as the "Prime Rate" in the United States. "Applicable Margin," with respect to the interest rate of (a) any Reference Rate Loan was 10.39% per annum, and (b) any SOFR Rate Loan was 11.39% per annum. SOFR Rate Loans bore interest on the principal amount outstanding, at a rate per annum equal to the Adjusted Term SOFR rate for the Interest Period in effect for the Term Loan plus Applicable Margin. "Adjusted Term SOFR" meant the rate per annum equal to Term SOFR for such calculation, plus 0.26161%. "Term SOFR," for calculation with respect to a SOFR Rate Loan, was the per annum forward-looking term rate based on secured overnight financing rate for a tenor comparable to the applicable interest period on the day that was two business days prior to the first day of such interest period. However, with respect to a Reference Rate Loan, "Term SOFR" meant the per annum forward-looking term rate based on secured overnight financing rate for a tenor of three months on the day that was two business days prior to such day. Term SOFR was subject to a floor rate of 4.00%.

The Predecessor had an option to prepay the principal of the Senior Secured Term Loan, subject to the payment of accrued interest and applicable premiums. The outstanding principal amount on the Senior Secured Term Loan was repaid in full on July 29, 2025 along with accrued interest (including default interest) and the applicable premium.

Predecessor's Securitization Facility

On June 17, 2022, the Predecessor entered into an amended and restated receivables purchase under an existing \$150.0 million securitization facility (the "Securitization Facility") among certain of the Company's subsidiaries, Exela Receivables 3, LLC (the "Securitization Borrower"), Exela Receivables 3 Holdco, LLC (the "Securitization Parent SPE," and together with the Securitization Borrower, the "SPEs") and certain global financial institutions (the "Purchasers"). The amended agreement provided that the SPEs were permitted to sell certain accounts receivable to the Purchasers until June 17, 2025. Under the amended agreement, transfers of accounts receivable from the SPEs were treated as sales and were accounted for as a reduction in accounts receivable, because the agreement transferred effective control over and risk related to the accounts receivable to the Purchasers. The Predecessor and related subsidiaries had no continuing involvement in the transferred accounts receivable, other than collection and administrative responsibilities, and, once sold, the accounts receivable were no longer available to satisfy creditors of the Predecessor or its subsidiaries.

Accounts receivable were sold at face value, and the Predecessor de-recognized \$509.0 million of accounts receivable under this agreement during the year ended December 31, 2024 (Predecessor). The amount remitted to the Purchasers during fiscal year 2024 was \$508.2 million. Unsold accounts receivable of \$26.2 million had been pledged by the SPEs as collateral to the Purchasers as of December 31, 2024 (Predecessor) and were included in

accounts receivable, net in the combined and consolidated balance sheet as of December 31, 2024 (Predecessor). The program resulted in a pre-tax loss of \$8.9 million for the year ended December 31, 2024 (Predecessor). The Predecessor de-recognized approximately \$257.7 million of accounts receivable under this agreement during the period from January 1, 2025 through July 31, 2025 (Predecessor). The amount remitted to the Purchasers during the period from January 1, 2025 through July 31, 2025 (Predecessor) was approximately \$254.3 million. The program resulted in a pre-tax loss of approximately \$4.2 million for period from January 1, 2025 through July 31, 2025 (Predecessor). The Securitization Facility was terminated on July 29, 2025.

The fair value of the sold accounts receivable approximated their book value due to their short-term nature. Sold accounts receivable are presented as a change in receivables within operating activities in the combined and consolidated statements of cash flows for the year ended December 31, 2024 (Predecessor) and for period from January 1, 2025 through July 31, 2025 (Predecessor).

Predecessor's Debtor-in-Possession Financing

On March 3, 2025, BPA filed the Chapter 11 Cases. In connection with the Chapter 11 Cases, Exela Finance, Inc. and Exela Intermediate LLC and the guarantors party thereto entered into a debtor-in-possession ("DIP") financing agreement totaling \$185.0 million. The DIP facility consisted of a total of \$80.0 million in new money loans and \$105.0 million in "rolled-up" prepetition notes. The DIP facility was critical for BPA's operations during the Chapter 11 Cases.

[Table of Contents](#)

As collateral, BPA granted security interests and liens to Ankura Trust Company, LLC, for the benefit of the lenders, with the liens being senior to the prepetition financing agreements, subject to certain limited exceptions.

The DIP Facility loans were due for repayment on the earliest of August 1, 2025, substantial consummation of the Plan, or other specified events. Interest accrued at 12.00% per annum for the new money loans and 11.50% per annum for the roll-up loans, with interest capitalized monthly on a paid-in-kind basis. As of the Emergence Date, total outstanding amount of debtor-in-possession obligations under DIP facility was \$193.0 million including accrued interest and interest capitalized monthly on a paid-in-kind basis. Following the Restructuring, the Company issued \$183.0 million of July 2030 Notes (as described above) in a cashless rollover of a comparable amount of debtor-in-possession obligations with the remaining \$10.0 million of debtor-in-possession obligations being cancelled and replaced with \$6.0 million of loans under the Super Senior Term Loan (as described above).

Long-Term Debt Outstanding

As of December 31, 2025 (Successor), and December 31, 2024 (Predecessor), the following debt instruments were outstanding:

	Successor	Predecessor
	Consolidated	Combined and Consolidated
	December 31, 2025	December 31, 2024
Other (a)	\$ 14,921	\$ 11,324
Secured borrowings under BR Exar AR Facility (b)	1,257	7,030
Senior secured term loan (c)	—	36,936
July 2026 Notes (d)	—	23,200
April 2026 Notes (e)	—	1,331,953
Second Lien Note maturing September 30, 2026 (f)	15,775	24,509
2028 Term Loan Facilities maturing June 26, 2028 (g)	10,862	—
Revolving Credit Facility maturing in June 26, 2028	35,563	—
Super Senior Term Loan maturing July 28, 2028 (h)	45,957	—
ABL Facility maturing July 29, 2028	76,753	—
July 2030 Notes maturing July 15, 2030 (i)	186,513	—
Total debt	387,601	1,434,952
Less: Current portion of long-term debt	(34,334)	(1,433,484)
Long-term debt, net of current maturities (j)	\$ 353,267	\$ 1,468

- (a) Other debt represents outstanding loan balances associated with various hardware and software purchases, and maintenance and leasehold improvements, along with other loans entered into by subsidiaries of the Company. This includes \$5.0 million of outstanding principal owed to BREL under a promissory note executed in December 2025.
- (b) Net of unamortized debt issuance cost of \$0.2 million as of December 31, 2025; and net of unamortized net original issue discount of \$0.7 million and less than \$0.1 million of debt issuance cost as of December 31, 2024.
- (c) Net of unamortized debt issuance costs of \$1.0 million and net of unamortized original issue discount of \$0.6 million as of December 31, 2024.
- (d) Net of unamortized original issue discount of \$0.6 million and debt issuance costs of \$0.2 million as of December 31, 2024. Following the Restructuring, the July 2026 Notes were reclassified to liabilities subject to compromise and were discharged on July 29, 2025 by issuance of Common Stock of the Company to the noteholders. Refer to Note 4, *Fresh Start Accounting*.
- (e) Includes unamortized net debt exchange premium of \$100.9 million as of December 31, 2024. Following the Restructuring, the April 2026 Notes were reclassified to liabilities subject to compromise and were discharged on

[Table of Contents](#)

July 29, 2025 by issuance of Common Stock of the Company to holders of claims relating to such notes. Refer to Note 4, *Fresh Start Accounting*.

- (f) Net of unamortized debt issuance costs of \$0 and \$1.0 million as of December 31, 2025 and December 31, 2024, respectively.
- (g) Net of unamortized debt issuance costs of \$0.6 million as of December 31, 2025.
- (h) Net of unamortized debt issuance costs of less than \$0.1 million as of December 31, 2025.
- (i) Net of unamortized debt issuance costs of \$0.5 million as of December 31, 2025 and net of \$14.0 million of principal amount of July 2030 Notes internally held by a subsidiary of the Company as of December 31, 2025.
- (j) Outstanding amount of \$1.5 million of long-term debt, net of current maturities as of December 31, 2024 (Predecessor), represents long term notes payable relating to acquisition of assets. This was not subject to default provisions based on filing for the bankruptcy or a cross-default provision.

As of December 31, 2025 (Successor), maturities of long-term debt are as follows:

	<u>Maturity</u>
2026	\$ 35,300
2027	3,933
2028	163,225
2029	—
2030	186,993
Thereafter	—
Total long-term debt	389,451
Less: Unamortized original issue discount and debt issuance cost	(1,850)
	<u>\$387,601</u>

14. Income Taxes

The Company provides for income taxes using an asset and liability approach, under which deferred income taxes are provided for based upon enacted tax laws and rates applicable to periods in which the taxes become payable.

For financial reporting purposes, income/ (loss) before income taxes includes the following components:

	Successor	Predecessor	
	Consolidated	Combined and Consolidated	
	Period from August	Period from January Year Ended	
	1, 2025 through	1, 2025 through	December 31,
	December 31,	July 31, 2025	2024
	2025		
United States	\$ (343,871)	\$ 1,491,457	\$ (214,395)
Foreign	(2,241)	(924)	9,254
	<u>\$ (346,112)</u>	<u>\$ 1,490,533</u>	<u>\$ (205,141)</u>

[Table of Contents](#)

The provision for federal, state, and foreign income taxes consists of the following:

	Successor	Predecessor	
	Consolidated	Combined and Consolidated	
	Period from August 1, 2025 through December 31, 2025	Period from January 1, 2025 through July 31, 2025	Year Ended December 31, 2024
Federal			
Current	\$ 511	\$ (3,374)	\$ 3,693
Deferred	(764)	31,705	245
State			
Current	21	392	1,035
Deferred	1,372	4,591	(62)
Foreign			
Current	4,090	2,461	4,342
Deferred	(219)	100	756
Income Tax Expense	<u>\$ 5,011</u>	<u>\$ 35,875</u>	<u>\$ 10,009</u>

The differences between income taxes expected by applying the U.S. federal statutory tax rate of 21% and the amount of income taxes provided for period from August 1, 2025 through December 31, 2025 (Successor) and period from January 1, 2025 through July 31, 2025 (Predecessor) are as follows:

	Successor		Predecessor	
	Consolidated		Combined and Consolidated	
	Period from August 1, 2025 through December 31, 2025		Period from January 1, 2025 through July 31, 2025	
	Amount	Percent	Amount	Percent
U.S. Federal Statutory Tax Rate	\$(72,684)	21.0 %	\$313,013	21.0 %
State and Local Income Taxes, Net of Federal				
Income Tax Effect (1)	1,100	(0.3)	3,936	0.3
Foreign Tax Effects	1,664	(0.5)	2,051	0.1
Effect of Cross-Border Tax Laws	335	(0.1)	297	0.0
Tax Credits	(143)	0.0	(79)	(0.0)
Changes in Valuation Allowances	4,347	(1.3)	(256,058)	(17.1)
Nontaxable or Nondeductible Items:				
Restructuring gain	—	—	(314,376)	(21.1)
Fresh start	—	—	278,575	18.7
Goodwill impairment	67,262	(19.4)	—	—

Other	755	(0.2)	8,061	0.5
Other Adjustments:				
Uncertain tax positions	2,375	(0.7)	455	0.0
Effective Tax Rate	<u>\$ 5,011</u>	<u>(1.5)%</u>	<u>\$35,875</u>	<u>2.4 %</u>

- (1) State taxes in California, Minnesota, New York, and New York City made up the majority (greater than 50%) of the tax effect in this category for the period from August 1, 2025 through December 31, 2025 (Successor), and state taxes in California, Illinois, Minnesota, and New York made up the majority (greater than 50%) of the tax effect in this category for the period from January 1, 2025 through July 31, 2025 (Predecessor).

[Table of Contents](#)

Cash payments of U.S. federal, state and foreign income taxes, net of refunds, were as follows:

	Successor	Predecessor
	Consolidated	Combined and Consolidated
	Period from August 1, 2025 through December 31, 2025	Period from January 1, 2025 through July 31, 2025
Federal	\$ 63	\$ 25
Texas	—	365
State Other	74	613
India	1,422	1,764
Netherlands	219	—
Germany	991	—
Foreign Other	180	130
	<u>\$ 2,949</u>	<u>\$ 2,897</u>

The differences between income taxes expected by applying the U.S. federal statutory tax rate of 21% and the amount of income taxes provided for the year ended December 31, 2024 (Predecessor), before the adoption of ASU 2023-09 and as previously disclosed, are as follows:

	Predecessor
	Combined and Consolidated
	Year Ended December 31, 2024
Tax at statutory rate	\$ (43,080)
Add (deduct)	
State income taxes	(4,276)
Foreign income taxes	(77)
Nondeductible goodwill impairment	22,854
Permanent differences	1,878
Changes in valuation allowance	28,788
Unremitted earnings	734
GILTI Inclusion	282
Uncertain tax positions	2,499
Other	407
Income Tax Expense	<u>\$ 10,009</u>



[Table of Contents](#)

The components of deferred income tax liabilities and assets are as follows:

	Successor	Predecessor
	Consolidated	Combined and Consolidated
	December 31, 2025	December 31, 2024
Deferred income tax liabilities:		
Book over tax basis of intangible assets and fixed assets	\$ (75,921)	\$ (25,247)
Unremitted foreign earnings	(10,967)	(10,341)
Operating lease and finance lease right-of-use assets	(5,441)	(6,349)
Other, net	(2,793)	(1,607)
Total deferred income tax liabilities	\$ (95,122)	\$ (43,544)
Deferred income tax assets:		
Allowance for credit losses and receivable adjustments	\$ 1,947	\$ 1,722
Inventory	319	3,064
Accrued liabilities	10,135	15,391
Net operating loss and tax credit carryforwards	51,490	15,495
Tax deductible goodwill	—	1,665
Disallowed interest deduction	125,167	267,032
Operating lease and finance lease liabilities	5,896	6,512
Sec 174 Costs	—	1,991
Debt and credit facilities	—	130,062
Other, net	4,499	3,737
Total deferred income tax assets	\$199,453	\$446,671
Valuation allowance	(156,926)	(416,245)
Total net deferred income tax liabilities	\$ (52,595)	\$ (13,118)

Gross deferred tax assets are reduced by valuation allowances to the extent the Company determines it is not more-likely-than-not the deferred tax assets are expected to be realized. At December 31, 2025 (Successor), the Company recognized \$156.9 million of valuation allowances against gross deferred tax assets primarily related to disallowed interest deduction and state and foreign net operating losses. Of this amount, approximately \$1.7 million of the total valuation allowance relates to state limitations on the utilization of net operating loss carryforwards due to numerous changes in ownership. Approximately \$92.7 million and \$13.2 million of the total valuation allowance relates to U.S. federal and state

disallowed interest deduction pursuant to the TCJA. The remaining \$49.3 million of the valuation allowance relates to non-limited U.S. and foreign net operating losses that are not expected to be realizable.

The net change during the year from December 31, 2024 (Predecessor) in the total valuation allowance was a decrease of \$259.3 million primarily driven by fresh start accounting adjustments, including the recognition of deferred tax liabilities associated with revalued assets, which provided a source of taxable income supporting the realizability of certain deferred tax assets. In addition, the decrease reflects the reduction in deferred tax assets related to debt instruments and interest limitation carryforwards under Section 163(j) and the reduction of the corresponding valuation allowances. These decreases were partially offset by valuation allowances recorded on deferred tax assets primarily related to net operating losses generated during the current period and as a result of purchase accounting adjustments. The company has recorded a valuation allowance against these deferred tax assets as of December 31, 2025 (Successor) as it has determined that it is not more likely than not that such deferred tax assets will be realized.

The Company has not performed a detailed analysis under Section 382 of the Internal Revenue Code (the “Code”) with respect to the tax attributes recorded as part of the purchase accounting, therefore, limitations on utilization, if any, have not been determined.

[Table of Contents](#)

Included in deferred tax assets are federal, foreign and state net operating loss carryforwards, and state tax credit carryforwards due to expire beginning in 2026 through 2044. As of December 31, 2025 (Successor), the Company has state income tax net operating loss (NOL) carryforwards of \$323.6 million, which will expire at various dates from 2026 through 2044, and \$5.1 million of federal NOLs and \$79.9 million of state NOLs that carry forward indefinitely. Such NOL carryforwards expire as follows:

	State and Local		
	Federal NOL	NOL	Foreign NOL
2026–2030	\$ —	\$ 31,874	\$ 395
2031–2035	—	59,546	—
2036–2044	—	152,284	—
Indefinite	5,071	79,854	33,922
	<u>\$ 5,071</u>	<u>\$323,558</u>	<u>\$34,317</u>

As of December 31, 2025 (Successor), the Company has foreign net operating loss carryforwards of \$34.3 million, \$0.2 million of which were generated in Poland and Serbia, \$0.2 million were generated in Finland and all of which will expire in 2026 and 2028, respectively. The remainder of the foreign net operating losses will be carried forward indefinitely.

The Company accounts for uncertain tax positions in the Company's financial statements and utilizes a recognition threshold and measurement attribute for financial statement disclosure of tax positions taken or expected to be taken on tax returns. The total amount of unrecognized tax benefits, exclusive of interest and penalties, is \$4.3 million, and \$3.5 million at December 31, 2025 (Successor) and 2024 (Predecessor), respectively. Included in the balance of unrecognized tax benefits as of December 31, 2025 (Successor) and 2024 (Predecessor) are \$4.3 million and \$3.5 million, respectively, of tax benefits that, if recognized, would benefit the effective tax rate. Total accrued interest and penalties recorded on the consolidated balance sheet was \$6.2 million and \$4.7 million at December 31, 2025 (Successor) and 2024 (Predecessor), respectively. The total amount of interest and penalties recognized in the consolidated statement of operations for the years ended December 31, 2025 (Successor) and 2024 (Predecessor) was \$0.8 million and \$0.8 million, respectively.

The following is a tabular reconciliation of the total amounts of unrecognized tax benefits:

Successor	Predecessor
Consolidated	Combined and Consolidated

	Period from August 1, 2025 through December 31, 2025	Year Ended Period from January 1, 2025 through December 31, 2024
Unrecognized tax benefits—Opening balance	\$ 3,225	\$ 3,541 \$2,221
Gross increases—tax positions in prior period	8	— 1,531
Gross decreases—tax positions in prior period	(203)	— —
Gross increases—tax positions in current period	1,336	134 (32)
Settlement	—	(296) —
Lapse of statute of limitations	(34)	(154) (179)
Unrecognized tax benefits—closing balance	\$ 4,332	\$ 3,225 \$3,541

The Company files income tax returns in the U.S. and various state and foreign jurisdictions. The statute of limitations for U.S. purposes is open for tax years ending on or after December 31, 2020. State jurisdictions that remain subject to examination are not considered significant. The Company has significant foreign operations in India and EMEA. The Company may be subject to examination by the India tax authorities for tax periods ending on or after March 31, 2020. In addition, the company is open for examination by German tax authorities for tax periods ending on or after December 31, 2018.

At December 31, 2025 (Successor), the Company maintains its prior indefinite reinvestment assertion on undistributed earnings related to certain foreign subsidiaries. Accordingly, no deferred taxes have been provided for

[Table of Contents](#)

withholding taxes or other taxes that would result upon repatriation of approximately \$151.0 million of undistributed earnings from these foreign subsidiaries as those earnings continue to be permanently reinvested. However, the Company does not indefinitely reinvest earnings in Canada, India, Mexico and Philippines. The Company recorded \$10.4 million and \$9.8 million of foreign withholding taxes on the undistributed earnings of these jurisdictions at December 31, 2025 (Successor) and 2024 (Predecessor), respectively. The Company recorded \$0.3 million, \$0.3 million and \$0.7 million of deferred tax expenses in the consolidated and combined statement of operations for period from August 1, 2025 through December 31, 2025 (Successor) and period from January 1, 2025 through July 31, 2025 (Predecessor) and the year ended December 31, 2024 (Predecessor), respectively. The foreign withholding taxes deferred expense recorded in the current year is attributable to the current year undistributed earnings.

The Company is continuing to refine the calculation of the Transaction Tax Liabilities. However, the full set of required data to complete the analysis will not be available until 2025 federal income tax return for ETI is filed, which is expected to occur in the next few weeks. The draft analysis reflects tax liabilities below the initial \$15 million funding obligation.

15. Employee Benefit Plans

All of the pension plans as discussed below pertain to the Company's European subsidiaries, which were acquired as part of the Business Combination (Refer to Note 5, *Business Combination*).

U.K. Pension Plan

Two of the Company's subsidiaries in the United Kingdom ("U.K.") provide pension benefits to certain retirees and eligible dependents. Employees eligible for participation included all full-time regular employees who were more than three years from retirement prior to October 2001. A retirement pension or a lump-sum payment may be paid dependent upon length of service at the mandatory retirement age. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan. No new employees are registered under this plan and the pension obligation for the existing participants of the plan is calculated based on actual salary of the participants at the earlier of two dates, the participant's leaving the Company or March 31, 2015. The expected rate of return assumptions for plan assets relate solely to the UK plan and are based mainly on historical performance achieved over a long period of time (15 to 20 years) encompassing many business and economic cycles.

German Pension Plan

XBP Global's subsidiary in Germany, Exela Technologies ECM Solutions GmbH, provides pension benefits to certain retirees. Employees eligible for participation include all employees who started working for the Company or its predecessors prior to September 30, 1987 and have finished a qualifying period of at least 10 years. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan. The German pension plan is an unfunded plan and therefore has no plan assets. No new employees are registered under this plan and the participants who are already eligible to receive benefits under this plan are no longer employees of the Company.

Norway Pension Plan

The Company's subsidiary in Norway provides pension benefits to eligible retirees and eligible dependents. Employees eligible for participation include all employees who were more than three years from retirement prior to March 2018. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan. No new employees are registered under this plan and the pension obligation for the existing participants of the plan is calculated based on actual salary of the participants at the earlier of two dates, the participants leaving the Company's subsidiary or April 30, 2018.

Asterion Pension Plan

In 2018, Exela Technologies Holding GmbH acquired the obligation to provide pension benefits to eligible retirees and eligible dependents. Employees eligible for participation included all full-time regular employees who were more than three years from retirement prior to July 2003. A retirement pension or a lump-sum payment may be paid dependent upon length of service at the mandatory retirement age. The Company accrues the cost of these benefits over the service lives of the covered employees based on an actuarial calculation. The Company uses a December 31 measurement date for this plan. No new employees are registered under this plan and the pension obligation for the existing participants of the plan is calculated based on actual salary of the participants at the earlier of two dates, the participant's leaving the Company or April 10, 2018.

[Table of Contents](#)

Funded Status

The change in benefit obligations, the change in the fair value of the plan assets and the funded status of the Company's pension plans (except for the German pension plan which is unfunded) and the amounts recognized in the Company's consolidated financial statements are as follows:

	Successor Consolidated Period from August 1, 2025 through December 31, 2025
Change in Benefit Obligation:	
Benefit obligation at August 1, 2025	\$ 60,233
Service cost	78
Interest cost	1,395
Actuarial gain	713
Plan amendments	130
Plan participants' contributions	35
Benefits paid	(1,976)
Foreign-exchange rate changes	1,039
Benefit obligation at end of year	<u>\$ 61,647</u>
Change in Plan Assets:	
Fair value of plan assets at August 1, 2025	\$ 52,382
Actual return on plan assets	2,835
Employer contributions	1,180
Benefits paid	(1,907)
Foreign-exchange rate changes	916
Fair value of plan assets at end of year	<u>55,406</u>
Funded status at end of year	<u>\$ (6,241)</u>
Net amount recognized in the Consolidated Balance Sheets:	
Pension liability, net (a)	\$ 6,241
Amounts recognized in accumulated other comprehensive loss, net of tax consist of:	
Net actuarial gain (loss)	1,718
Net amount recognized in accumulated other comprehensive loss, net of tax	<u>\$ 1,718</u>
Plans with underfunded or non-funded accumulated benefit obligation:	

Aggregate projected benefit obligation	\$	61,647
Aggregate accumulated benefit obligation	\$	61,647
Aggregate fair value of plan assets	\$	55,406

- (a) Consolidated balance of \$6.2 million as of December 31, 2025 includes pension liabilities (assets) of \$3.4 million, \$1.4 million, \$1.3 million and \$(0.5) million under U.K., Asterion, German and Norway pension plans, respectively, and minimum regulatory benefit for a Philippines legal entity of \$0.6 million.

Tax Effect on Accumulated Other Comprehensive Loss

As of December 31, 2025, the Company recorded \$1.7 million of actuarial gain.

Pension and Postretirement Expense

The components of the net periodic benefit cost for the period August 1, 2025 to December 31, 2025 (Successor) are as follows:

	Successor Consolidated Period from August 1, 2025 through December 31, 2025
Service cost	\$ 78
Interest cost	1,395
Expected return on plan assets	(1,484)
Plan amendments	130
Amortization:	
Amortization of net loss	858
Net periodic (benefit) cost	<u>\$ 977</u>

The Company records pension interest cost within interest expense, net. Expected return on plan assets, plan amendments, and amortization of net losses are recorded within other expense (income), net. Service cost is recorded within cost of revenue in the consolidated statements of operations.

Valuation

The Company uses the corridor approach and projected unit credit method in the valuation of its defined benefit plans for the U.K., Germany, and Norway. The corridor approach defers all actuarial gains and losses resulting from variances between actual results and economic estimates or actuarial assumptions. For defined benefit pension plans, these unrecognized gains and losses are amortized when the net gains and losses exceed 10% of the greater of the market-related value of plan assets or the projected benefit obligation at the beginning of the year. The amount in excess of the corridor is amortized over 15 years. Similarly, the Company used the Projected Unit Credit Method for the Germany plan, and evaluated the assumptions used to derive the related benefit obligations consisting primarily of financial and demographic assumptions including commencement of employment, biometric decrement tables, retirement age, staff turnover. The projected unit credit method determines the present value of the Company's defined benefit obligations and related service costs by taking into account each period of service as giving rise to an additional unit of benefit entitlement and measures each unit separately in building up the final obligation.

Benefit is attributed to periods of service using the plan's benefit formula, unless an employee's service in later years will lead to a materially higher of benefit than in earlier years, in which case a straight-line basis is used.

[Table of Contents](#)

The following tables set forth the principal actuarial assumptions used to determine benefit obligation and net periodic benefit costs:

	Successor			
	Consolidated			
	December 31, 2025			
	UK	Germany	Norway	Asterion
Weighted-average assumptions used to determine benefit obligations:				
Discount rate	5.60%	3.90 %	3.90 %	3.90 %
Rate of compensation increase	N/A	N/A	4.00 %	N/A
Weighted-average assumptions used to determine net periodic benefit cost:				
Discount rate	5.60%	3.90 %	3.90 %	3.90 %
Expected asset return	6.82%	N/A %	5.10 %	3.90 %
Rate of compensation increase	N/A	N/A	4.00 %	N/A

The Germany plan is an unfunded plan and therefore has no plan assets. The expected rate of return assumptions for plan assets are based mainly on historical performance achieved over a long period of time (10 to 20 years) encompassing many business and economic cycles. Adjustments, upward and downward, may be made to those historical returns to reflect future capital market expectations; these expectations are typically derived from expert advice from the investment community and surveys of peer company assumptions.

The Company assumed a weighted average expected long-term rate of return on plan assets for the U.K. scheme of 6.82%. The Company long-term expected rate of return on cash is determined by reference to U.K. government 10-year bond yields at the balance sheet dates. The long-term expected return on bonds is determined by reference to corporate bond yields at the balance sheet dates. The long-term expected rate of return on equities and diversified growth funds is based on the rate of return on U.K. long dated government bonds with an allowance for out-performance. The long-term expected rate of return on the liability driven investments holdings is determined by reference to U.K. government 20-year bond yields at the balance sheet dates.

The discount rate assumption was developed considering the current yield on an investment grade non-gilt index with an adjustment to the yield to match the average duration of the index with the average duration of the plan's liabilities. The index utilized reflected the market's yield requirements for these types of investments.

The inflation rate assumption was developed considering the difference in yields between a long-term government stocks index and a long-term index-linked stocks index. This difference was modified to consider the depression of the yield on index-linked stocks due to the shortage of supply and high demand, the premium for inflation above the expectation built into the yield on fixed-interest stocks and the government's target rate for inflation (CPI) at 2.4%. The assumptions used are the best estimates chosen from a range of possible actuarial assumptions which, due to the time scale covered, may not necessarily be borne out in practice.

Plan Assets

The investment objective for the U.K. plan is to earn, over moving fifteen to twenty year periods, the long-term expected rate of return, net of investment fees and transaction costs, to satisfy the benefit obligations of the plan, while at the same time maintaining sufficient liquidity to pay benefit obligations and proper expenses, and meet any other cash needs, in the short-to medium-term.

The Company's investment policy related to the U.K. defined benefit plan is to continue to maintain investments in government gilts and highly rated bonds as a means to reduce the overall risk of assets held in the fund.

[Table of Contents](#)

No specific targeted allocation percentages have been set by category, but are set at the direction and discretion of the plan trustees. The weighted average allocation of plan assets by asset category is as follows:

	<u>Successor</u> <u>Consolidated</u> <u>December 31,</u> <u>2025</u>
U.K. and other international equities	33.6 %
U.K. government and corporate bonds	3.9
Diversified growth fund	21.4
Liability driven investments	35.6
Multi-asset credit fund	5.5
Total	<u>100.0 %</u>

The following tables set forth, by category and within the fair value hierarchy, the fair value of the Company's pension assets at December 31, 2025 (Successor):

	<u>Successor</u> <u>Consolidated</u> <u>December 31, 2025</u>			
	<u>Total</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Asset Category:				
Cash	\$1,784	\$1,784	\$ —	\$ —
Equity funds:				
U.K. and other international	16,801	—	16,801	—
Fixed income securities:				
Corporate bonds / U.K. Gilts	2,177	—	2,177	—
Other investments:				
Diversified growth fund	11,846	—	11,846	—
Liability driven investments	19,728	—	19,728	—
Multi-asset credit fund	3,070	—	3,070	—
Total fair value	<u>\$55,406</u>	<u>\$1,784</u>	<u>\$53,622</u>	<u>\$ —</u>

The plan assets are categorized as follows, as applicable:

Level 1: Any asset for which a unit price is available and used without adjustment, cash balances, etc.

Level 2: Any asset for which the amount disclosed is based on market data, for example a fair value measurement based on a present value technique (where all calculation inputs are based on data).

Level 3: Other assets. For example, any asset value with a fair value adjustment made not based on available indices or data.

Employer Contributions

XBP Global's funding of employer contributions is based on governmental requirements and differs from those methods used to recognize pension expense. The Company made contributions of \$0.5 million to its pension plans for the period August 1, 2025 to December 31, 2025 (Successor). The Company expects to fund the pension plans with the required contributions for 2026 based on current plan provisions.

Estimated Future Benefit Payments

The estimated future pension benefit payments expected to be paid to plan participants are as follows:

	Estimated Benefit Payments
Year ended December 31,	
2026	\$ 2,811
2027	3,187
2028	3,521
2029	3,401
2030	3,578
2031 – 2035	19,232
Total	<u>\$ 35,730</u>

16. Commitments and Contingencies

Litigation

The Company is, from time to time, involved in certain legal proceedings, inquiries, claims and disputes, which arise in the ordinary course of business. Although management cannot predict the outcomes of these matters, management does not believe any of these actions that are currently pending will have a material, adverse effect on the Company's consolidated and combined balance sheets, consolidated and combined statements of operations or consolidated and combined statements of cash flows.

Business Interruption Insurance Claim

During the second half of 2022, certain subsidiaries of the Company experienced a network security incident (the "2022 Network Outage") impacting certain of such subsidiaries operational and information technology systems. As a result of the 2022 Network Outage, such subsidiaries of the Company experienced lost revenue and incurred certain incremental costs. The Company had reduced its revenue for 2022 by the estimated settlement amount of the incident-related customer claims and recorded an accrued liability for the claims payable to customers. A total of \$0 and \$1.9 million that may be payable to customers to settle customer claims are recorded as customer payables in accrued liabilities on its consolidated and combined balance sheets as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor), respectively.

On August 29, 2023, the Company submitted a claim to its insurers for \$44.6 million in covered losses related to the 2022 Network Outage (the “August 2023 Claim”). During the year 2023, the Company received insurance proceeds of \$10.8 million in respect of business interruption claims from its underlying and first excess carriers. On April 17, 2024, the Company commenced an action (the “Insurance Lawsuit”) against two excess-layer insurers (collectively, the “Second Excess Insurers”) seeking a declaratory judgment and alleging breach of contract and bad faith for failing to pay out their share of losses connected to the August 2023 Claim. On August 9, 2024, the Company settled its claim against one of the Second Excess Insurers for \$3.6 million, and on October 15, 2024, the Company settled its claim against the other Second Excess Insurers for \$3.6 million (less amounts already paid). On October 8, 2024, the Company moved to amend the complaint (the “Amended Complaint”) to add two additional excess-layer insurers to the Insurance Lawsuit (collectively, the “Third Excess Insurers”). The Amended Complaint was filed on October 24, 2024. On December 2, 2025, the Company settled its claim against the Third Excess Insurers for \$5.3 million. With execution of these insurance settlements and the reassessment of outstanding customer claims, the Company has concluded all insurance and customer claim matters relating to the 2022 Network Outage. The Company does not believe that any additional losses related to the 2022 Network Outage are probable, nor does the Company expect further material costs, customer claims, or insurance recoveries.

Company Subsidiary Litigation

A group of 71 former employees brought a claim against a subsidiary of the Company related to their dismissal resulting from the closure of two production sites in France in 2020. The employees filed complaints with the French Labor Court on June 9, 2022. Various hearings were held. In March 2023, 67 claimants (4 had previously settled) applied for summary judgment which was granted for \$1.1 million and was paid by the Company. In addition, settlement agreements were reached with 56 claimants for \$1.8 million in 2024. A further settlement with the 15 remaining claimants was reached for \$0.8 million in 2025. On November 7, 2025, settlements with all claimants were signed. All settlement amounts under these settlement agreements have been paid as of December 31, 2025.

Contract Claim

On October 24, 2018, HOV Services, Inc., a subsidiary of the Predecessor (“HOV Services”), filed a lawsuit against ASG Technologies Group, Inc. (“ASG”) that sought to terminate the renewal of licensing agreement between the parties. HOV Services alleged that the licensing agreement was renewed under duress and brought claims against ASG under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq., the Stored Communications Act, 18 U.S.C. § 2701 et seq., and various common law doctrines. ASG subsequently brought counterclaims asserting breach of contract and other allegations. On February 27, 2024, a judge granted ASG’s motion for directed verdict on its breach of contract claim and awarded ASG \$2.5 million in damages plus interest. On February 29, 2024, the jury found in favor of ASG on all remaining claims and awarded ASG damages in the amount of approximately \$0.7 million plus interest, for a total award of approximately \$4.7 million in the case. On December 31, 2024, the parties entered into a settlement agreement under which the Predecessor agreed to pay a total of \$5.1 million over three (3) equal installments starting in January 2025 to fully resolve the matter. As of December 31, 2024 (Predecessor), the Predecessor had accrued \$5.1 million for this matter included in accrued liabilities on the consolidated and combined balance sheet. On January 3, 2025, the Predecessor paid the first installment of \$1.7 million. The remaining installments were included in the Restructuring related settlements and will be satisfied in accordance with the Plan.

Contract-Related Contingencies

The Company has certain contingent obligations that arise in the ordinary course of providing services to its clients. These contingencies are generally the result of contracts that require the Company to comply with certain performance measurements or the delivery of certain services to clients by a specified deadline. The Company believes the adjustments to the transaction price, if any, under these contract provisions will not result in a significant revenue reversal or have a material adverse effect on the Company’s consolidated and

combined balance sheets, consolidated and combined statements of operations, consolidated and combined statements of comprehensive loss or consolidated and combined statements of cash flows.

17. Fair Value Measurement

Assets and Liabilities Measured at Fair Value

The carrying amount of assets and liabilities including current portion of other debt approximated their fair value as of December 31, 2025 and 2024, due to the relatively short maturity of these instruments. Management estimated the fair values of the Successor's July 2030 Notes at approximately 87.9% of the principal balance outstanding as of December 31, 2025 (Successor). Management had estimated the fair values of the Predecessor's July 2026 Notes and the April 2026 Notes at approximately 20.0% and 15.0%, respectively, of the respective principal balance outstanding as of December 31, 2024 (Predecessor). During the Chapter 11 Cases, the July 2026 Notes and the April 2026 Notes were classified as liabilities subject to compromise on the consolidated and combined balance sheet of the Predecessor and were discharged on July 29, 2025 on issuance of Common Stock of the Company as discussed under Note 4, *Fresh Start Accounting*. The fair values of secured borrowings under the BR Exar AR Facility, the Second Lien Note, the Super Senior Term Loan, the ABL Facility, the 2028 Term Loan Facilities and the Revolving Credit Facility are equal to their respective carrying values. Other debt represents the Company's outstanding loan balances associated with various hardware, software purchases, maintenance and leasehold improvements along with other loans entered into by subsidiaries of the Company and as such, the cost incurred would approximate fair value. Property and equipment,

[Table of Contents](#)

intangible assets, capital lease obligations, and goodwill are not required to be re-measured to fair value on a recurring basis. These assets are evaluated for impairment if certain triggering events occur. If such evaluation indicates that impairment exists, the respective asset is written down to its fair value.

The Company determined the fair value of its long-term debt and current portion of long-term debt using Level 2 inputs, including any recent issuance of the debt, the Company's credit rating, and the current market rate.

The Company determined the fair value of Private Warrants liability of the Company included in the other long-term liabilities in the consolidated balance sheet as of December 31, 2025 under Level 3 fair value measurement using the Black-Scholes option pricing model.

The following table provides the carrying amounts and estimated fair values of the Company's financial instruments as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor):

	Successor				
	Consolidated				
	Carrying Amount	Fair Value	Fair Value Measurements		
			Level 1	Level 2	Level 3
As of December 31, 2025					
Long-term debt	\$353,267	\$330,699	\$ —	\$330,699	\$ —
Current portion of long-term debts	34,334	34,334	—	34,334	—
Private Warrants liability	3	3	—	—	3

	Predecessor				
	Combined and Consolidated				
	Carrying Amount	Fair Value	Fair Value Measurements		
			Level 1	Level 2	Level 3
As of December 31, 2024					
Long-term debt	\$ 1,468	\$ 1,468	\$ —	\$ 1,468	\$ —
Current portion of long-term debts	1,433,484	267,781	—	267,781	—

The significant unobservable inputs used in the fair value of the Private Warrants liability of the Company are assumptions related to the inputs of exercise price, fair value of the underlying Common Stock, risk-free interest rate, expected term, expected volatility, and expected dividend yield. Significant increases (decreases) in the discount rate would have resulted in a lower (higher) fair value measurement. Significant increases (decreases) in the forecasted financial information would have resulted in a higher (lower) fair value measurement. For all significant unobservable inputs used in the fair value measurement of the Level 3 liabilities, a change in one of the inputs would not necessarily result in a directionally similar change in the fair value.

The following table reconciles the beginning and ending balances of net assets and liabilities classified as Level 3 for which a reconciliation is required:

	Successor Consolidated Period from August 1, 2025 through December 31, 2025	
Balance as at August 1, 2025	\$	9
Reduction in the fair value of the Private Warrants liability		(6)
Balance as at December 31, 2025		3

18. Stock-Based Compensation

XBP 2024 Stock Incentive Plan

On June 13, 2024, the stockholders of XBP Europe Holdings, Inc. (the legal acquirer under the Business Combination) approved and adopted XBP Europe Holdings, Inc.'s 2024 Stock Incentive Plan (the "XBP 2024 Equity Plan") at XBP Europe Holdings, Inc.'s 2024 Annual Meeting of Stockholders. The XBP 2024 Equity Plan was subsequently amended following stockholder approval on July 25, 2025, to authorize additional shares, and continues to be effective after the Business Combination. Under the XBP 2024 Equity Plan, subject to adjustment for certain changes in capitalization or other corporate events, the Company has been authorized to issue up to 1,727,187 shares of common stock, which may be granted to eligible participants in furtherance of the Company's broader compensation strategy and philosophy, of which 1,305,831 shares remain available for issuance (including 278,212 shares subject to outstanding awards), as of December 31, 2025. Awards under the 2024 Equity Plan are granted upon terms approved by the Company's Compensation Committee and set forth in an award agreement or other evidence of an award.

Restricted Stock Units

Restricted stock unit awards generally vest ratably over one (1) year to three (3) year period. Restricted stock units are subject to forfeiture if employment or service terminates prior to vesting and are expensed ratably over the vesting period.

Restricted stock unit activities under the XBP 2024 Equity Plan for the period August 1, 2025 to December 31, 2025 (Successor) is summarized in the following table:

	Number of Units	Weighted Average Grant Date Fair Value	Average Remaining Contractual Life (Years)
Outstanding Balance as of August 1, 2025 (Successor)	105,239	\$ 12.93	2.08
Granted	176,989	8.14	0.68
Forfeited	—		
Vested	(4,016)		
Outstanding Balance as of December 31, 2025 (Successor)	278,212	\$ 9.96	1.12

As of December 31, 2025, there was \$1.4 million of total unrecognized compensation expense related to non-vested restricted stock unit awards under the XBP 2024 Equity Plan, which will be recognized over the respective service period. Stock-based compensation expense is recorded within selling, general, and administrative expenses. The

Company incurred total compensation expense of \$0.9 million related to restricted stock unit awards under the XBP 2024 Equity Plan for the period August 1, 2025 to December 31, 2025 (Successor).

Options

Under the XBP 2024 Equity Plan, stock options are granted at a price per share not less than 100% of the fair market value per share of the underlying stock at the grant date. The vesting period for each option award is established on the grant date, and the options generally expire ten (10) years from the grant date. Stock options granted under the 2024 Plan generally require not less than a four (4) year ratable vesting period. There was no stock option activity for the period August 1, 2025 to December 31, 2025 (Successor) and no stock options outstanding as of December 31, 2025 under the XBP 2024 Equity Plan.

19. Stockholders' Equity and Warrants

The following description summarizes the material terms and provisions of the securities that the Company has authorized.

Preferred Stock — The Company is authorized to issue up to 20,000,000 shares of preferred stock with a par value of \$0.0001 per share. As of December 31, 2025, there were no shares of preferred stock issued or outstanding.

Common Stock — The Company is authorized to issue up to 400,000,000 shares of Common Stock with a par value of \$0.0001 per share. Each holder of Common Stock will be entitled to one (1) vote in person or by proxy for each share of Common Stock. The holders of shares of Common Stock will not have cumulative voting rights. As of December 31, 2025, there were 11,755,434 shares of Common Stock issued and outstanding.

On December 12, 2025, the Company effected the Reverse Stock Split of our issued and outstanding shares of Common Stock. As a result of the Reverse Stock Split every ten (10) shares of Common Stock issued and outstanding were automatically combined into one (1) share of issued and outstanding Common Stock, without any change in the par value per share. All information related to Common Stock, stock options, restricted stock units, warrants and earnings per share have been retroactively adjusted to give effect to the Reverse Stock Split for all periods presented.

Warrants — As of December 31, 2025, the Company had the following warrants to purchase Common Stock outstanding:

	Common Stock			
	Number of Warrants	Underlying Warrants	Exercise Price Per Share	Expiration
Private Placement Warrants	135,000	13,500	115.00	11/29/2028
Forward Purchase Warrants	250,000	25,000	115.00	11/29/2028
Public Warrants	6,249,980	624,998	115.00	11/29/2028
ETI Warrants	6,632,418	663,242	49.80	07/29/2030
Total	13,267,398	1,326,740		

Public Warrants

The Public Warrants qualify for the derivative scope exception under ASC 815 and are therefore classified as equity on the consolidated balance sheets. Every ten warrants may be exercised for one whole share of Common Stock at a price of \$115.00 per share. No

fractional shares will be issued upon exercise of the Public Warrants. The Public Warrants are currently exercisable and will expire November 29, 2028, or earlier upon redemption or liquidation.

The Company may redeem the outstanding Public Warrants if the price per share of common stock equals or exceeds \$180.00 (except as described with respect to the Private Placement Warrants and Forward Purchase Warrants):

- in whole and not in part;
- at a price of \$0.01 per Warrant;
- upon not less than 30 days' prior written notice of redemption to each warrant holder; and
- if, and only if, the closing price of the Common stock equals or exceeds \$180.00 per share (as adjusted) for any of 20 trading days within a 30-trading day period and ending three trading days before the Company sends the notice of redemption to the warrant holders.

If and when the Public Warrants become redeemable by the Company, the Company may not exercise its redemption right if the issuance of shares of Common Stock upon exercise of the Public Warrants is not exempt from

[Table of Contents](#)

registration or qualification under applicable state blue sky laws or the Company is unable to affect such registration or qualification.

Private Placement and Forward Purchase Warrants

The Private Placement and Forward Purchase Warrants (together “Private Warrants”) meet the definition of a derivative; however, they do not meet the equity scope exception in ASC 815 and are therefore classified as a liability. The Private Warrants are identical to the Public Warrants, except that so long as they are held by CFAC Holdings VIII, LLC (an affiliate of Cantor Fitzgerald) or any Permitted Transferees, as applicable, the Private Warrants (i) may be exercised for cash or on a cashless basis, and (ii) shall not be redeemable by the Company,

Upon exercise of each of the Public Warrants and Private Warrants, the exercise price and number of shares of Common Stock issuable may be adjusted in certain circumstances including in the event of a stock dividend, a consolidation, combination, reverse stock split or reclassification of shares of Common Stock. Private warrants’ liability is included within other long-term liabilities on the consolidated balance sheet as of December 31, 2025.

ETI Warrants

On July 29, 2025, the Company issued Common Stock purchase warrants to certain subsidiaries of ETI which entitles them to purchase 663,242 shares of Common Stock of the Company for an exercise price of \$49.80 per share (the “ETI Warrants”). The ETI Warrants qualify for the derivative scope exception under ASC 815 and are therefore classified as equity on the consolidated and combined balance sheets. No fractional shares will be issued upon exercise of the ETI Warrants. The ETI Warrants are currently exercisable and will expire on July 29, 2030. The ETI Warrants are not traded as of December 31, 2025 and are not subject to redemption by the Company.

20. Related-Party Transactions

Successor

Relationship with HandsOn Global Management

Par Chadha, the Chairman of the Company’s board of directors, and Andrej Jonovic, Chief Executive Officer of the Company and a director, are affiliated with HandsOn Global Management LLC (together with affiliated entities managed by HandsOn Global Management LLC, “HGM”).

On January 1, 2015, the Company, through one of its subsidiaries, entered into a master agreement with Rule 14, LLC, a portfolio company of HGM. In addition, the Company is party to ten master agreements with entities affiliated with HGM's managed funds, each of which were entered into during 2015 and 2016 (collectively, with the agreement with Rule 14, LLC, the "Master Agreements"). Each of the Master Agreements provides the Company with use of certain technology and services and includes a reseller arrangement pursuant to which the Company was entitled to sell these services to third parties. Any revenue earned by the Company in such third-party sales is to be shared 75%/25% with each of HGM's venture affiliates in favor of the Company. There are various applications subject to arrangements under the Master Agreements, and the Company has the license to use and resell such applications, as provided for in the Master Agreements. The Company incurred total expenses of approximately of \$2.4 million for the period August 1, 2025 to December 31, 2025 (Successor) for outsourced digital document processing services, workflow automation services, and software platform subscriptions services provided under these Master Agreements. The majority of these costs were on account of: (i) workflow automation services related to automated document control and field mapping for specialized medical and financial records using Intelligent Document Processing (IDP) and Teletypewriter (TTY) primarily including processing for Centers for Medicare & Medicaid Services (CMS) workflow, Uniform Billing (UB) workflow, DMR and Accounts Payable workflows, (ii) enterprise platform subscriptions including licensing, custom reporting, and subscription fees for proprietary enterprise systems namely the Athena platform and the Peri platform, and (iii) Information Technology (IT) infrastructure services—onshore and offshore support services for the core platforms (Athena, Peri, Speakup, and Spring) including charges for change requests, hosting and AWS. The

[Table of Contents](#)

Company earned no revenue from third-party sales under the reseller arrangement contemplated by the Master Agreements for the period August 1, 2025 to December 31, 2025 (Successor).

Certain operating subsidiary of the Company leased an operating facility from HandsOn Global Management (HGM) Limited (f/k/a HOV Services Limited), which is an affiliate under common control with HGM. The rental expense for this operating lease (the “HOV Lease”) was \$0.1 million for the period August 1, 2025 to December 31, 2025 (Successor). In addition, HandsOn Global Management (HGM) Limited (f/k/a HOV Services Limited) provides the Company data capture and technology services. The expense recognized for these services was approximately \$0.4 million for the period August 1, 2025 to December 31, 2025 (Successor). These expenses are included in related party expense in the consolidated statement of operations.

On October 27, 2025, the Company, through one of its subsidiaries, entered into an assignment and assumption agreement with HGM to assign certain portion of its right, title and interest in a building lease to HGM. The rental income from this lease (the “Assigned Lease”) was less than \$0.1 million for the period August 1, 2025 to December 31, 2025 (Successor).

On September 1, 2024, the Company, through one of its subsidiaries, entered into a master services agreement with Aideo Technology LLC (“Aideo”), which offers its AI coding platform and is an affiliate under common control with HGM, wherein the Company agreed to provide medical coding services to Aideo. On October 1, 2024, the Company, through one of its subsidiaries, entered into another master services agreement with Aideo wherein the Company agreed to provide the management of Amazon Web Services hosting services to Aideo (together with the initial Aideo Agreement, the “Aideo Agreements”). For the period August 1, 2025 to December 31, 2025 (Successor), the Company has recognized \$0.5 million of revenue under the Aideo Agreements.

On February 5, 2025, the Company entered into a service agreement with Nventr, LLC, a portfolio company of HGM, that provides AI analytics solutions (the “Nventr Agreement”). The Company incurred an expense of \$0.4 million for the period August 1, 2025 to December 31, 2025 (Successor), in related party expenses for these services within the consolidated statement of operations. The Company capitalized \$0.1 million towards solutioning work under the Nventr Agreement for the period August 1, 2025 to December 31, 2025 (Successor).

On February 18, 2025, the Company entered into a service agreement with HandsOn Global Management (HGM) Limited (f/k/a HOV Services Limited), to help mitigate the risk of service disruption from the Chapter 11 Cases on the Predecessor by providing an alternate source for certain business process outsourcing, management, and

financial transaction processing solutions. The Company incurred an expense of \$2.0 million for the period August 1, 2025 to December 31, 2025 (Successor), in related party expenses within the consolidated statements of operations.

Predecessor

Relationship with HGM

Par Chadha, who served as Executive Chairman of the Predecessor's former parent ETI, Matthew Brown, the former Interim Chief Financial Officer of ETI, and Ron Cogburn, and James Reynolds, who served as members of ETI's board of directors, are or had been affiliated with HGM. Mr. Chadha remains affiliated with HGM. Messrs. Cogburn and Reynolds were affiliated with HGM until 2020, and Mr. Brown was affiliated with HGM until 2017.

The Predecessor incurred fees relating to the Master Agreements of \$4.5 million for the period January 1, 2025 to July 31, 2025 (Predecessor). The Predecessor incurred fees relating to the Master Agreements of \$7.5 million for the year ended December 31, 2024 (Predecessor). The Predecessor earned no revenue from third-party sales under the reseller arrangement contemplated by the Master Agreements for the period January 1, 2025 to July 31, 2025 (Predecessor) and for the year ended December 31, 2024 (Predecessor).

The rental expense for the HOV Lease was \$0.1 million for the period January 1, 2025 to July 31, 2025 (Predecessor). The rental expense for the HOV Lease was \$0.2 million for the year ended December 31, 2024 (Predecessor). In addition, HandsOn Global Management (HGM) Limited (f/k/a HOV Services Limited) provided the

[Table of Contents](#)

Predecessor data capture and technology services. The expense recognized for these services was approximately \$0.8 million for the period January 1, 2025 to July 31, 2025 (Predecessor). The expense recognized for these services was approximately \$2.7 million for the year ended December 31, 2024 (Predecessor). These expenses are included in related party expense in the consolidated and combined statements of operations.

For the period January 1, 2025 to July 31, 2025 (Predecessor), the Predecessor has recognized \$0.1 million of revenue under the Aideo Agreements. For the year ended December 31, 2024 (Predecessor), the Predecessor had recognized \$0.1 million of revenue under the Aideo Agreements and received an expense reimbursement of \$0.1 million.

On September 1, 2023, the Predecessor, through one of its subsidiaries, entered into a master services agreement with Doctors of Waikiki LLP (“DOW”), which is an affiliate under common control with HGM, where the Predecessor could provide services under one or more statements of work to DOW. The Predecessor, acting under the first statement of work, provided collection services to DOW to collect past-due medical debts from its patients and insurance companies for which the Predecessor received a commission of 15% for accounts assigned within one year of the service date and 25% for accounts assigned after one year. Under the second statement of work the Predecessor managed DOW's insurance billing and denial management for medical bills generated after patients receive treatment from DOW for which the Predecessor invoiced \$2,000 per month for each full-time employee assigned to the project. For the period January 1, 2025 to July 31, 2025 (Predecessor), the Predecessor recognized \$0 of income under these two SOWs. For the year ended December 31, 2024 (Predecessor), the Predecessor had recognized less than \$0.1 million of income under these two SOWs.

April 2026 Notes held by ETI Subsidiaries

As of December 31, 2024, \$368.8 million of aggregate principal amount of the Predecessor's April 2026 Notes were held by subsidiaries of ETI that had been formed to acquire and hold such indebtedness. The Predecessor recorded net interest expense of \$13.7 million using effective interest rate method on the April 2026 Notes held by such ETI subsidiaries for the period January 1, 2025 to July 31, 2025 (Predecessor). The Predecessor recorded net interest expense of \$16.7 million using the effective interest rate method on the Predecessor's April 2026 Notes held by such ETI subsidiaries for the year ended December 31, 2024 (Predecessor).

Recharges by ETI

Pursuant to carve out of the Predecessor as a separate entity, cost incurred by the Predecessor's former parent ETI to support the Predecessor business has been recharged by ETI. During the period January 1, 2025 to July 31, 2025 (Predecessor), the Predecessor reimbursed \$1.2 million to ETI primarily on account of salaries, legal and professional fees

and other miscellaneous expenses. During the year ended December 31, 2024 (Predecessor), the Predecessor reimbursed \$8.2 million to ETI primarily on account of salaries, legal and professional fees and other miscellaneous expenses.

Transactions between the Predecessor and XBP Europe Holdings, Inc.

XBP Europe Holdings, Inc. (together with its subsidiaries, “XBP Europe”) was a subsidiary of ETI and an affiliate of the Predecessor until the Business Combination. Historically, XBP Europe and its predecessor entities and subsidiaries were managed and operated in the ordinary course of business with other subsidiaries of ETI including the Predecessor. Given below are the transactions that occurred between the Predecessor and XBP Europe during the year ended December 31, 2024 (Predecessor) and for the period January 1, 2025 to July 31, 2025 (Predecessor).

Purchase of Products and Services: during the historical periods presented, the Predecessor purchased products and services from XBP Europe. Related party expense in the consolidated and combined statements of operations include purchases from XBP Europe of \$0.4 million for the period January 1, 2025 to July 31, 2025 (Predecessor). Related party expense in the consolidated and combined statements of operations include purchases from XBP Europe of \$0.4 million for the year ended December 31, 2024 (Predecessor).

[Table of Contents](#)

Sales: during the historical periods presented, the Predecessor sold SDS scanners and related spare parts to XBP Europe. These sales totaled \$0 for the period January 1, 2025 to July 31, 2025 (Predecessor). These sales totaled \$0.1 million for the year ended December 31, 2024 (Predecessor).

Shared Service Center Costs: the historical costs and expenses of XBP Europe include costs for certain shared service functions historically provided by the Predecessor, including, but not limited to accounting and finance, IT and business process operations. Where possible, these charges were allocated based on full-time equivalents (FTEs), formal agreements between the Predecessor and XBP Europe, or other allocation methodologies that Management determined to be a reasonable reflection of the utilization of services provided or the benefit received by XBP Europe and the costs of operating XBP Europe during the periods presented. The allocated shared service expenses and general corporate expenses for the period January 1, 2025 to July 31, 2025 (Predecessor) were \$1.4 million. The allocated shared service expenses and general corporate expenses for the year ended December 31, 2024 (Predecessor) were \$3.8 million, respectively, and are included in the related party revenue, net in the consolidated and combined statements of operations. In the opinion of management of the Predecessor and XBP Europe, the expense and cost allocations had been determined on a basis considered to be a reasonable reflection of the utilization of services provided or the benefit received by XBP Europe during 2025 and 2024. The amounts that would have been, or will be incurred, on a stand-alone basis could differ from the amounts allocated due to economies of scale, difference in management judgment, a requirement for more or fewer employees or other factors. Management does not believe, however, that it is practicable to estimate what these expenses would have been incurred had XBP Europe operated as an independent entity, including any expenses associated with obtaining any of these services from the Predecessor. In addition, the future results of operations, financial position and cash flows could differ materially from the historical results presented herein.

Service Fee: during the historical periods presented, the Predecessor provided management services to XBP Europe in exchange for a management fee. These management services included provision of legal, human resources, corporate finance, and marketing support. The management fee was calculated based on a weighted average of total external revenue, headcount and total assets attributable to XBP Europe. On October 9, 2022, the management fee was terminated and was replaced by the related party service fee pursuant to a certain services agreement, which reduced the fee and modified the services provided. Services provided under the services agreement include sales of certain hardware, operations delivery, finance, accounting, human resource and technology support services. The Predecessor earned total fees of \$0.8 million for the period January 1, 2025 to July 31, 2025 (Predecessor). The Predecessor earned total fees of \$1.5 million for the year ended December 31, 2024 (Predecessor).

Notes Receivable: The combined and consolidated statements of operations included related party interest income of \$0.9 million for the year ended December 31, 2024 (Predecessor) in other income, net relating to certain old terminated intercompany loan agreements with XBP Europe. The Predecessor entered into four intercompany loan agreements (“Related Party Notes Receivable”) with XBP Europe. Three of the notes are dated September 4, 2023 (and subsequently amended on September 15, 2023) and one note is dated September 15, 2023. The Related Party Notes Receivable has a ten-year term and bear annual interest of 6.0%, due at the end of the term. The consolidated and combined balance sheet included \$1.5 million Related Party Notes Receivable as of December 31, 2024 (Predecessor). The consolidated and combined statements of operations included \$0.1 million of related party interest income for the period January 1, 2025 to July 31, 2025 (Predecessor) in the interest expense, net. The consolidated and combined statements of operations included \$0.1 million of related party interest income for the year ended December 31, 2024 (Predecessor) in the interest expense, net.

Payable and Receivable/Prepaid Balances with Affiliates

Payable and receivable/prepaid balances with affiliates as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor) were as follows:

	Successor		Predecessor	
	Consolidated		Combined and Consolidated	
	December 31, 2025		December 31, 2024	
	Receivables and Prepaid Expenses Payables		Receivables and Prepaid Expenses Payables	
HandsOn Global Management (HGM) Limited (f/k/a HOV Services Limited)	\$	2,050	\$	— \$ 620
Rule 14, LLC	—	950	—	2,626
HGM	—	227	831	—
DOW	—	137	—	137
Aideo Technology, LLC	736	—	261	—
XBP Europe Holdings, Inc.	—	—	11,013	—
ETI	—	1,147	—	—
Nventr, LLC	—	832	—	—
	\$ 736	\$ 5,343	\$ 12,105	\$ 3,383

21. Segment Information

The Company's operating segments are significant strategic business units that align its products and services with how it manages its business, approaches the markets and interacts with its clients. The Company is organized into two segments: Applied Workflow Automation and Technology.

Applied Workflow Automation

The Applied Workflow Automation segment provides services powered by intelligent, AI-enabled workflows that generate outcomes for clients' systems. Revenue primarily stems from transactions processed and includes payment processing, data capture, analysis, decisioning, distribution and transformation across industries and the public and private sectors, primarily in Americas and Europe, and increasingly in Asia. The Applied Workflow Automation segment includes the Company's Bills & Payments, healthcare industry solutions, on-site enterprise solutions, integrated communications and enterprise legal management business units which serve leading banks, payers and providers, utilities as well as federal, regional and local government entities.

Technology

The Technology segment focuses on the sale of recurring and perpetual software licenses, software maintenance and professional services, as well as hardware solutions and maintenance. The Company offers an industry-agnostic and cross-departmental suite of products, with primary focus on scalable workflows leveraging AI through neural networks together with deep domain expertise. The Company also offers industry specific platforms for the banking and healthcare industries.

The Company's Chief Operating Decision Maker ("CODM") is the Company's Chief Executive Officer. The CODM reviews segment profit to evaluate operating segment performance and determine how to allocate resources to operating segments. "Segment profit" is defined as revenue less cost of revenue (exclusive of depreciation and amortization). The Company does not allocate selling, general, and administrative expenses, depreciation and amortization, related party expense, net, interest expense, net, sundry expenses (income), net, and other expense (income), net to its reporting segments. The Company manages assets on a total company basis, not by operating segment, and therefore asset information and capital expenditures by operating segments are not presented. A reconciliation of segment profit to net loss before income taxes is presented below. Other than cost of revenue, no

[Table of Contents](#)

expenses are tracked, allocated or reported based on segments as the CODM does not review or use financial information below segment profit to manage and direct the resources of the reportable segments.

	Successor			Predecessor		
	Consolidated			Combined and Consolidated		
	Period from August 1, 2025 through December 31, 2025			Period from January 1, 2025 through July 31, 2025		
	Applied Workflow			Applied Workflow		
	Automation	Technology	Total	Automation	Technology	Total
Revenue (including related party revenue)	\$ 321,618	\$ 37,763	\$ 359,381	\$ 401,593	\$ 30,068	\$ 431,661
Cost of revenue (exclusive of depreciation and amortization)	264,474	14,917	279,391	329,433	10,548	339,981
Segment profit	57,144	22,846	79,990	72,160	19,520	91,680
Selling, general and administrative expenses (exclusive of depreciation and amortization)			49,669			53,946
Depreciation and amortization			26,225			22,313
Impairment of goodwill			320,292			—
Related party expense			5,386			5,750
Interest expense, net			24,237			75,226
Sundry expense, net			274			1,644
Other income, net			(1,596)			(28)
Loss before reorganization items and income taxes			(344,497)			(67,292)
Reorganization items			1,615			(1,557,825)
Net profit (loss) before income taxes			<u>\$ (346,112)</u>			<u>\$ 1,490,533</u>

	Predecessor		
	Combined and Consolidated		
	Year ended December 31, 2024		
	Applied Workflow		
	Automation	Technology	Total
Revenue (including related party revenue)	\$ 816,447	\$ 56,243	\$ 872,690
Cost of revenue (exclusive of depreciation and amortization)	665,401	18,523	683,924
Segment profit	151,046	37,720	188,766
Selling, general and administrative expenses (exclusive of depreciation and amortization)			124,440
Depreciation and amortization			50,307
Impairment of goodwill and other intangible assets			108,489
Related party expense			10,971
Interest expense, net			101,939
Debt modification and extinguishment costs (gain), net			363
Sundry income, net			(2,087)
Other income, net			(515)

Loss before reorganization items and income taxes	(205,141)
Reorganization items	—
Net loss before income taxes	\$ (205,141)

22. Subsequent Events

BR Exar AR Facility Repayments

During the period January 1, 2026 through March 30, 2026, the Company fully repaid \$1.4 million of outstanding principal amount under the BR Exar AR Facility. There was no amount outstanding under the BR Exar AR Facility as of March 30, 2026.

Amended BR Exar AR Facility

On January 21, 2026, certain of the Company's subsidiaries entered into an Amended and Restated Receivables Purchase Agreement with BREL (as subsequently amended on February 10, 2026 and March 27, 2026 (the "Amended BR Exar AR Facility")), pursuant to which they agreed to sell certain existing receivables and all of their future receivables to BREL until such time as BREL shall have collected \$20.0 million, net of any costs, expenses or other amounts paid to or owing to the buyer under the agreement. The Company received \$14.5 million in net cash consideration for sale of these receivables. The Company adjusted \$5.0 million of outstanding loans owed to BREL under certain promissory note entered into in December 2025 against the remaining sale consideration to be received for the sale of these receivables. During the period January 1, 2026 through March 30, 2026, BREL collected \$10.1 million

[Table of Contents](#)

of outstanding principal amount under the Amended BR Exar AR Facility. There was \$9.9 million outstanding under the Amended BR Exar AR Facility as of March 30, 2026.

Repayment on Second Lien Note

During the period January 1, 2026 through March 30, 2026, the Company repaid \$3.3 million principal amount of the Second Lien Note. Accordingly, the outstanding principal amount under the Second Lien Note was \$12.5 million, as of March 30, 2026.

Amendment to Super Senior Term Loan

On February 13, 2026, the Super Senior Term Loan Borrowers, each subsidiary of the Exela Technologies BPA, LLC, as guarantors, Ankura Trust Company, LLC, as administrative agent and collateral agent, and the Super Senior Term Loan Lenders entered into a second amendment to the Super Senior Term Loan and certain lenders from the Super Senior Term Loan Lenders (the "2026 Incremental Term Loan Lender") agreed to extend credit to the Super Senior Term Loan Borrowers in the form of incremental term loans in an aggregate principal amount of \$4.0 million for working capital and for general corporate purposes. As of March 30, 2026, there were borrowings of \$50.0 million outstanding under the Super Senior Term Loan.

Amendment to ABL Facility

On March 6, 2026, the ABL Borrowers, the Agent and the ABL Lenders entered into a Limited Waiver and Third Amendment to the ABL Facility (the "Amended ABL Facility"). Among other things, the Amended ABL Facility (i) eliminates the covenant requiring the ABL Borrower to maintain a minimum excess availability of \$7.5 million; (ii) implements a temporary availability block through June 30, 2026, which reduces borrowing capacity by the greater of \$3.75 million or 5.0% of the borrowing base if the ABL Borrower's fixed charge coverage ratio falls below 1.00 to 1.00; (iii) temporarily increases the advance rate for eligible investment grade billed accounts to 95.0% through September 30, 2026; (iv) adjusts the calculation of the borrowing base; (v) amends the mechanics governing the cash dominion period; and (vi) resets the deferred revolving loan origination fee.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer (“CEO”) and our Chief Financial Officer (“CFO”) has evaluated the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2025. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, or the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by the company in the reports that it files or submits under the Exchange Act of 1934 is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate, to allow timely decisions regarding required disclosure.

Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives. Based on such review and evaluation, our CEO and our CFO have concluded that as of December 31, 2025, our disclosure controls and procedures were not effective at the reasonable assurance level for this purpose, solely because of the material weaknesses in our internal control over financial reporting identified in relation to our financial reporting processes discussed below.

Management’s Report on Internal Control over Financial Reporting

Management, under the supervision of the board of directors, is responsible for establishing and maintaining adequate “internal control over financial reporting” (“ICFR”), as defined in Exchange Act Rules 13a-15(f) and 15d-15(f). ICFR refers to the processes designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with GAAP.

Our ICFR is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and includes those policies and procedures that (1) pertain to the

maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the financial statements. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation. Because of its inherent limitations, a system of internal control over financial reporting may not prevent or detect misstatements.

A material weakness, as defined in Exchange Act Rule 12b-2, is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of a company's annual or interim consolidated financial statements will not be prevented or detected on a timely basis.

As elaborated in the notes to our consolidated and combined financial statements under Note 1, *Description of the Business*, on July 3, 2025, pursuant to the MIPA, a wholly owned subsidiary of XBP Europe Holdings, Inc. agreed to purchase BPA. This transaction, referred to herein as the Business Combination, was subject to certain conditions

[Table of Contents](#)

subsequent, including emergence of BPA and certain of its affiliates from the Chapter 11 Cases, which occurred on July 29, 2025. On July 29, 2025, BPA consummated the Restructuring and emerged from bankruptcy having satisfied or waived all the conditions set forth in the Plan. As a result, all conditions subsequent to the MIPA were met, and the acquisition was deemed closed from an accounting perspective as of July 29, 2025. For financial reporting purposes, BPA was determined to be the “accounting acquirer”. Being the accounting acquirer means that BPA’s assets, liabilities, and historical financial statements form the basis of the combined company’s financial reporting, and, accordingly, the historical results of XBP Europe Holdings, Inc. are not included for periods prior to the Business Combination.

Material weakness in BPAs internal control over financial reporting were previously reported in the risk factors section of the Company’s Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 filed with the SEC on July 15, 2025. BPA had concluded its internal control over financial reporting was not effective as of December 31, 2024 due to pervasive material weaknesses in its internal control over financial reporting. BPA management, with the participation of their Principal Executive Officer and their Interim Chief Financial Officer, had evaluated the effectiveness of their disclosure controls and procedures as of December 31, 2024. Based upon that evaluation, it was concluded that pervasive material weaknesses in internal control over financial reporting existed as described below.

- BPA failed to implement certain risk assessment activities related to identifying and assessing risks of misstatement, including fraud risks, to achieve objectives. This pervasive material weakness contributed to specific material weaknesses noted within the Control Activities COSO component.
- BPA failed to design and implement sufficient controls to ensure relevant and quality information and communications was consistently generated or used by BPA to support the functioning of internal controls. This pervasive material weakness contributed to specific material weaknesses noted within the Control Activities COSO component.
- BPA failed to evaluate and communicate internal control deficiencies and implement monitoring corrective actions in a timely manner. This pervasive material weakness contributed to specific material weaknesses noted within the Control Activities COSO component.
- BPA did not have sufficient structures, reporting lines, appropriate authorities and responsibilities identified and did not sufficiently attract, develop and retain competent resources and hold them accountable for their internal control responsibilities. This pervasive material weakness contributed to specific material weaknesses noted within the Control Activities COSO component.

- BPA did not design, implement and operate effective process-level control activities in the following areas: evaluation of goodwill impairment, period end financial close and account reconciliation procedures, treasury cycle, and insufficient access controls.

BPA management concluded that these deficiencies were largely caused by an ineffective control environment. Management reassessed the controls of the combined entity (XBP Global Holdings Inc.) after the Business Combination and determined that the material weaknesses persisted for the reporting period as of September 30, 2025.

As of the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of our management, including our CEO and CFO, of the effectiveness of our internal control over financial reporting. Based upon that evaluation, our CEO and CFO concluded that our internal control over financial reporting was not effective as of December 31, 2025 solely due to the material weaknesses in our internal control over financial reporting as discussed below:

A) Identified in previous years, and remediated as of Q3 2025 reporting:

- Treasury: The material weakness in Treasury process was noted as the company did not design, implement and operate effective process-level control activities related to treasury (including cash and cash equivalents). During the year, we assessed the payments authorization process and noted appropriate review and oversight on disbursement activities. This assessment supported remediation of the reported material weakness.
- Access Management: The access management related material weakness was noted on account of delayed access revocation from certain software applications. During 2024 and 2025, the company adopted multiple

[Table of Contents](#)

measures including domain integration, implementation of identity and access management solutions, and AI enabled tools to ensure timely revocation of access of terminated users to effectively remediate the reported material weakness.

- Risk Assessment: The material weakness in risk assessment process was noted as the company failed to identify and assess risks of misstatement, including fraud risks, to ensure controls were designed and implemented to respond to those risks. To address this, the company executed a formalized risk identification process and reviewed existing and proposed risk mitigation strategies. This assessment was integrated into our annual internal control scoping. The timely undertaking of this exercise in 2025 has supported effective remediation of the previously reported material weakness.

B) Reported in Q3 2025 and subsequently remediated:

- Goodwill and intangible assets: The material weakness in goodwill and intangible assets was identified primarily due to the failure to identify goodwill impairment by management in Q4 2024. During Q3 and Q4 2025, we strengthened existing controls to (1) identify goodwill impairment triggers and (2) review underlying valuation assumptions in the valuation analysis prepared by third party valuation specialists. This supported the proper recording and disclosure of goodwill impairment, effectively remediating the previously identified material weakness.
- Monitoring: The Company has strengthened current reporting and communication channels to ensure that identified internal control deficiencies are reported timely to senior management. These mechanisms facilitate the timely evaluation of control deficiencies and the implementation of appropriate corrective actions.

C) Reported in Q3 2025 and carried forward:

- Financial reporting: The material weakness was carried forward as the company did not design, implement and operate effective process-level control activities over financial reporting (including review of the recording of manual journal entries, period end financial close/account reconciliation process and preparation of the consolidated financial statements). The company's reliance on legacy accounting systems necessitates manual interventions and significant manual oversight, which can lead to the risk of delays and errors in the financial close process.

- Ineffective control environment: The material weakness identified earlier cited that the company did not have sufficient structures, reporting lines, appropriate authorities and responsibilities and also did not sufficiently attract, develop and retain competent resources and hold them responsible for their internal control responsibilities. The company during the year established appropriate organizational structures, formalized lines of reporting and appointed competent personnel with defined roles and responsibilities to strengthen internal controls. While the Company has made progress with respect to its remediation efforts, the material weakness has not been fully remediated as of year-end.
- Ineffective Information & Communication: Relevant and quality information and communication to support the functioning of internal controls was not consistently generated or used by the Company to support the operation of internal controls as of year-end.

Notwithstanding such material weaknesses in internal control over financial reporting, our management, including our CEO and CFO, has concluded that our consolidated and combined financial statements present fairly, in all material aspects, our financial position, results of our operations and our cash flows for the periods presented in this report, in conformity with GAAP.

Remediation of Material Weaknesses

We are undertaking the following remediation measures with appropriate executive sponsorship, to specifically address the material weaknesses related to the financial reporting processes, and the control environment and information and communication components, to further strengthen internal controls:

- For the financial reporting processes, enhancing the design of existing control activities and implementing additional process-level control activities for financial period closure, and adjustment entries.

[Table of Contents](#)

- Continuing to hire, train, and retain individuals with appropriate skills and experience, assigning responsibilities and holding individuals accountable for their roles related to internal control over financial reporting.
- Initiating an assessment of our accounting systems to identify modernization opportunities. In the interim, we will focus on strengthening existing controls to mitigate risks associated with our current accounting systems.
- Strengthening existing information and communication controls to allow the effective operation of control activities.

Management intends to deploy the aforementioned additional remediation measures during the year ending December 31, 2026. The effort may require incremental time and resources to remediate, and we may decide to take other measures with appropriate executive sponsorship to address the material weaknesses or modify the remediation steps described above. The material weaknesses will not be considered remediated until the applicable controls operate for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. Until these deficiencies are remediated, we plan to continue to perform additional analyses and other procedures to ensure that our consolidated financial statements are prepared in accordance with GAAP.

Changes in Internal Controls over Financial Reporting

During the year ended December 31, 2025, the Business Combination resulted in a change from what the XBP Europe Holdings, Inc. previously reported in its standalone filings because the combined company's historical financial statements and ICFR are based on BPA as the accounting acquirer. This represents a change in reporting basis, not the emergence of new deficiencies. The material weaknesses described above were pre-existing at BPA and continued following the Business Combination and therefore do not constitute a "change" in ICFR introducing additional material weaknesses for purposes of Item 308(c) of Regulation S-K. Other than as described above, there were no changes in our internal control over financial reporting during the year ended December 31, 2025 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

During the fiscal quarter ended December 31, 2025, none of our directors or officers adopted or terminated a Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTION

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE

The information required by this Item will be included in the Company's definitive proxy statement to be filed with the SEC within 120 days after December 31, 2025, in connection with the solicitation of proxies for the Company's 2026 annual meeting of shareholders ("2026 Proxy Statement"), and is incorporated herein by reference.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this Item will be included in the 2026 Proxy Statement, and is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this Item will be included in the 2026 Proxy Statement, and is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this Item will be included in the 2026 Proxy Statement, and is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The information required by this Item will be included in the 2026 Proxy Statement, and is incorporated herein by reference.

PART IV

ITEM 15. EXHIBIT AND FINANCIAL STATEMENT SCHEDULES

a) (1) Financial Statements

Report of Independent Registered Public Accounting Firm	66
Report of Independent Registered Public Accounting Firm	69
Consolidated and Combined Balance Sheets as of December 31, 2025 (Successor) and December 31, 2024 (Predecessor)	70
Consolidated and Combined Statements of Operations for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year December 31, 2024 (Predecessor)	71
Consolidated and Combined Statements of Comprehensive Profit (Loss) for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	72
Consolidated and Combined Statements of Stockholders' Equity (Deficit) for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	73
Consolidated and Combined Statements of Cash Flows for the periods August 1, 2025 to December 31, 2025 (Successor), January 1, 2025 to July 31, 2025 (Predecessor), and the year ended December 31, 2024 (Predecessor)	75
Notes to the Consolidated and Combined Financial Statements	76

[Table of Contents](#)

(a)(3) Exhibits

Exhibit Number	Document Description†
2.1†	Merger Agreement, dated as of October 9, 2022, by and among CF VIII, Merger Sub, XBP Europe and BTC International (incorporated by reference to Exhibit 2.1 to CF VIII's Form 8-K, filed with the SEC on October 11, 2022).
2.2	BPA Membership Interest Purchase Agreement dated July 3, 2025 (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K, filed with the SEC on July 10, 2025).
3.1(i)(a)	Third Amended and Restated Certificate of Incorporation of the Company, dated July 29, 2025 (incorporated by reference to Exhibit 3.2 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
3.1(i)(b)	Certificate of Amendment to the Third Amended and Restated Certificate of Incorporation, dated December 12, 2025 (incorporated by reference to Exhibit 3.1 to the Company's Form 8-K, filed with the SEC on December 12, 2025).
3.1(i)(c)	Certificate of Designations of Series A Participating Preferred Stock (incorporated by reference to Exhibit 3.1 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
3.1(ii)	Second Amended and Restated Bylaws of the Company (incorporated by reference to Exhibit 3.3 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
4.1	Form of Specimen Warrant Certificate (incorporated by reference to Exhibit 4.3 to CF VIII's Form S-1/A, filed with the SEC on March 1, 2021).
4.2	Warrant Agreement, dated March 11, 2021, by and between CF VIII and Continental Stock Transfer & Trust Company, as warrant agent (incorporated by reference to Exhibit 4.1 to CF VIII's Form 8-K, filed with the SEC on March 17, 2021).
4.3	Rights Agreement, dated July 29, 2025 (incorporated by reference to Exhibit 4.2 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
4.4	Form of Warrant, dated July 29, 2025 (incorporated by reference to Exhibit 4.3 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
4.5	Indenture, dated July 29, 2025, by and among Exela Technologies BPA, LLC, Exela Finance Inc., the Guarantors party thereto, U.S. Bank Trust Company, National Association, as Trustee, and Ankura Trust Company, LLC, as Collateral Agent (incorporated by reference to Exhibit 4.1 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
4.6*	Description of Securities
10.1	Amended and Restated Registration Rights Agreement, dated as of November 29, 2023, by and among CF VIII, Cantor, Existing Holders, and New Holders (incorporated by reference to Exhibit 10.3 to the Company's Form 8-K, filed with the SEC on December 5, 2023).
10.2	ETI and Subsidiary Companies Intercompany Income Tax Allocation agreement, dated as of November 29, 2023, by and among ETI, CF VIII, and XBP Europe (incorporated by reference to Exhibit 10.5 to the Company's Form 8-K, filed with the SEC on December 5, 2023).
10.3	Form of Indemnity Agreement (incorporated by reference to Exhibit 10.6 to CF VIII's Form S-1/A, filed with the SEC on March 1, 2021).

- 10.4 [Facilities Agreement, dated June 26, 2024, by and among \(i\) XBP Europe, as Parent and Guarantor, \(ii\) Exela Technologies Limited and BancTec Holdings N.V., as Borrowers and Guarantors, \(iii\) certain subsidiaries of the XBP Group named in the Facilities Agreement, as Guarantors and \(iv\) HSBC UK Bank plc, as Lender, Administrative Agent and Security Agent under the Facilities Agreement \(incorporated by reference to Exhibit 10.1 to the Company's Form 8-K, filed with the SEC on June 28, 2024\).](#)
- 10.5 [Amendment Agreement, dated July 25, 2025 \(incorporated by reference to Exhibit 10.1 to the Company's Form 8-K, filed with the SEC on July 31, 2025\).](#)
- 10.6# [XBP Europe Holdings, Inc. 2024 Stock Incentive Plan \(as amended\) \(incorporated by reference to Exhibit 10.1 to the Company's Form 8-K, filed with the SEC on June 20, 2024\).](#)
- 10.7# [Amendment to the 2024 Stock Incentive Plan \(incorporated by reference to Annex E to the Company's definitive proxy statement, filed with the SEC on July 15, 2025\).](#)
- 10.8# [Form of Restricted Stock Unit Grant Notice and Agreement under the XBP Europe Holdings, Inc. 2024 Stock Incentive Plan \(incorporated by reference to Exhibit 10.2 to the Company's Form 8-K, filed with the SEC on June 20, 2024\).](#)
- 10.9# [Form of Option Grant Notice and Agreement under the XBP Europe Holdings, Inc. 2024 Stock Incentive Plan \(incorporated by reference to Exhibit 10.3 to the Company's Form 8-K, filed with the SEC on June 20, 2024\).](#)
- 10.10# [XBP Europe Holdings, Inc. Executive Officer Annual Bonus Plan \(incorporated by reference to Exhibit 10.4 to the Company's Form 8-K, filed with the SEC on June 20, 2024\).](#)
- 10.11# [Executive Severance and Change in Control Plan, dated as of April 29, 2025 \(incorporated by reference to Exhibit 10.1 to the Company's Form 10-K/A, filed with the SEC on April 30, 2025\).](#)
- 10.12 [Registration Rights Agreement, dated July 29, 2025 \(incorporated by reference to Exhibit 10.2 to the Company's Form 8-K, filed with the SEC on August 4, 2025\).](#)
- 10.13 [Credit and Security Agreement, dated July 29, 2025, by and among Exela Technologies BPA LLC, Midcap Funding IV Trust, and the Lenders from time to time party thereto \(incorporated by reference to Exhibit 10.5 to the Company's Form 8-K, filed with the SEC on August 4, 2025\).](#)
- 10.14* [First Amendment to Credit and Security Agreement, dated December 19, 2025, by and among XBP Americas, LLC \(f/k/a Exela Technologies BPA, LLC\), Midcap Funding IV Trust and the guarantors and lenders party thereto.](#)
- 10.15* [Limited Waiver and Second Amendment to Credit and Security Agreement, dated January 21, 2026, by and among XBP Americas, LLC \(f/k/a Exela Technologies BPA, LLC\), Midcap Funding IV Trust and the lenders party thereto.](#)
- 10.16* [Limited Waiver and Third Amendment to Credit and Security Agreement, dated March 6, 2026, by and among XBP Americas, LLC \(f/k/a Exela Technologies BPA, LLC\), Midcap Funding IV Trust and the lenders party thereto.](#)

[Table of Contents](#)

Exhibit Number	Document Description†
10.17	Financing Agreement, dated July 29, 2025, by and among Exela Technologies BPA, LLC, Exela Finance Inc., certain guarantors, the lenders from time to time party thereto and Ankura Trust Company, LLC (incorporated by reference to Exhibit 10.3 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
10.18*	First Amendment to Financing Agreement, dated January 21, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), Ankura Trust Company, LLC and the lenders from time to time party thereto.
10.19*	Second Amendment to Financing Agreement, dated February 13, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), Exela Finance, Inc., Ankura Trust Company, LLC and certain guarantors and lenders from time to time party thereto.
10.20	Amended and Restated Credit and Security Agreement, dated July 29, 2025, by and among Exela Technologies BPA, LLC, BRF Finance Co. LLC and the lenders party thereto (incorporated by reference to Exhibit 10.7 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
10.21*	First Amendment to Amended and Restated Credit and Security Agreement, dated December 19, 2025, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), BRF Finance Co. LLC and the guarantors and lenders party thereto.
10.22*	Limited Waiver and Second Amendment to Amended and Restated Credit and Security Agreement, dated January 21, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), BRF Finance Co. LLC and the lenders party thereto.
10.23*	Limited Waiver and Third Amendment to Amended and Restated Credit and Security Agreement, dated March 6, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), BRF Finance Co. LLC and the lenders party thereto.
10.24	Tax Funding Agreement, dated July 29, 2025 (incorporated by reference to Exhibit 10.4 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
16.1	Letter from EisnerAmper LLP to the Securities and Exchange Commission, dated August 4, 2025 (incorporated by reference to Exhibit 16.1 to the Company's Form 8-K, filed with the SEC on August 4, 2025).
19.1	Insider Trading Policy (incorporated by reference to Exhibit 19.1 to the Company's Form 10-K, filed with the SEC on March 19, 2025).
21.1*	List of subsidiaries of the Company.
23.1*	Consent of UHY LLP, independent registered public accounting firm.
23.2*	Consent of EisnerAmper LLP, independent registered public accounting firm.
24.1	Power of Attorney (included on the signature page of this report).
31.1*	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	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.
32.2*	Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

97.1	<u>Clawback Policy (incorporated by reference to Exhibit 97.1 to the Company's Form 10-K for the period ended December 31, 2023, filed with the SEC on April 1, 2024).</u>
101.INS	XBRL Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document)
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

† Certain of the exhibits and schedules to this Exhibit have been omitted in accordance with Regulation S-K Item 601(a)(5). The registrant agrees to furnish a copy of all omitted exhibits and schedules to the SEC upon its request.

* Filed or furnished herewith, as applicable.

Indicates management contract or compensatory plan, contract or arrangement.

ITEM 16. FORM 10-K SUMMARY

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated:	By: <u>/s/ Andrej Jonovic</u>
	Andrej Jonovic, <i>Chief Executive Officer</i>
March 31, 2026	(Principal Executive Officer)

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Andrej Jonovic and Dejan Avramovic, and each of them, as his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this report, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Dated:	By: <u>/s/ Andrej Jonovic</u>
March 31, 2026	Andrej Jonovic, <i>Director and Chief Executive Officer</i>
	(Principal Executive Officer)

Dated:	By: <u>/s/ Dejan Avramovic</u>
March 31, 2026	Dejan Avramovic, <i>Chief Financial Officer</i>
	(Principal Financial and Accounting Officer)

Dated:	By: <u>/s/ Par Chadha</u>
March 31, 2026	Par Chadha, <i>(Director and Chairman)</i>

Dated:
March 31, 2026

By/s/ James G. Reynolds
James G. Reynolds, (*Director*)

Dated:
March 31, 2026

By/s/ Regina Paolillo
Regina Paolillo, (*Director*)

Dated:
March 31, 2026

By/s/ Sanjay Srivastava
Sanjay Srivastava, (*Director*)

Dated:
March 31, 2026

By/s/ Robert Pryor
Robert Pryor, (*Director*)

Dated:
March 31, 2026

By/s/ Randal T. Klein
Randal T. Klein, (*Director*)

DESCRIPTION OF SECURITIES

XBP Global Holdings, Inc. (“we,” “our,” “us” or the “Company”) has two classes of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”): common stock, par value \$0.0001 per share (the “Common Stock”), and public warrants, every ten warrants exercisable for one share of Common Stock at an exercise price of \$115.00 per share (the “Public Warrants” or, for purposes of this Exhibit, each a “Warrant”).

The following summary of the material terms of our securities is not intended to be complete and is subject to, and qualified in its entirety by, reference to our certificate of incorporation (as amended or restated from time to time, our “Charter”), the Certificate of Designations of Series A Participating Preferred Stock (the “Series A COD”), our bylaws (as amended or restated from time to time, our “Bylaws”), the Rights Agreement (defined below) and the documents relating to the Public Warrants, each of which is incorporated by reference as an exhibit to our most recent Annual Report on Form 10-K filed with the Securities and Exchange Commission, and applicable provisions of the Delaware General Corporation Law, or the DGCL.

Authorized Capitalization

The total amount of the Company’s authorized capitalized stock consists of (a) 400,000,000 shares of Common Stock, par value \$0.0001 per share; and (b) 20,000,000 shares of preferred stock of the Company, 60,000 of which has been designated Series A Participating Preferred Stock (having such rights and preferences as set forth in the Series A COD, the “Series A Preferred Stock”).

Common Stock

Voting rights. Each holder of Common Stock will be entitled to one (1) vote in person or by proxy for each share of the Common Stock held of record by such holder. The holders of shares of Common Stock will not have cumulative voting rights. Except as otherwise required in our Charter or by applicable law, the holders of the Common Stock vote together as a single class on all matters on which stockholders are generally entitled to vote.

Dividend rights. Subject to applicable law and the rights, if any, of the holders of any outstanding series of the preferred stock, the holders of shares of Common Stock will be entitled to receive such dividends and other distributions (payable in cash, property or capital stock of the Company) when, as and if declared thereon by the Board of Directors, or the Board, from time to time out of any assets or funds of the Company legally available therefor and shall share equally on a per share basis in such dividends and distributions.

Rights upon liquidation. Subject to the applicable law and the rights, if any, of the holders of any outstanding series of the preferred stock of the Company, in any event of a voluntary or involuntary liquidation, dissolution or winding up of the Company, after payment or provision for payment of the debts and other liabilities of the Company, the holders of shares of Common Stock will be entitled to receive all of the remaining assets of the Company available for distribution to its stockholders, ratably in proportion to the number of shares of Common Stock held by them.

Preferred Stock

The Board has the authority, without further action by the stockholders, to issue shares of preferred stock from time to time on terms it may determine, to divide shares of preferred stock into one or more series and to fix for each such series the designations, preferences, and relative, participating, optional or other rights and such qualifications, limitations or restrictions thereof, as stated and expressed in the resolution or resolutions adopted and filed by the Board in accordance with the DGCL.

The issuance of preferred stock could have the effect of decreasing the trading price of the Common Stock, restricting dividends on the capital stock of the Company, diluting the voting power of the Common Stock, impairing the liquidation rights of the capital stock of the Company, or delaying or preventing a change in control of the

Company. Although we do not currently intend to issue any shares of preferred stock, other than as described pursuant to the Rights Agreement below, we cannot assure you that we will not do so in the future.

Stock Purchase Rights

On July 29, 2025, the Board declared a dividend of one preferred share purchase right (a “Right”) to purchase one-thousandth of one share of Series A Preferred Stock for each outstanding share of our Common Stock to the stockholders of record as of the close of business on August 15, 2025, and adopted a limited duration stockholder rights plan, as set forth in the Rights Agreement, dated as of July 29, 2025 (the “Rights Agreement”), by and between us and Continental Stock Transfer & Trust Company, as rights agent (the “Rights Agent”). The Rights Agent serves as our transfer agent with respect to our Common Stock and was also appointed transfer agent with respect to the Series A Preferred Stock, if any, that may be issued pursuant to the exercise of Rights under the Rights Agreement. The Rights will expire on January 29, 2027 (the “Final Expiration Date”), unless the Rights are earlier redeemed or exchanged by us. The Rights are not separately registered or traded and are attached to and trade only with the shares of Common Stock until the Distribution Date.

In connection with a one-for-ten reverse stock split of our Common Stock effected on December 12, 2025 (the “Reverse Stock Split”), the number of shares of Series A Preferred Stock purchasable upon the exercise of each Right was increased from one one-thousandth of a share of Series A Preferred Stock to one one-hundredth of a share of Series A Preferred Stock and the number of outstanding Rights was decreased by a factor of ten such that each share of Common Stock outstanding immediately after the Reverse Stock Split has issued with respect to it one Right. Except as otherwise indicated, all information herein has been adjusted to reflect the Reverse Stock Split.

In general terms, the Rights Agreement works by imposing a significant penalty upon any person or group that acquires beneficial ownership of 30% or more of the outstanding shares of our Common Stock without the approval of the Board.

The Rights

The Rights will not be exercisable and will trade with shares of our Common Stock until the earlier to occur of (i) the tenth business day after the “Stock Acquisition Date,” which refers to the date of public announcement or disclosure that a person or group has acquired beneficial ownership of 30% or more of our outstanding Common Stock; or (ii) the tenth business day (or such later date as may be determined by the Board) after the date that a tender or exchange offer by any person is first published or sent or given, if upon consummation thereof, such person would become an Acquiring Person; provided, however, the term “Acquiring Person” is subject to certain customary exceptions whereby certain stockholders that would have otherwise been an Acquiring Person are excluded from the definition of “Acquiring Person.” Any Rights held by an Acquiring Person are null and void and may not be exercised.

Purchase Price

The date when the Rights separate from our Common Stock and become exercisable is referred to herein as the “Distribution Date.” After the Distribution Date, each Right will entitle the holder to purchase one-hundredth (1/100th) of a share of Series A Preferred Stock for five (5) times the Current Per Share Market Price (as defined in the Rights Agreement) of the Common Stock as of the

Stock Acquisition Date, subject to adjustment (the “Purchase Price”). Each one-hundredth (1/100th) of a share of Series A Preferred Stock has economic terms similar to that of one share of our Common Stock. The Purchase Price payable, and the number of shares of Series A Preferred Stock or other securities or other property issuable upon exercise of the Rights will be subject to adjustment from time to time to prevent dilution in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Series A Preferred Stock. No fractional shares will be issued (other than fractions which are integral multiples of the number of one one-hundredth (1/100th) of a share of Series A Preferred Stock issuable upon the exercise of one Right, which may, at our election, be evidenced by depositary receipts), and in lieu thereof, an adjustment in cash will be made based on the market price of the Series A Preferred Stock on the last trading day prior to the date of exercise.

Consequences of a Person or Group Becoming an Acquiring Person

- *Flip-In.* If a person or group becomes an Acquiring Person, all holders of Rights except the Acquiring Person or its affiliates will, for the Purchase Price, have the right to receive that number of shares of Common Stock having a total market value of two (2) times the Purchase Price.
- *Exchange.* In lieu of “flip-in” feature described above, the Board may, at its option at any time after a person or group becomes an Acquiring Person, exchange the Rights (other than Rights owned by the Acquiring Person or its affiliates), in whole or in part, for shares of our Common Stock at an exchange ratio of one share of our Common Stock per Right (subject to adjustment).
- *Flip-Over.* If we are later acquired in a merger or similar transaction after the Distribution Date, all holders of Rights except the Acquiring Person or its affiliates will, for the Purchase Price, have the right to receive that number of shares of common stock of the person engaging in the transaction having a total market value of two (2) times the Purchase Price.

Series A Preferred Stock Provisions

Subject to adjustment as provided in the Rights Agreement, each share of Series A Preferred Stock, if issued:

- will not be redeemable;
- when and if any dividend is declared on our Common Stock, entitle the holder to a preferential quarterly dividend payment equal to 100 times the aggregate per share price of all cash and non-cash dividends declared per share of our Common Stock;
- will entitle the holder upon liquidation either to receive \$1,000 plus an amount equal to accrued and unpaid dividends and distributions thereon or an aggregate amount per share equal to 100 times the aggregate amount to be distributed per share to holders of our Common Stock;
- will have 100 votes, voting together with our Common Stock; and
- if shares of our Common Stock are exchanged via merger, consolidation, or a similar transaction, will entitle the holder to a per share payment equal to 100 times the amount of consideration received per share of our Common Stock.

Expiration; Amendment

The Rights will expire on the Final Expiration Date, unless the Rights are earlier redeemed or exchanged by us. The terms of the Rights Agreement may be amended by the Company without the consent of the holders of the Rights. After a person or group becomes an Acquiring Person, the Company may not amend the Rights Agreement in a way that adversely affects holders of the Rights.

Redemption

The Board may redeem the Rights for \$0.01 per Right at any time prior to the earlier of (i) such time as any person or group becomes an Acquiring Person or (ii) the close of business on the Final Expiration Date. Following the expiration of the above periods, the Rights become nonredeemable. If the Board redeems any Rights, it must redeem all of the Rights. Once the Rights are redeemed, the only right of the holders of Rights will be to receive the redemption price of \$0.01 per Right. The redemption price will be adjusted if we effect a stock split or stock dividend of our Common Stock.

Miscellaneous

The Rights have the benefit of certain customary anti-dilution provisions.

The Rights Agreement does not contain any dead-hand, slow-hand, no-hand or similar feature that limits the ability of a future board to redeem the Rights. Until a Right is exercised, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends.

Public Warrants

Each whole Warrant entitles the registered holder to purchase one-tenth (1/10) of one share of our Common Stock at a price of \$115.00 per whole share, subject to adjustment as discussed below, at any time. Pursuant to the warrant agreement, a warrant holder may exercise its Warrants only for a whole number of shares of Common Stock. This means that Warrants may only be exercised at any given time by a warrant holder in multiples of ten. No fractional Warrants will be issued and only whole Warrants will trade. The Warrants will expire November 29, 2028, at 5:00 p.m., New York City time, or earlier upon redemption or liquidation.

We are not obligated to deliver any shares of Common Stock pursuant to the exercise of a Warrant and have no obligation to settle such Warrant exercise unless a registration statement under the Securities Act with respect to the shares of Common Stock underlying the Warrants is then effective and a prospectus relating thereto is current, subject to our satisfying our obligations described below with respect to registration. No Warrant will be exercisable and we will not be obligated to issue shares of Common Stock upon exercise of a Warrant unless Common Stock issuable upon such Warrant exercise has been registered, qualified or deemed to be exempt under the securities laws of the state of residence of the registered holder of the Warrants. In the event that the conditions in the two immediately preceding sentences are not satisfied with respect to a Warrant, the holder of such Warrant will not be entitled to exercise such Warrant and such Warrant may have no value and expire worthless. In no event will we be required to net cash settle any Warrant.

We have filed with the SEC a registration statement covering the shares of Common Stock issuable upon exercise of the Warrants. A warrant holder may, until such time as there is an effective registration statement and during any period when we will have failed to maintain an effective registration statement, exercise Warrants on a “cashless basis” in accordance with Section 3(a)(9) of the Securities Act or another exemption. Notwithstanding the above, if our Common Stock is at the time of any exercise of a Warrant not listed on a national securities exchange such that it satisfies the definition of a “covered security” under Section 18(b)(1) of the Securities Act, we may, at our option, require holders of Public Warrants who exercise their Warrants to do so on a “cashless basis” in accordance with Section 3(a)(9) of the Securities Act and, in the event we so elect, we will not be required to file or maintain in effect a registration statement, and in the event we do not so elect, we will use our commercially reasonable best efforts to register or qualify the shares under applicable blue sky laws to the extent an exemption is not available.

Once the Warrants become exercisable, we may call the Warrants for redemption:

- in whole and not in part;
- at a price of \$0.01 per Warrant;
- upon not less than 30 days’ prior written notice of redemption to each warrant holder; and

- if, and only if, the last reported sale price of the Common Stock equals or exceeds \$180.00 per share (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) for any 20 trading days within a 30-trading day period commencing once the Warrants become exercisable and ending three trading days before we send the notice of redemption to the warrant holders.

If and when the Warrants become redeemable by us, we may not exercise our redemption right if the issuance of shares of Common Stock upon exercise of the Warrants is not exempt from registration or qualification under applicable state blue sky laws or we are unable to effect such registration or qualification.

We have established the last of the redemption criterion discussed above to prevent a redemption call unless there is at the time of the call a significant premium to the Warrant exercise price. If the foregoing conditions are satisfied and we issue a notice of redemption of the Warrants, each warrant holder will be entitled to exercise its

Warrant prior to the scheduled redemption date. However, the price of the Common Stock may fall below the \$180.00 redemption trigger price (as adjusted for stock splits, stock dividends, reorganizations, recapitalizations and the like) as well as the \$115.00 Warrant exercise price after the redemption notice is issued.

If we call the Warrants for redemption as described above, our management will have the option to require any holder that wishes to exercise its Warrant to do so on a “cashless basis.” In determining whether to require all holders to exercise their Warrants on a “cashless basis,” our management will consider, among other factors, our cash position, the number of Warrants that are outstanding and the dilutive effect on our stockholders of issuing the maximum number of shares of Common Stock issuable upon the exercise of our Warrants. If our management takes advantage of this option, all holders of Warrants would pay the exercise price by surrendering their Warrants for that number of shares of Common Stock equal to the quotient obtained by dividing (x) the product of the number of shares of Common Stock underlying the Warrants, multiplied by the difference between the exercise price of the Warrants and the “fair market value” (defined below) by (y) the fair market value. The “fair market value” shall mean the average volume weighted average last reported sale price of the Common Stock for the 10 trading days ending on the third trading day prior to the date on which the notice of redemption is sent to the holders of Warrants. If our management takes advantage of this option, the notice of redemption will contain the information necessary to calculate the number of shares of Common Stock to be received upon exercise of the Warrants, including the “fair market value” in such case. Requiring a cashless exercise in this manner will reduce the number of shares to be issued and thereby lessen the dilutive effect of a Warrant redemption. We believe this feature is an attractive option to us if we do not need the cash from the exercise of the Warrants.

A holder of a Warrant may notify us in writing in the event it elects to be subject to a requirement that such holder will not have the right to exercise such Warrant, to the extent that after giving effect to such exercise, such person (together with such person’s affiliates), to the warrant agent’s actual knowledge, would beneficially own in excess of 4.9% or 9.8% (or such other amount as a holder may specify) of the shares of Common Stock outstanding immediately after giving effect to such exercise.

If the number of outstanding shares of Common Stock is increased by a stock dividend payable in shares of Common Stock, or by a split-up of shares of Common Stock or other similar event, then, on the effective date of such stock dividend, split-up or similar event, the number of shares of Common Stock issuable on exercise of each Warrant will be increased in proportion to such increase in the outstanding shares of Common Stock. A rights offering to holders of Common Stock entitling holders to purchase shares of Common Stock at a price less than the fair market value will be deemed a stock dividend of a number of shares of Common Stock equal to the product of (i) the number of shares of Common Stock actually sold in such rights offering (or issuable under any other equity securities sold in such rights offering that are convertible into or exercisable for Common Stock) and (ii) one (1) minus the quotient of (x) the price per share of Common Stock paid in such rights offering divided by (y) the fair market value. For these purposes (i) if the rights offering is for securities convertible into or exercisable for Common Stock, in determining the price payable for Common Stock, there will be taken into account any consideration received for such rights, as well as any additional amount payable upon exercise or conversion and (ii) fair market value means the volume weighted average price of Common Stock as reported during the ten (10) trading day period ending on the trading day prior to the first date on which the shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such rights.

In addition, if we, at any time while the Warrants are outstanding and unexpired, pay a dividend or make a distribution in cash, securities or other assets to the holders of Common Stock on account of such shares of Common Stock (or other shares of our capital stock into which the Warrants are convertible), other than (i) as described above, and (ii) certain ordinary cash dividends, then the Warrant exercise price will be decreased, effective immediately after the effective date of such event, by the amount of cash and/or the fair market value of any securities or other assets paid on each share of Common Stock in respect of such event.

The Warrants may be exercised upon surrender of the Warrant certificate on or prior to the expiration date at the offices of the warrant agent, with the exercise form on the reverse side of the Warrant certificate completed and executed as indicated, accompanied by full payment of the exercise price (or on a cashless basis, if applicable), by certified or official bank check payable to us, for the number of Warrants being exercised. The warrant holders do not have the rights or privileges of holders of Common Stock and any voting rights until they exercise their Warrants and

receive shares of Common Stock. After the issuance of shares of Common Stock upon exercise of the Warrants, each holder will be entitled to one (1) vote for each share held of record on all matters to be voted on by stockholders.

No fractional shares will be issued upon exercise of the Warrants. If, upon exercise of the Warrants, a holder would be entitled to receive a fractional interest in a share, we will, upon exercise, round down to the nearest whole number of shares of Common Stock to be issued to the warrant holder.

Dividends

The payment of future dividends on the shares of the Common Stock is subject to the rights of the holders of the Company's preferred stock (if any) and will depend on the revenues and earnings (if any), capital requirements and financial condition of the Company subject to the discretion of the Board. The Board is not currently contemplating and does not anticipate declaring any dividends in the foreseeable future. The ability of the Company to declare dividends may be limited by the terms of any financing and other agreements entered into by the Company or its subsidiaries from time to time.

Election of Directors

Each director is elected annually by stockholders for a term of one year. There is no cumulative voting with respect to the election of directors, with the result that the holders of more than 50% of the shares voted for the election of directors can elect all of the directors.

Removal of Directors; Vacancies

Our Charter provides that, subject to the rights, if any, of the holders of shares of the Company's preferred stock then outstanding, directors may be removed only for cause upon the affirmative vote of 75% of the voting power of all outstanding shares of stock entitled to vote generally in the election of directors, voting together as a single class. The enforceability of the limitation to removal 'for cause only' on a non-classified board is subject to Delaware law and judicial interpretation. In addition, our Charter provides that, subject to the rights granted to one or more series of the Company's preferred stock then outstanding, any newly created directorship on the Board that results from an increase in the number of directors, and any vacancy that results from the death, resignation, disqualification, removal or another cause, may be filled by a majority vote of the Board then in office, even if they do not represent a quorum, and even if only a single director is then in office (unless the Board determines that such vacancy should be filled by a vote of the stockholders).

Annual Stockholder Meetings

Our Bylaws provide that annual stockholder meetings will be held at a date, time and place, if any, as exclusively selected by the Board. To the extent permitted under applicable law, the Board may conduct meetings by remote communications. The Bylaws provide that stockholders seeking to bring business before the Company's annual meeting of stockholders, or to nominate candidates for election as directors at the Company's annual meeting of stockholders, must provide timely notice of their intent in writing. To be timely, a stockholder's notice will need to be received by the Company's Secretary at the Company's principal executive offices not later than the close of business on the 90th day nor earlier than the open of business on the 120th day prior to the anniversary date of the immediately preceding annual meeting of stockholders. Pursuant to Rule 14a-8 of the Exchange Act, proposals seeking inclusion in the Company's annual proxy statement must comply with the notice

periods contained in the annual proxy statement. Our Charter specifies certain requirements as to the form and content of a stockholders' meeting. These provisions may preclude the Company's stockholders from bringing matters before its annual meeting of stockholders or from making nominations for directors at its annual meeting of stockholders. Our Bylaws also specify certain requirements as to the form and content of a stockholder's notice for an annual meeting. Specifically, a stockholder's notice must include: (i) a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event such business includes a proposal to amend the bylaws, the language of the proposed amendment) and the reasons for conducting such business at the annual meeting, (ii) the name and record address of such stockholder and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (iii) the class or series and number

of shares of Company capital stock that are owned beneficially and of record by such stockholder and by the beneficial owner, if any, on whose behalf the proposal is made, (iv) a description of all arrangements or understandings between such stockholder and the beneficial owner, if any, on whose behalf the proposal is made and any other person or persons (including their names) in connection with the proposal of such business by such stockholder, (v) any material interest of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made in such business and (vi) a representation that such stockholder (or a qualified representative of such stockholder) intends to appear in person or by proxy at the annual meeting to bring such business before the meeting. These notice requirements will be deemed satisfied by a stockholder as to any proposal (other than nominations) if the stockholder has notified the Company of such stockholder's intention to present such proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) of the Exchange Act, and such stockholder has complied with the requirements of such rule for inclusion of such proposal in a proxy statement prepared by us to solicit proxies for such annual meeting. The foregoing provisions may limit the Company's stockholders' ability to bring matters before its annual meeting of stockholders or from making nominations for directors at its annual meeting of stockholders.

Quorum

Unless otherwise required by the DGCL or our Charter, the Bylaws provide that holders of a majority of the aggregate voting power of our capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, will constitute a quorum at all meetings of the stockholders. If, however, such quorum will not be present or represented at any meeting of the stockholders, such stockholders will have power to adjourn the meeting from time to time until a quorum shall attend.

Authorized but Unissued Capital Stock

Delaware law does not require stockholder approval for any issuance of authorized shares. However, the listing requirements of Nasdaq, which apply so long as the Common Stock remains listed on Nasdaq, require stockholder approval of certain issuances equal to or exceeding 20% of the then outstanding voting power or then outstanding number of shares of the Common Stock. Additional shares that may be issued in the future may be used for a variety of corporate purposes, including future public offerings, to raise additional capital or to facilitate acquisitions.

One of the effects of the existence of unissued and unreserved common stock may be to enable the Board to issue shares to persons friendly to current management, which issuance could render more difficult or discourage an attempt to obtain control of the Company by means of a merger, tender offer, proxy contest or otherwise and thereby protect the continuity of management and possibly deprive stockholders of opportunities to sell their shares of the Common Stock at prices higher than prevailing market prices.

Special Meetings

Our Bylaws provide that special meetings of stockholders may be called only by or at the direction of the Board, pursuant to a resolution adopted by a majority of the Board. Stockholders are not eligible and have no right to call a special meeting.

Our Bylaws also provide that any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, if all members of the Board or committee thereof, as the case may be, consent thereto in writing or by electronic transmission. After an action is taken, the consent or consents relating thereto must be filed with the minutes of proceedings of the Board or committee thereof.

Charter and Bylaws

The DGCL provides generally that the affirmative vote of a majority of the outstanding stock entitled to vote on amendments to a corporation's certificate of incorporation or bylaws is required to approve such amendment, unless a corporation's certificate of incorporation or bylaws, as the case may be, requires a greater percentage.

Our Bylaws may be amended, altered or repealed (A) at any annual or regular meeting of our Board, or at any special meeting of our Board if notice of the proposed alteration, amendment or repeal is contained in written notice of such special meeting, by the affirmative vote of a majority of the Board then present (at which meeting a quorum of the Board is present); or (B) by the affirmative vote of 75% of the voting power of the shares entitled to vote at an election of directors.

Limitations on Liability and Indemnification of Officers and Directors

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties, subject to certain exceptions. The Company has entered, and expects to continue to enter into, agreements to indemnify the directors, executive officers and other employees as determined by our Board. Under the terms of such indemnification agreements, the Company will be required to indemnify each of its directors and officers, to the fullest extent permitted by the laws of the state of Delaware, if the basis of the indemnitee's involvement was by reason of the fact that the indemnitee is or was a director or officer of the Company or any of its subsidiaries or was serving at the Company's request in an official capacity for another entity. The Company will be required to indemnify its officers and directors against all expenses, judgments, fines, penalties and amounts paid in settlement (if pre-approved), including all costs, expenses and obligations incurred in connection with investigating, defending, being a witness in, participating in (including on appeal), or preparing to defend, be a witness or participate in any completed, actual, pending or threatened action, suit, proceeding or alternative dispute resolution mechanism, whether civil, criminal, administrative, investigative or other, arising out of the officers' or directors' role as an officer or director of the Company, or establishing or enforcing a right to indemnification under the indemnification agreement.

Exclusive Jurisdiction of Certain Actions

Our Charter requires that derivative actions brought in the name of the Company, actions against directors, officers and other employees for breaches of fiduciary duty, actions asserting a claim against the Company or any directors, officers or other employees arising pursuant to the DGCL, our Charter or our Bylaws, actions asserting a claim against the Company or any directors, officers or other employees governed by the internal affairs doctrine, or actions asserting an "internal corporate claim" (as defined in the DGCL) may be brought only in the Court of Chancery in the State of Delaware, in all cases to the fullest extent permitted by law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants, provided, that if the Court of Chancery in the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state court sitting in the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware). Although we believe this provision benefits the Company by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors, officers and other employees.

Listing of Securities

The Company's Common Stock is listed on the Nasdaq Capital Market under the symbol "XBP", and the Company's Public Warrants are listed on the Nasdaq Capital Market under the symbol "XBPEW".

Section 203 of the Delaware General Corporation Law

We have opted out of Section 203 of the DGCL. Section 203 provides that, subject to certain exceptions specified in the law, a publicly held Delaware corporation shall not engage in certain “business combinations” with any “interested stockholder” for a three-year period after the date of the transaction in which the person became an interested stockholder. These provisions generally prohibit or delay the accomplishment of mergers, assets or stock sales or other takeover or change-in-control attempts that are not approved by a company’s board of directors.

Transfer Agent and Registrar

The transfer agent, warrant agent and registrar for our Common Stock and Public Warrants is Continental Stock Transfer & Trust Company.

This summary does not purport to be complete and is qualified in its entirety by reference to the full text of our Third Amended and Restated Certificate of Incorporation, Bylaws, Rights Agreement, the Public Warrant agreement and other governing documents, each of which is incorporated by reference as an exhibit to this Annual Report on Form 10-K.

**FIRST AMENDMENT TO
CREDIT AND SECURITY AGREEMENT**

This **FIRST AMENDMENT TO CREDIT AND SECURITY AGREEMENT** (this “*Amendment*”), dated as of December 19, 2025, is entered into by and among XBP Americas, LLC (formerly known as Exela Technologies BPA, LLC,) a Delaware limited liability company, (the “*Borrower*”), the guarantors party thereto (the “*Guarantors*”), MIDCAP FUNDING IV TRUST, a Delaware statutory trust, as administrative agent (the “*Agent*”), and the financial institutions or other entities from time to time parties hereto, each as a Lender.

RECITALS

WHEREAS, reference is made to that certain Credit And Security Agreement, dated as of July 29, 2025, by and among the Borrower, the Guarantors, the Lenders, and the Agent (the “*Existing Credit Agreement*”, and as such Existing Credit Agreement is amended hereby or as may be amended, restated, amended and restated, supplemented or modified from time to time thereafter, the “*Credit Agreement*”);

WHEREAS, the Borrower has requested that the Agent consent to certain amendments to the negative covenants, and pursuant to Section 11.16 of the Credit Agreement, the Agent and the Lenders (including the Required Lenders) have agreed to the requested modification on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

Section 2. Acknowledgements; Reaffirmation.

2.1. Acknowledgment of Obligations. All Obligations are unconditionally owing by the Credit Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

2.2. Acknowledgment of Liens. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Agent on behalf of the Lenders has and shall continue to have valid, enforceable and perfected first-priority Liens (subject to certain Permitted Liens) upon and security interests in the Collateral heretofore granted by the Credit Parties to the Agent on behalf of the Lenders pursuant to the Financing Documents.

2.3. Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Credit Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Loan Parties grant Liens or security interests in their properties, in each case under the Financing Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise,

under each Financing Document to which it is a party, and (B) to the extent such Credit Party granted Liens on or security interests in any of its property pursuant to any such Financing Document (including, but not limited to, the Security Documents), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

Section 3. Amendment to Credit Agreement As of the Effective Date (as defined below), subject to the satisfaction of the conditions precedent set forth in Section 4 of this Amendment:

3.1. All references in any Financing Document to “Exela Technologies BPA, LLC” are hereby replaced with and deemed to refer to “XBP Americas, LLC”;

3.2. Clause (c) of the definition of “Permitted Debt” is hereby amended and restated in its entirety to read as follows:

“(c) purchase money Debt to finance (whether prior to or within 180 days after) the acquisition of property or capital lease obligations not to exceed \$35,000,000 at any time (whether in the form of a loan or a lease and including any refinancing of such indebtedness pursuant to clause (II) below) used solely to acquire, lease, construct, repair, replace or improve property or equipment used in the Ordinary Course of Business;”

3.3. Clause (i) of the definition of “Permitted Liens” is hereby amended and restated in its entirety to read as follows:

“(i) any Lien on any property or equipment securing Debt permitted under subpart (c) of the definition of Permitted Debt and on any proceeds thereof, accessions and additions thereto, customary security deposits and related property with respect to such property or equipment, *provided*, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates);”

Section 4. Conditions Precedent. Section 3 hereof shall become effective on the date (the “**Effective Date**”) upon which each of the following conditions precedent have been satisfied:

(a) receipt by the Agent and the Lenders of this Amendment, duly executed and delivered by the Borrower, the Lenders and the Agent; and

(b) payment of all fees and other amounts due and payable on or prior to the date hereof pursuant to the Financing Documents, and the fees and disbursements invoiced at least one (1) Business Day prior to the Effective Date of the Agent’s counsel, Proskauer Rose LLP.

Section 5. Miscellaneous.

5.1. **Incorporations by Reference.** The provisions of Sections 11.16 (*Amendments and Waivers*), 13.1 (*Survival*), 13.2 (*No Waivers*), 13.3 (*Notices*), 13.4 (*Severability*), 13.6 (*Confidentiality*), 13.8 (*Governing Law; Submission To Jurisdiction*), 13.9 (*Waiver of Jury Trial*),

and 13.17 (*Successors and Assigns*) of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

5.2. **Counterparts; Integration.** This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. As used herein, “Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Amendment constitutes the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

5.3. **Amendment is a “Financing Document”.** This Amendment is a Financing Document and all references to a “Financing Document” in the Credit Agreement and the Financing Documents (including, without limitation, all such references in the representations and warranties in the Credit Agreement and the other Financing Documents) shall be deemed to include this Amendment.

5.4. **References to the Credit Agreement.** Upon the effectiveness of this Amendment, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference to the Credit Agreement in any other document, instrument or agreement executed and/or delivered in connection with the Credit Agreement shall mean and be a reference to the Credit Agreement as amended hereby.

5.5. **Representations and Warranties.** The Borrower hereby represents and warrants that (a) this Amendment is the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, (b) no Default, Event of Default or, to the Borrower’s knowledge, a potential Default shall have occurred and be continuing and (c) the representations and warranties set forth in the Credit Agreement and in the other Financing Documents are true and correct in all respects on and as of the Effective Date with the same force and effect as if made on and as of the Effective Date (except to the extent that any such representation or warranty expressly relates to an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date).

5.6. **Reaffirmation of Obligations.** The Borrower (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the

Financing Documents, and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge the Borrower's obligations under the Financing Documents.

5.7. **Reaffirmation of Security Interests.** The Borrower (a) affirms that each of the Liens granted in or pursuant to the Financing Documents is valid and subsisting, and (b) agrees that this Amendment and all documents executed in connection herewith shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Financing Documents.

5.8. **No Other Changes.** Except as specifically amended by this Amendment, the Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

BORROWER:

XBP AMERICAS, LLC

By:	<u>/s/ Andrej Jonovic</u>	
	Name:	Andrej Jonovic
		Authorized
	Title:	signatory

[Signature Page to First Amendment to Credit and Security Agreement]

GUARANTORS:

EXELA INTERMEDIATE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA FINANCE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

CORPSOURCE HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP, INCORPORATED

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP BPS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DELIVEREX, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

UNITED INFORMATION SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

ECONOMIC RESEARCH SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP LEGAL INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RUST CONSULTING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV HEALTHCARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

KINSELLA MEDIA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV SERVICES, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV ENTERPRISE SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

MERIDIAN CONSULTING GROUP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RUSTIC CANYON III, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

CHARTER LASON, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

LASON INTERNATIONAL, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP MANAGEMENT, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

PANGAEA ACQUISITIONS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC (PUERTO RICO), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DOCUDATA SOLUTIONS, L.C.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BTC VENTURES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RECOGNITION MEXICO HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC INTERMEDIATE HOLDING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RC4 CAPITAL, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DFG2 HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DFG2, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

PLEXUS GLOBAL FINANCE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOVG, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

TRAC HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

MANAGED CARE PROFESSIONALS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

FTS PARENT INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

TRANSCENTRA, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

J & B SOFTWARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS GROUP II LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS AMERICA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**REGULUS INTERGRATED SOLUTIONS
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA RE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS WEST LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NOVITEX HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NOVITEX INTERMEDIATE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**NOVITEX GOVERNMENT SOLUTIONS,
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA XBP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC (CANADA), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV CANADA COMPANY

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to First Amendment to Credit and Security Agreement]

GUARANTORS:

EXELA RECEIVABLES 3 HOLDCO, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: authorized signatory

EXELA RECEIVEABLES 3, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: authorized signatory

[Signature Page to First Amendment to Credit and Security Agreement]

AFFILIATED GUARANTORS:

XCV-EMEA, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NEON ACQUISITION, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**NOVITEX ENTERPRISE SOLUTIONS
CANADA, INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA ENTERPRISE SOLUTIONS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SERVICES INTEGRATION GROUP, L.P.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**SIG - GP L.L.C., A LIMITED LIABILITY
COMPANY**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to First Amendment to Credit and Security Agreement]

LENDERS:

MIDCAP FINANCIAL TRUST, as Lender

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP,
LLC, its general partner

By: /s/ Maurice Amsellem
Maurice
Name: Amsellem
Authorized
Title: Signatory

[Signature Page to First Amendment to Credit and Security Agreement]

AGENT:

MIDCAP FUNDING IV TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP,
LLC, its general partner

By: /s/ Maurice Amsellem
Maurice
Name: Amsellem
Authorized
Title: Signatory

[Signature Page to First Amendment to Credit and Security Agreement]

**LIMITED WAIVER AND SECOND AMENDMENT TO
CREDIT AND SECURITY AGREEMENT**

This **LIMITED WAIVER AND SECOND AMENDMENT TO CREDIT AND SECURITY AGREEMENT** (this “*Amendment*”), dated as of January 21, 2026, is entered into by and among XBP Americas, LLC (formerly known as Exela Technologies BPA, LLC,) a Delaware limited liability company, (the “*Borrower*”), the guarantors party thereto (the “*Guarantors*”), **MIDCAP FUNDING IV TRUST**, a Delaware statutory trust, as administrative agent (the “*Agent*”), and the financial institutions or other entities from time to time parties hereto, each as a Lender.

RECITALS

WHEREAS, reference is made to that certain Credit And Security Agreement, dated as of July 29, 2025, by and among the Borrower, the Guarantors, the Lenders, and the Agent (as amended by that certain First Amendment to Credit Agreement, dated as of December 19, 2025, the “*Existing Credit Agreement*”, and as such Existing Credit Agreement is amended hereby or as may be amended, restated, amended and restated, supplemented or modified from time to time thereafter, the “*Credit Agreement*”);

WHEREAS, the Borrower has requested that the Agent consent to certain amendments to the Existing Credit Agreement, and pursuant to Section 11.16 of the Credit Agreement, the Agent and the Lenders (including the Required Lenders) have agreed to the requested modification on the terms and conditions set forth herein; and

WHEREAS, certain Specified Events of Default (as defined below) have occurred and are continuing and the Lenders under the Existing Credit Agreement are willing to waive the Specified Events of Default (as defined below) and make such amendments on the terms and subject to the conditions set forth in this Amendment;

NOW, THEREFORE, in consideration of the promises, covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

Section 2. Acknowledgements; Reaffirmation.

2.1. Acknowledgment of Obligations. All Obligations are unconditionally owing by the Credit Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

2.2. Acknowledgment of Liens. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Agent on behalf of the Lenders has and shall continue to have valid, enforceable and perfected first-priority Liens (subject to certain Permitted Liens) upon and security

interests in the Collateral heretofore granted by the Credit Parties to the Agent on behalf of the Lenders pursuant to the Financing Documents.

2.3. Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Credit Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Credit Parties grant Liens or security interests in their properties, in each case under the Financing Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Financing Document to which it is a party, and (B) to the extent such Credit Party granted Liens on or security interests in any of its property pursuant to any such Financing Document (including, but not limited to, the Security Documents), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

Section 3. Limited Waiver.

(a) Subject to the satisfaction of the conditions precedent set forth in Section 5 hereof, and in reliance upon the representations and warranties made by the Credit Parties set forth in Section 8 hereof, the Lenders hereby waive any Default or Event of Default arising under:

(i) Section 10.1(a) of the Existing Credit Agreement resulting from the Borrower's failure to comply with the covenant set forth in Section 2.1(a)(ii)(b) of the Existing Credit Agreement as a result of the Borrower failing to timely prepay the Revolving Loan Outstandings in excess of the Revolving Loan Limit in accordance with such Section;

(ii) Section 10.1(a) of the Existing Credit Agreement resulting from Borrower's failure to comply with the covenants set forth in Section 2.11 of the Existing Credit Agreement as a result of the Credit Parties' failure to establish and maintain the Lockbox;

(iii) Section 10.1(a) of the Existing Credit Agreement resulting from Borrower's failure to comply with the covenants set forth in Section 4.13(b) of the Existing Credit Agreement as a result of the Credit Parties' failure to send notice to its Account Debtors to make payments to the Lockbox;

(iv) Section 10.1(a) of the Existing Credit Agreement resulting from the Borrower's failure to comply with the covenant set forth in Section 5.9 of the Existing Credit Agreement as a result of the Borrower amending or otherwise modifying its Organizational Documents to change its legal name;

(v) Section 10.1(a) of the Existing Credit Agreement resulting from the Borrower's breach of the representation in Section 3.25 of the Existing Credit Agreement with respect to identity and ownership of Accounts by the applicable Credit Party or any Affiliate thereof and any corresponding misidentification or overinclusion in any Borrowing Base Certificate delivered on or prior to September 23, 2025, solely as a result of such breach; and

(vi) Section 10.1(b) of the Existing Credit Agreement resulting from the Borrower's failure to comply with the covenant set forth in Sections 4.8(b), (c) and (f) resulting from failure to give prompt written notice upon any Credit Party becoming aware of the existence

of any Default or Event of Default set forth in this Section 3, in each case occurring prior to the Effective Date, under the Existing Credit Agreement, the Term Loan Agreement or the B. Riley Credit Agreement;

(vii) Section 10.1(d) of the Existing Credit Agreement, solely to the extent arising from any default, condition or event under the Term Loan Agreement or the B. Riley Credit Agreement resulting from the Defaults or Events of Default described in this Section 3 prior to the Effective Date; and

(viii) Section 10.1(c) of the Existing Credit Agreement resulting from any incorrect or materially incorrect representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to the Finance Documents, in any such case, solely with respect to the Defaults or Events of Default set forth in this Section 3 prior to the Effective Date (the Defaults and Events of Default described in the foregoing clauses (i) through (viii), collectively, the “*Specified Events of Default*”).

(b) The waiver provided in this Section 3 is limited and (i) shall only be relied upon and used for the express purposes set forth herein and shall be limited precisely as written, (ii) shall not constitute nor be deemed to be a consent, waiver, amendment or other modification of any other term or condition of the Existing Credit Agreement, the Credit Agreement or any other Financing Document, and shall not prejudice any right or remedy which the Agent or any Lender may now have or may have in the future under or in connection with the Credit Agreement or any other Financing Document (except as expressly set forth herein with respect to the Specified Events of Default), (iii) shall not constitute nor be deemed to constitute a waiver by the Agent or any Lender of anything other than for the specific purposes set forth herein, (iv) shall not constitute a custom or course of dealing among the parties hereto and (v) does not allow for any other or further departure from the terms and conditions of the Credit Agreement or any other Financing Document, which terms and conditions shall continue in full force and effect. The Agent and the Lenders hereby reserve all of their respective rights and remedies available under the Credit Agreement, the other Financing Documents and applicable law as a result of any Defaults or Events of Default (other than the Specified Events of Default) occurring at any time. Nothing contained herein, and no delay on the part of the Agent or any Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

Section 4. Amendment to Credit Agreement. As of the Effective Date (as defined below), subject to the satisfaction of the conditions precedent set forth in Section 5 of this Amendment,

4.1. the Existing Credit Agreement (excluding the Annexes, Schedule and Exhibits attached thereto) is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken-text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text), each as set forth in the pages of a conformed copy of the amended Existing Credit Agreement attached hereto as Annex I; and

4.2. Schedule 7.4 of the Existing Credit Agreement is hereby amended and restated in its entirety as set forth in Annex II attached hereto.

Section 5. Conditions Precedent. The effectiveness of this Amendment, including the waiver provided in Section 3 above and amendments provided in Section 4 above, shall become effective on the date (the “*Effective Date*”) upon which each of the following conditions precedent have been satisfied:

(a) receipt by the Agent and the Lenders of this Amendment, duly executed and delivered by the Borrower, the Lenders and the Agent;

(b) receipt by the Agent and the Lenders of an amendment and waiver to the Term Loan and B Riley facilities in form and substance satisfactory to the Agent;

(c) the Agent shall have received, for the ratable benefit of the Lenders, an amendment fee of \$75,000 from the Borrower, and such fee shall be fully earned, payable and non-refundable as of the date hereof; and

(d) payment of all fees and other amounts due and payable on or prior to the date hereof pursuant to the Financing Documents, and the fees and disbursements invoiced at least one (1) Business Day prior to the Effective Date of the Agent’s counsel, Proskauer Rose LLP.

Section 6. [Reserved].

Section 7. Release; Waiver.

7.1. Release. Each Credit Party (on behalf of itself and its Affiliates) for itself and for its successors in title, legal representatives and assignees and, to the extent the same is claimed by right of, through or under any of the Credit Parties, for its past and present employees, agents, representatives, officers, directors, shareholders, and trustees (each, a “*Releasing Party*” and collectively, the “*Releasing Parties*”), does hereby remise, release and discharge the Agent and each Lender in their respective capacities as such under the Financing Documents, and the Agent’s and each Lender’s respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals and all other persons and entities to whom the Agent and each Lender or any of their respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals would be liable if such persons or entities were found to be liable to any Releasing Party or any of them (collectively, hereinafter the “*Releasees*”), from any and all manner of action and actions, cause and causes of action, claims, charges, demands, counterclaims, crossclaims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, rights of setoff and recoupment, controversies, damages, judgments, expenses, executions, liens, claims of liens, claims of costs, penalties, attorneys’ fees, or any other compensation, recovery or relief on account of any liability, obligation, demand or cause of action of whatever nature, whether in

law, equity or otherwise (including, without limitation, any claims relating to (i) the making or administration of the Loans, including, without limitation, any such claims and defenses based on mistake, duress, usury or

misrepresentation, or any other claim based on so-called “lender liability” theories, (ii) any covenants, agreements, duties or obligations set forth in the Existing Credit Agreement, (iii) increased financing costs, interest or other carrying costs, (iv) penalties, (v) lost profits or loss of business opportunity, (vi) legal, accounting and other administrative or professional fees and expenses and incidental, consequential and punitive damages payable to third parties, (vii) damages to business reputation or (viii) to the extent allowed by applicable Law, any claims arising under 11 U.S.C. Sections 541 to 550 or any claims for avoidance or recovery under any other federal, state or foreign law equivalent), whether known or unknown, fixed or contingent, joint and/or several, secured or unsecured, due or not due, primary or secondary, liquidated or unliquidated, contractual or tortious, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen, suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against any of the Releasees, whether held in a personal or representative capacity, and which are, in each case, based on any act, fact, event or omission or other matter, cause or thing occurring at any time prior to or on the date hereof in any way, directly or indirectly arising out of, connected with or relating to the Existing Credit Agreement or any other Financing Document and the transactions contemplated thereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing (each, a “**Claim**” and collectively, the “**Claims**”). Each Releasing Party further represents that it has not sold or assigned any Claim and stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable Law, any and all provisions, rights, and benefits conferred by any Applicable Law, any applicable foreign Law or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 7.

The Borrower and each other Credit Party understands, acknowledges and agrees that its release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. The Borrower and each other Credit Party agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered, except as set forth above in this Section 7.1, shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

7.2. Waiver. Each Credit Party, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by the Borrower or any other Credit Party pursuant to this Section 7. If a Credit Party or any of its successors, assigns or other legal representatives violates the foregoing covenant, each Credit Party, each for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

7.3. Representation by Counsel. In entering into this Amendment, each Credit Party has consulted with and been represented by counsel and expressly disclaims any reliance on any representations, acts or omissions by the Agent, the Lenders or any of the

Agent's or the Lenders' Affiliates and hereby agrees and acknowledges that the validity and effectiveness of the releases set forth above do not depend in any way on any such representations, acts and/or omissions or the

accuracy, completeness or validity thereof. The provisions of this Section 7 shall survive the termination of this Amendment and the Credit Agreement and payment in full of all amounts owing thereunder.

Section 8. Miscellaneous.

8.1. **Incorporations by Reference.** The provisions of Sections 11.16 (*Amendments and Waivers*), 13.1 (*Survival*), 13.2 (*No Waivers*), 13.3 (*Notices*), 13.4 (*Severability*), 13.6 (*Confidentiality*), 13.8 (*Governing Law; Submission To Jurisdiction*), 13.9 (*Waiver of Jury Trial*), 13.14 (*Expenses and Indemnity*) and 13.17 (*Successors and Assigns*) of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

8.2. **Counterparts; Integration.** This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. As used herein, “Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Amendment constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

8.3. **Amendment is a “Financing Document”.** This Amendment is a Financing Document and all references to a “Financing Document” in the Credit Agreement and the Financing Documents (including, without limitation, all such references in the representations and warranties in the Credit Agreement and the other Financing Documents) shall be deemed to include this Amendment.

8.4. **References to the Credit Agreement.** Upon the effectiveness of this Amendment, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference to the Credit Agreement in any other document, instrument or agreement executed and/or delivered in connection with the Credit Agreement shall mean and be a reference to the Credit Agreement as amended hereby.

8.5. **Representations and Warranties.** The Borrower hereby represents and warrants that (a) this Amendment is the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, (b) no Default, Event of Default or, to the



Borrower's knowledge, a potential Default shall have occurred and be continuing (aside from the Specified Defaults) and (c) the representations and warranties set forth in the Credit Agreement and in the other Financing Documents are true and correct in all respects on and as of the Effective Date with the same force and effect as if made on and as of the Effective Date (except to the extent that any such representation or warranty expressly relates to an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date).

8.6. **Reaffirmation of Obligations.** The Borrower and each other Credit Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the Financing Documents, and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge the Borrower's or such Credit Party's obligations under the Financing Documents.

8.7. **Reaffirmation of Security Interests.** The Borrower and each other Credit Party (a) affirms that each of the Liens granted in or pursuant to the Financing Documents is valid and subsisting, and (b) agrees that this Amendment and all documents executed in connection herewith shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Financing Documents.

8.8. **No Other Changes.** Except as specifically amended by this Amendment, the Credit Agreement, the other Financing Agreements and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

BORROWER:

XBP AMERICAS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Second Amendment to Credit and Security Agreement (MidCap)]

GUARANTORS:

EXELA INTERMEDIATE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized signatory

EXELA FINANCE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

CORPSOURCE HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP, INCORPORATED

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP BPS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DELIVEREX, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**UNITED INFORMATION SERVICES,
INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**ECONOMIC RESEARCH SERVICES,
INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP LEGAL INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RUST CONSULTING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV HEALTHCARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

KINSELLA MEDIA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV SERVICES, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV ENTERPRISE SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**MERIDIAN CONSULTING GROUP,
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RUSTIC CANYON III, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

CHARTER LASON, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

LASON INTERNATIONAL, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP MANAGEMENT, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

PANGAEA ACQUISITIONS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC (PUERTO RICO), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DOCUDATA SOLUTIONS, L.C.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BTC VENTURES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**RECOGNITION MEXICO HOLDING
INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**BANCTEC INTERMEDIATE
HOLDING, INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RC4 CAPITAL, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DFG2 HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DFG2, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

PLEXUS GLOBAL FINANCE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOVG, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

TRAC HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**MANAGED CARE PROFESSIONALS,
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

FTS PARENT INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

TRANSCENTRA, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

J & B SOFTWARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS GROUP II LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS AMERICA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**REGULUS INTERGRATED
SOLUTIONS LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA RE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS WEST LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NOVITEX HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NOVITEX INTERMEDIATE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**NOVITEX GOVERNMENT
SOLUTIONS, LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA XBP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC (CANADA), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV CANADA COMPANY

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**EXELA RECEIVABLES 3 HOLDCO,
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA RECEIVABLES 3, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Second Amendment to Credit and Security Agreement (MidCap)]

AFFILIATED GUARANTORS:

XCV-EMEA, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NEON ACQUISITION, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**NOVITEX ENTERPRISE SOLUTIONS
CANADA, INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**EXELA ENTERPRISE SOLUTIONS,
INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**SERVICES INTEGRATION GROUP,
L.P.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**SIG - GP L.L.C., A LIMITED
LIABILITY COMPANY**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Second Amendment to Credit and Security Agreement (MidCap)]

AGENT:

MIDCAP FUNDING IV TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

[Signature Page to Limited Waiver and Second Amendment to Credit and Security
Agreement]

LENDERS:

MIDCAP FINANCIAL TRUST,

as Lender

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

[Signature Page to Limited Waiver and Second Amendment to Credit and Security
Agreement]

ANNEX I

Conformed Credit Agreement through the Second Amendment

CREDIT AND SECURITY AGREEMENT

dated as of July 29, 2025

by and among

XBP AMERICAS, LLC,

as Borrower,

and

MIDCAP FUNDING IV TRUST,

as Agent,

and

THE LENDERS

FROM TIME-TO-TIME PARTY HERETO



TABLE OF CONTENTS

	Page
ARTICLE 1 - DEFINITIONS	1
Section	
1.1 Certain Defined Terms	1
Section	
1.2 Accounting Terms and Determinations	67
Section	
1.3 Other Definitional and Interpretive Provisions	67
Section	
1.4 Time is of the Essence	68
Section	
1.5 Exchange Rates	68
Section	
1.6 Quebec Interpretation	68
ARTICLE 2 - LOANS	69
Section	
2.1 Loans	69
Section	
2.2 Interest, Interest Calculations and Certain Fees	71
Section	
2.3 Notes	77
Section	
2.4 [Reserved]	77
Section	
2.5 [Reserved]	77
Section	
2.6 General Provisions Regarding Payment; Loan Account	77
Section	
2.7 Maximum Interest	78
Section	
2.8 Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality	79
Section	
2.9 Appointment of Borrower Representative	85
Section	
2.10 Joint and Several Liability; Rights of Contribution; Subordination and Subrogation	86
Section	
2.11 Collections and Lockbox Account	88

Section		
2.12	Termination; Restriction on Termination	90
ARTICLE 3 - REPRESENTATIONS AND WARRANTIES		91
Section		
3.1	Existence and Power	91
Section		
3.2	Organization and Governmental Authorization; No Contravention	92
Section		
3.3	Binding Effect	92
Section		
3.4	Capitalization	92
Section		
3.5	Financial Information	92
Section		
3.6	Litigation	92
Section		
3.7	Ownership of Property	93

Section		
3.8	No Default	93
Section		
3.9	Labor Matters	93
Section		
3.10	Regulated Entities	93
Section		
3.11	Margin Regulations	93
Section		
3.12	Compliance With Laws; Anti-Terrorism Laws	93
Section		
3.13	Taxes	94
Section		
3.14	Compliance with ERISA	94
Section		
3.15	Consummation of Operative Documents; Brokers	95
Section		
3.16	Related Transactions	95
Section		
3.17	Material Contracts	95
Section	Compliance with Environmental Requirements; No Hazardous	
3.18	Materials	95
Section		
3.19	Intellectual Property	96
Section		
3.20	Solvency	97
Section		
3.21	Full Disclosure	97
Section		
3.22	Canadian Pension Plans	97
Section		
3.23	Subsidiaries	98
Section		
3.24	[Reserved]	98
Section		
3.25	Borrowing Base Collateral	98
ARTICLE 4 - AFFIRMATIVE COVENANTS		98
Section		
4.1	Financial Statements and Other Reports	98

Section		
4.2	Payment and Performance of Obligations	101
Section		
4.3	Maintenance of Existence	101
Section		
4.4	Maintenance of Property; Insurance	102
Section		
4.5	Compliance with Laws and Material Contracts	103
Section		
4.6	Inspection of Property, Books and Records	103
Section		
4.7	Use of Proceeds	104
Section		
4.8	Notices of Litigation and Defaults	104
Section		
4.9	Hazardous Materials; Remediation	104
Section		
4.10	Further Assurances	105
Section		
4.11	[Reserved]	107
Section		
4.12	Power of Attorney	107
Section		
4.13	Borrowing Base Collateral Administration	107

Section		
4.14	Maintenance of Management	107
ARTICLE 5 - NEGATIVE COVENANTS		108
Section		108
5.1	Debt; Contingent Obligations	
Section		108
5.2	Liens	
Section		108
5.3	Restricted Distributions	
Section		108
5.4	Restrictive Agreements	
Section		
5.5	Payments and Modifications of Subordinated Debt	109
Section		109
5.6	Consolidations, Mergers and Sales of Assets; Change in Control	
Section		109
5.7	Purchase of Assets, Investments	
Section		
5.8	Transactions with Affiliates	110
Section		
5.9	Modification of Organizational Documents	112
Section		112
5.10	Modification of Certain Agreements	
Section		112
5.11	Conduct of Business	
Section		112
5.12	Lease Payments	
Section		112
5.13	Limitation on Sale and Leaseback Transactions	
Section	Deposit Accounts and Securities Accounts; Payroll and Benefits	
5.14	Accounts	113
Section		
5.15	Compliance with Anti-Terrorism Laws	113
Section		
5.16	Canadian Defined Benefit Plans	114
ARTICLE 6 - FINANCIAL COVENANTS		114
Section		
6.1	Fixed Charge Coverage Ratio	114
Section		
6.2	Minimum Excess Availability	114

Section		
6.3	Evidence of Compliance	114
ARTICLE 7 - CONDITIONS		114
Section		
7.1	Conditions to Closing	114
Section		
7.2	Conditions to Each Loan	118
Section		
7.3	Searches	119
Section		
7.4	Post Closing Requirements	119
ARTICLE 8 - [RESERVED]		119
ARTICLE 9 - SECURITY AGREEMENT		119
Section		
9.1	Generally	119

Section 9.2	Representations and Warranties and Covenants Relating to Collateral	119
Section 9.3	ULC Limitation	124
ARTICLE 10 - EVENTS OF DEFAULT		125
Section 10.1	Events of Default	125
Section 10.2	Acceleration and Suspension or Termination of Revolving Loan Commitment	128
Section 10.3	UCC and PPSA Remedies	129
Section 10.4	[Reserved]	131
Section 10.5	Default Rate of Interest	131
Section 10.6	Setoff Rights	131
Section 10.7	Application of Proceeds	131
Section 10.8	Waivers	132
Section 10.9	Injunctive Relief	134
Section 10.10	Marshalling; Payments Set Aside	135
ARTICLE 11 - AGENT		135
Section 11.1	Appointment and Authorization	135
Section 11.2	Agent and Affiliates	135
Section 11.3	Action by Agent	135
Section 11.4	Consultation with Experts	136
Section 11.5	Liability of Agent	136
Section 11.6	Indemnification	136
Section 11.7	Right to Request and Act on Instructions	136

Section		137
11.8	Credit Decision	
Section		137
11.9	Collateral Matters	
Section		
11.10	Agency for Perfection	137
Section		
11.11	Notice of Default	138
Section		
11.12	Assignment by Agent; Resignation of Agent; Successor Agent	138
Section		
11.13	Payment and Sharing of Payment	139
Section		
11.14	Right to Perform, Preserve and Protect	142
Section		
11.15	Additional Titled Agents	142
Section		
11.16	Amendments and Waivers	142
Section		
11.17	Assignments and Participations	144

Section	Funding and Settlement Provisions Applicable When Non-Funding	
11.18	Lenders Exist	147
Section		
11.19	Buy-Out Upon Refinancing	148
Section		
11.20	Erroneous Payments	148
Section		
11.21	Definitions	151
Section		
11.22	Appointment as Hypothecary Representative	152
ARTICLE 12 - GUARANTEE		152
Section		
12.1	[Reserved]	152
Section		
12.2	Guarantee; Limitation of Liability	152
Section		
12.3	Guarantee Absolute	153
Section		
12.4	Waivers and Acknowledgments	154
Section		
12.5	Subrogation	155
Section		
12.6	[Reserved]	155
Section		
12.7	Subordination	155
Section		
12.8	Continuing Guarantee; Assignments	156
ARTICLE 13 - MISCELLANEOUS		156
Section		
13.1	Survival	156
Section		
13.2	No Waivers	157
Section		
13.3	Notices	157
Section		
13.4	Severability	158
Section		
13.5	Headings	158
Section		
13.6	Confidentiality	158

Section		
13.7	Waiver of Consequential and Other Damages	159
Section		
13.8	GOVERNING LAW; SUBMISSION TO JURISDICTION	159
Section		
13.9	WAIVER OF JURY TRIAL	160
Section		
13.10	Publication; Advertisement	160
Section		
13.11	Counterparts; Integration	161
Section		161
13.12	No Strict Construction	
Section		161
13.13	Lender Approvals	
Section		161
13.14	Expenses; Indemnity	
Section		163
13.15	Confession of Judgment	
Section		164
13.16	Reinstatement	
Section		164
13.17	Successors and Assigns	

Section		
13.18	USA PATRIOT Act Notification	164
Section		
13.19	Judgment Currency	164
Section	Acknowledgement and Consent to Bail-In of Affected Financial	
13.20	Institutions	165
Section		
13.21	Canadian Anti-Money Laundering Legislation	165
Section		
13.22	Parent	166

CREDIT AND SECURITY AGREEMENT

THIS CREDIT AND SECURITY AGREEMENT(as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Agreement**”) is dated as of July 29, 2025 by and among XBP Americas, LLC, a Delaware limited liability company, and any additional borrower that may hereafter be added to this Agreement (each individually as a “**Borrower**”, and collectively as “**Borrowers**”), **MIDCAP FUNDING IV TRUST**, a Delaware statutory trust, as Agent (as defined below), and the financial institutions or other entities from time to time parties hereto, each as a Lender (as defined below).

RECITALS

WHEREAS, on March 3, 2025 (the “**Petition Date**”), Docudata Solutions, L.C., the Borrower and certain other Affiliates (each, a “**Debtor**” and collectively, the “**Debtors**”) filed voluntary petitions with the Bankruptcy Court initiating their respective cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (such court, the “**Bankruptcy Court**”; and each such case of the Debtors, a “**Chapter 11 Case**” and collectively, the “**Chapter 11 Cases**”) and continued in the possession of their assets and the management of their business pursuant to Section 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 23, 2025, the Bankruptcy Court entered the Confirmation Order (as defined herein) approving the Plan of Reorganization of the Debtors, and concurrently with the making of the Loans hereunder, the effective date with respect to the Plan of Reorganization has occurred;

WHEREAS, Borrowers have requested that Lenders make available to Borrowers the financing facilities as described herein, and Lenders are willing to extend such credit to Borrowers under the terms and conditions herein set forth;

WHEREAS, by execution and delivery of this Agreement and the other Financing Documents and entry of the Confirmation Order in respect of the Chapter 11 Cases, as applicable, agree to guarantee the Obligations, and the Borrower and each Guarantor agrees to secure all of the Obligations by granting to Agent, for the benefit of the Lenders, a lien and security interest in respect of, and on, the Collateral, on and subject to the terms and priorities set forth in the other Financing Documents.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto hereby agree as follows:

ARTICLE 1 - DEFINITIONS

Section 1.1 **Certain Defined Terms.** The following terms have the following meanings:

†

“ABL Intercreditor Agreement” means that certain Intercreditor Agreement, dated as of the Closing Date, among the Borrowers, the Subsidiary Guarantors, Agent, the administrative agent and collateral agent under the Term Loan Documents, the Trustee, the Exit Notes Collateral Agent, BRF Finance Co., LLC, and the other parties from time-to-time party thereto, as the same may be amended, restated, amended and restated, supplemented, waived or otherwise modified from time to time.

“ABL Priority Collateral” has the meaning specified therefor in the ABL Intercreditor Agreement.

“Acceleration Event” means the occurrence of an Event of Default (a) in respect of which Agent has declared all or any portion of the Obligations to be immediately due and payable pursuant to Section 10.2, (b) the date that is ninety (90) days prior to the earliest stated maturity date of the term loans incurred pursuant to the Term Loan Agreement, (c) pursuant to Section 10.1(a), and in respect of which Agent has suspended or terminated the Revolving Loan Commitment pursuant to Section 10.2, and/or (d) pursuant to either Section 10.1(e) and/or Section 10.1(f).

“Account Debtor” means “account debtor”, as defined in Article 9 of the UCC or in the PPSA, as applicable, and any other obligor in respect of an Account.

“Accounts” means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any “account” (as defined in the UCC or the PPSA, as applicable), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any “health-care-insurance receivables” (as defined in the UCC), any “payment intangibles” (as defined in the UCC), “intangibles” (as defined in the PPSA) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, “general intangibles” (as defined in the UCC), “intangibles” (as defined in the PPSA), Intellectual Property, rights, remedies, guarantees, “supporting obligations” (as defined in the UCC), “letter-of-credit rights” (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under the Financing Documents in respect of the foregoing, (d) all information and data compiled or derived by any Borrower or to which any Borrower is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

“Accurate Applicable Margin” has the meaning specified therefor in the definition of “Applicable Margin”.

“Additional Notes” means the notes issued under the terms of the Exit Notes Indenture subsequent to the Closing Date.

“Additional Tranche” means an additional amount of Revolving Loan Commitment equal to \$25,000,000 (it being acknowledged that multiple Additional Tranches are permitted pursuant to Section 2.1(b) in minimum amounts of \$1,000,000 each, for a total of up to \$25,000,000).

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

“**Affiliate**” means, with respect to any Person, (a) any Person that directly or indirectly controls such Person, (b) any Person which is controlled by or is under common control with such controlling Person, and (c) each of such Person’s (other than, with respect to any Lender, any Lender’s) officers or directors (or Persons functioning in substantially similar roles) and the spouses, parents, descendants and siblings of such officers, directors or other Persons. As used in this definition, the term “control” of a Person means the possession, directly or indirectly, of the power to vote ten percent (10%) or more of any class of voting securities of such Person or to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agent**” means MCF, in its capacity as administrative agent for itself and for Lenders hereunder, as such capacity is established in, and subject to the provisions of, Article 11, and the successors and assigns of MCF in such capacity.

“**Agent Assignee**” has the meaning specified therefor in Section 11.20(d).

“**Anti-Terrorism Laws**” means any Laws relating to terrorism or money laundering, including, without limitation, Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the Laws comprising or implementing the Bank Secrecy Act, the Laws administered by OFAC and the Canadian Anti-Money Laundering & Anti-Terrorism Legislation.

“**Applicable Law**” means, with respect to any Person, any Law (x) that is applicable to such Person or any of its property, (y) to which such Person is a party or (z) by which any of such Person’s property is bound. For the avoidance of doubt, FATCA shall constitute an “Applicable Law” for all purposes of this Agreement.

“**Applicable Margin**” means, for any day, with respect to Revolving Loans and all other Obligations, the applicable rate per annum based on Borrowers’ EBITDA, calculated on a trailing 12-month period basis, as of the last day of the most recently ended calendar month for which financial statements have been delivered pursuant to Section 4.1, as set forth under the relevant column heading below:

Pricing Level	EBITDA (\$M)	Applicable Margin
I	EBITDA > \$70,000,000	3.75%
II	EBITDA > \$45,000,000 but < \$70,000,000	4.00%
III	EBITDA < \$45,000,000	4.25%

provided that, if at any time the Borrower shall have failed to deliver such financial statements and such Compliance Certificate when so required, the Applicable Margin shall be set at Level II as set forth in the table above until such time as such financial statements and Compliance Certificate are delivered, at which time the Applicable Margin shall be determined

as provided in the table above. Notwithstanding the foregoing, the Applicable Margin from the Closing Date until the date by which the financial statements and Compliance Certificate for the month ended September 30, 2025, are required to be delivered shall be at Level 1 as set forth in the table above. In the event that any financial statement or Compliance Certificate delivered hereunder is shown to be inaccurate (regardless of whether this Agreement or the Revolving Loan Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin based upon the pricing grid set forth herein (the “**Accurate Applicable Margin**”) for any period that such financial statement or Compliance Certificate covered, then (i) the Borrower shall immediately deliver to Agent a correct financial statement or Compliance Certificate, as the case may be, for such period, (ii) the Applicable Margin shall be adjusted such that after giving effect to the corrected financial statement or Compliance Certificate, as the case may be, the Applicable Margin shall be reset to the Accurate Applicable Margin based upon the pricing grid set forth herein for such period and (iii) Borrower shall immediately pay to Agent, for the account of Lenders, the accrued additional interest and fees owing as a result of such Accurate Applicable Margin for such period. The provisions of this definition shall not limit the rights of Agent and the Lenders with respect to Section 4.1 or Article 10.

“**Approved Goods and Services**” means goods sold and/or services rendered by Borrowers in the Ordinary Course of Business, in compliance with all Laws, and consistent with the type of goods sold and/or services rendered by Borrowers throughout all or substantially all of its business operations as of the Closing Date.

“**Asset Disposition**” means any sale, lease, license, transfer, assignment or other consensual disposition (including by merger, allocation of assets (including allocation of assets to any series of a limited liability company), division, consolidation or amalgamation) by any Credit Party of any asset.

“**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 Title 11 of the United States Code entitled “Bankruptcy”, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto.

“**Base Rate**” means the per annum rate of interest announced, from time to time, within Wells Fargo at its principal office in San Francisco as its “prime rate,” with the understanding

that the “prime rate” is one of Wells Fargo’s base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate; *provided, however*, that Agent may, upon prior written notice to Borrower, choose a reasonably comparable index or source to use as the basis for the Base Rate.

“**Blocked Person**” means any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224, or (e) that is named a “specially designated national” or “blocked person” on the most current list published by OFAC, any Person that is a “designated person”, “politically exposed foreign person” or “terrorist group” as described in any Canadian Economic Sanctions and Export Control Laws, or other similar list or is named as a “listed person” or “listed entity” on other lists made under any Anti-Terrorism Law.

“**Borrower**” and “**Borrowers**” mean the entity(ies) described in the first paragraph of this Agreement and each of their successors and permitted assigns.

“**Borrower Representative**” means XBP Americas, LLC, in its capacity as Borrower Representative pursuant to the provisions of Section 2.9, or any successor Borrower Representative selected by Borrowers and approved by Agent.

“**Borrowing Base**” means, the sum of:

(a) the product of (i) the applicable IG Advance Rate *multiplied by* (ii) the aggregate net amount at such time of the Eligible Investment Grade Billed Accounts; *plus*

(b) the product of (i) ninety percent (90%) *multiplied by* (ii) the aggregate net amount at such time of the Eligible Billed Accounts; *plus*

(c) the lesser of (i) the product of (A) ninety percent (90%) *multiplied by* (B) the aggregate net amount at such time of the Eligible Unbilled Accounts and (ii) twenty percent (20%) of the total Borrowing Base (prior to giving effect to this clause (c)); *plus*

(d) the lesser of (i) the product of (A) the applicable Exar Billed Advance Rate *multiplied by* (B) the aggregate net amount at such time of the Eligible Exar Billed Accounts and (ii) \$5,000,000; *plus*

(e) the lesser of (i) the product of (A) the applicable Exar Unbilled Advance Rate *multiplied by* (B) the aggregate net amount at such time of the Eligible Exar Unbilled Accounts and (ii) \$5,000,000; *plus*

§

(f) one hundred percent (100%) multiplied by the aggregate amount of Eligible Cash; *minus*

(g) the amount of the Dilution Reserve, and any other Eligibility Reserves established from time to time by Agent in its Permitted Discretion; *minus*

(h) a currency reserve equal to three percent (3%) of the United States Dollar equivalent of the aggregate net amount of Eligible Accounts payable in Canadian Dollars, as determined by Agent in its Permitted Discretion.

Any determination by Agent in respect of the Borrowing Base shall be based on Agent's Permitted Discretion. The parties understand that the exclusionary criteria in the definitions of Eligible Investment Grade Billed Accounts, Eligible Billed Accounts, Eligible Unbilled Accounts, Eligible Exar Billed Accounts, and Eligible Exar Unbilled Accounts, any Eligibility Reserves that may be imposed as provided herein, and any deductions or other adjustments to determine the value of Eligible Accounts have the effect of reducing the Borrowing Base, and, accordingly, whether or not any provisions hereof so state, all of the foregoing shall be determined without duplication so as not to result in multiple reductions of the Borrowing Base for the same facts or circumstances.

"Borrowing Base Certificate" means a certificate, duly executed by a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit C hereto.

"B. Riley Credit Agreement" means that certain Amended and Restated Credit Agreement, dated July 29, 2025, among BRF Finance Co. LLC, as agent (the **"B. Riley Agent"**), the lenders party thereto from time to time, XBP Americas, LLC and other entities party thereto, as borrowers, and the guarantors party thereto from time to time, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"Business Day" means any day except a Saturday, Sunday or other day on which either the New York Stock Exchange is closed, or on which commercial banks in Washington, DC and New York City are authorized by law to close; provided, however, that when used in the context of a SOFR Loan, the term "Business Day" shall also exclude any day that is not also a SOFR Business Day.

"Canadian Anti-Money Laundering & Anti-Terrorism Legislation" means, collectively, the Criminal Code, R.S.C. 1985, c. C-46, the Proceeds of Crime Act and the United Nations Act, R.S.C. 1985, c. U-2 or any similar Canadian legislation, together with all rules, regulations and interpretations thereunder or related thereto including, without limitation, the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism and the United Nations Al Qaida and Taliban Regulations promulgated under the United Nations Act.

"Canadian Credit Party" means each Credit Party which is incorporated, formed or organized under the laws of Canada or any province or territory thereof.



“Canadian Defined Benefit Plan” means a Canadian Pension Plan which contains a “defined benefit provision,” as defined in subsection 147.1(1) of the Canadian ITA.

“Canadian Dollars” means the lawful currency of Canada.

“Canadian Economic Sanctions and Export Control Laws” means any Canadian Laws, regulations or orders governing transactions in restricted goods or technologies or dealings with countries, entities, organizations, or individuals subject to economic sanctions and similar measures, including the Special Economic Measures Act (Canada), the United Nations Act (Canada), the Freezing Assets of Corrupt Foreign Officials Act (Canada), the Corruption of Foreign Public Officials Act (Canada), Part II.1 of the Criminal Code (Canada), and the Export and Import Permits Act (Canada), and the Foreign Extraterritorial Measures Act (Canada), and any related regulations.

“Canadian ITA” means the Income Tax Act (Canada), as amended.

“Canadian Pension Event” means the earlier of (a) the whole or partial withdrawal of a Credit Party from a Canadian Pension Plan during a plan year; (b) the filing of a notice of intent to terminate in whole or in part a Canadian Pension Plan or the treatment of a Canadian Pension Plan amendment as a termination or partial termination; (c) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee appointed to administer a Canadian Pension Plan; (d) any statutory deemed trust or Lien, other than a Permitted Lien, arises in connection with a Canadian Pension Plan; or (e) any other event or condition which might constitute grounds for the termination of, winding up or partial termination of winding up or the appointment of trustee to administer, any Canadian Pension Plan.

“Canadian Pension Plan” means a pension plan that is covered by the applicable pension standards laws of any jurisdiction in Canada including the Pension Benefits Act (Ontario) and the Canadian ITA and that is maintained or sponsored by a Credit Party for employees or former employees.

“Canadian Priority Payables” means, at any time, with respect to the Borrowing Base, the amount due and owing by any Credit Party, or the accrued amount for which such Credit Party has an obligation to remit, on or prior to the date as of which the Borrowing Base is to be determined and remaining unpaid at the time of determination of the Borrowing Base, to a Canadian Governmental Authority or other Canadian Person pursuant to any applicable Law, rule or regulation, in respect of (a) employment insurance, all contributions under the Canada Pension Plan or the Quebec Pension Plan, employee source deductions, employee income tax; (b) goods and services taxes, sales taxes, excise tax, harmonized sales tax and other taxes payable or to be remitted or withheld; (c) workers’ compensation; (d) wages, salaries, commission or compensation and vacation pay (including amounts protected by section 81.3 of the Bankruptcy and Insolvency Act (Canada) and as provided for under the Wage Earner Protection Program Act (Canada)); (e) any amounts deemed to be held in trust, or held in trust, pursuant to applicable law; and (f) unpaid or

unremitted contributions, normal cost contributions or special payments to a Canadian Pension Plan and any unfunded liability, solvency deficiency or wind-up deficiency, in each case whether or not due, with respect to a Canadian Pension Plan,

7

in each case to the extent any Canadian Governmental Authority or other Canadian Person may claim a security interest, hypothecation, prior claim, trust, deemed trust or other claim or Lien ranking in priority to or *pari passu* with one or more of the Liens granted pursuant to this Agreement and the Security Documents.

“Canadian Priority Payables Reserves” means on any date of determination for the Borrowing Base, reserves established from time to time by Agent in its Permitted Discretion in such amount as Agent may reasonably determine in respect of Canadian Priority Payables of the Credit Parties; *provided* that without otherwise limiting Agent’s Permitted Discretion, the Canadian Priority Payables Reserves shall include a reserve for Canadian Priority Payables in an amount up to the amount of Canadian Priority Payables set forth on the most recent applicable Borrowing Base Certificate (as the same may be reduced or increased by the next succeeding applicable Borrowing Base Certificate) delivered to Agent.

“Canadian Security Agreement” means, collectively, (i) the Canadian Security Agreement dated as of the Closing Date by and between Agent and each Credit Party party thereto, and (ii) any other security agreement, pledge agreement or deed of hypothec dated on or after the Closing Date granted by any Credit Party in favor of Agent, in each case as amended, restated, amended and restated, supplemented, replaced or otherwise modified from time to time.

“Capital Expenditures” means any expenditure that would be classified as a capital expenditure on a statement of cash flow of Borrowers prepared in accordance with GAAP.

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

“Cash Collateral Account” means a segregated Deposit Account or Securities Account of a Credit Party (a) that is maintained with a bank or securities dealer, as applicable, located in the United States and having as of any date of determination combined capital and surplus of not less than \$1,000,000,000, (b) the funds in which consist solely of unrestricted Eligible Cash of such Credit Party, (c) that is subject to a Deposit Account Control Agreement or Securities Account Control Agreement, as applicable, in favor of Agent, which (subject to Section 2.11(b)) provides Agent the sole ability to withdraw or direct funds from such accounts, (d) that is not subject to any Lien (other than the Lien in favor of Agent), and (e) the funds on deposit in which are not funds held for the payment of any drawn or committed, but unpaid draft, ACH or EFT transaction or specified for any other purposes.

“Cash Dominion Period” means any period commencing (a) (i) on or prior December 31, 2025, any date on which Excess Availability is less than (A) \$10,000,000 for three (3) consecutive Business Days or (B) \$7,500,000 on any calendar day and (ii) at any time after December 31, 2025, any date on which Excess Availability is less than the lesser of (A) 10% of the Revolving Loan Commitment for three (3) consecutive Business Days or (B) \$7,500,000 on any calendar day or (b) following the occurrence and during the continuance of an Event of Default, and, in each case, continuing until the date on which Excess Availability has been

greater than (x) on or prior to December 31, 2025, \$10,000,000, and (y) after December 31, 2025, ten percent (10%) of the Revolving Loan Commitment, in either such case for ~~twenty~~forty (20~~40~~) consecutive calendar days and no Event of Default is continuing (each such date, a “**Cash Dominion Termination Date**”).

“**Cash Equivalents**” means, as of any date of determination, any of the following: (a) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States government, or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one (1) year after such date; (b) marketable direct obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s; (c) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally; (d) certificates of deposit or bankers’ acceptances maturing within one (1) year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States or any state thereof or the District of Columbia that (i) is at least “adequately capitalized” (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; and (e) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (a) and (b) above, (ii) has net assets of not less than \$500,000,000, and (iii) has the highest rating obtainable from either S&P or Moody’s.

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

“**CERCLA**” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. § 9601 *et seq.*, as the same may be amended from time to time.

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

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Borrowers and their respective Subsidiaries, taken as a whole, to a Person;

(2) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the

9

direct or indirect acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than the holders of such interests as of the Closing Date, in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the voting equity interests of the Borrower Representative or the Parent; or

(3) except as expressly permitted pursuant to Section 5.6, the Borrower shall cease to directly or indirectly own and control one hundred percent (100%) of each class of the outstanding equity interests of any Subsidiary the assets of which contribute more than \$5,000,000 to the Borrowing Base.

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

“Claims Administration Bank” means any third-party financial institution having capital and surplus in excess of \$250,000,000 and whole long-term debt is rated “A” or the equivalent by Moody’s or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) that is designated by any Exar Originator to hold and distribute certain legal settlement funds administered by any Exar Originator in connection with such Exar Originator’s claims administration business.

“Claims Administration Indebtedness” means Indebtedness for borrowed money of any Exar Originator in favor of the Claims Administration Bank in respect of loans made pursuant to Claims Administration Arrangements.

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

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

“Closing Date” means the date of this Agreement.



“Code” means the Internal Revenue Code of 1986, as amended from time to time, any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

“Collateral” means, subject to the ABL Intercreditor Agreement, all property, now existing or hereafter acquired, mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the Security Documents, including, without limitation, all of the property described in Schedule 9.1 hereto.

“Commitment Annex” means Annex A to this Agreement.

“Commitment Expiry Date” means the date that is 36 months following the Closing Date.

“Compliance Certificate” means a certificate, duly executed by a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit B hereto.

“Confirmation Order” means the Order (I) Approving Debtors’ Disclosure Statement and (II) Confirming Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code Docket No. 834 entered by the Bankruptcy Court on June 23, 2025.

“Conforming Changes” means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement (as defined in Section 2.2(n)), any technical, administrative or operational changes (including (a) changes to the definition of “Base Rate,” “Business Day,” “Interest Period,” “Reference Time” or other definitions, (b) the addition of concepts such as “interest period”, (c) changes to timing and/or frequency of determining rates, making interest payments, giving borrowing requests, prepayment, conversion or continuation notices, or length of lookback periods, (d) the applicability of Section 2.8 (Compensation for Losses) and (e) other technical, administrative or operational matters) that Agent decides may be appropriate to reflect the adoption and implementation of Term SOFR or such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or determines that no such market practice exists, in such other manner as Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Financing 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.

“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including, without limitation, the amortization of intangible assets, deferred financing fees, capitalized contract incentives, Capitalized Software Expenditures and amortization of unrecognized prior

++

service costs and actuarial gains and losses related to pensions and other post-employment benefits, of such Person and its Consolidated Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

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

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

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

(3) interest income for such period.

For purposes of this definition, interest on a capitalized lease obligation shall be deemed to accrue at an interest rate reasonably determined by the Borrowers to be the rate of interest implicit in such capitalized lease obligation in accordance with GAAP.

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

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

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

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



(4) (i) cash received from landlords for tenant allowances shall be included and (ii) to the extent not already included in Net Income, the cash portion of sublease rentals received shall be included;

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

(6) non cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(7) any gain, loss, income, expense or charge resulting from the application of any LIFO shall be excluded; and

(8) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with clause (e) of the definition of "Permitted Distributions" shall be included as though such amounts had been paid as income taxes directly by such Person for such period.

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

"Consolidated Subsidiary" means, at any date, any Subsidiary the accounts of which would be consolidated with those of "parent" Borrower (or any other Person, as the context may require hereunder) in its consolidated financial statements if such statements were prepared as of such date.

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

"Consolidated Total Indebtedness" means, as of any date of determination, an amount equal to the sum (without duplication) of (1) the aggregate principal amount of all outstanding Debt of the Borrowers and their respective Subsidiaries (excluding letters of credit or bank guarantees, to the extent undrawn, cash collateralized or backstopped) consisting of capitalized lease obligations and Debt for borrowed money, plus (2) the

aggregate amount of all outstanding customary disqualified equity interests of the Borrowers and their respective Subsidiaries and all preferred stock of the Subsidiaries, with the amount of such disqualified equity interests and

preferred stock equal to the greater of their respective voluntary or involuntary liquidation preferences, in each case determined on a consolidated basis in accordance with GAAP.

“Contingent Obligation” means, with respect to any Person, any direct or indirect liability of such Person: (a) with respect to any Debt of another Person (a **“Third Party Obligation”**) if the purpose or intent of such Person incurring such liability, or the effect thereof, is to provide assurance to the obligee of such Third Party Obligation that such Third Party Obligation will be paid or discharged, or that any agreement relating thereto will be complied with, or that any holder of such Third Party Obligation will be protected, in whole or in part, against loss with respect thereto; (b) with respect to any undrawn portion of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for the reimbursement of any drawing; (c) under any Swap Contract, to the extent not yet due and payable; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for any obligations of another Person pursuant to any guarantee or pursuant to any agreement to purchase, repurchase or otherwise acquire any obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to preserve the solvency, financial condition or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determinable amount, the maximum amount so guaranteed or otherwise supported.

“Control Agreement” means any Deposit Account Control Agreement or Securities Account Control Agreement.

“Controlled Group” means all members of any group of corporations and all members of a group of trades or businesses (whether or not incorporated) under common control which, together with any Borrower, are treated as a single employer under Section 414(b), (c), (m) or (o) of the Code or Section 4001(b) of ERISA.

“Credit Exposure” means, at any time, any portion of the Revolving Loan Commitment that remains outstanding; *provided, however*, that no Credit Exposure shall be deemed to exist solely due to the existence of contingent indemnification liability, absent the assertion of a claim, or the known existence of a claim reasonably likely to be asserted, with respect thereto.

“Credit Party” means each Borrower and each Guarantor; and **“Credit Parties”** means all such Persons, collectively.

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

“Debt” of a Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase

price of property or services, except trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business, (d) all capital leases of such Person, (e) all non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit, banker's acceptance or similar instrument, (f) all equity securities of such Person subject to repurchase or redemption other than at the sole option of such Person, (g) all obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person, (h) "earnouts" (until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP), purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts, (i) all Debt of others guaranteed by such Person, (j) off-balance sheet liabilities and/or Pension Plan or Multiemployer Plan liabilities of such Person, (k) obligations arising under non-compete agreements, and (l) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business. Without duplication of any of the foregoing, Debt of Borrowers shall include any and all Loans.

Notwithstanding the foregoing, Debt shall be deemed not to include (1) Contingent Obligations incurred in the Ordinary Course of Business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) [reserved]; (5) trade and other ordinary course payables, accrued expenses and intercompany liabilities, including with respect to working capital advancements, arising in the Ordinary Course of Business; (6) obligations in respect of Third Party Funds; (7) in the case of the Borrowers and their respective Subsidiaries (x) all intercompany Debt having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the Ordinary Course of Business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries; (8); any Claims Administration Indebtedness of the Exar Originators (except to the extent that any such Claims Administration Indebtedness exceeds the Claims Administration Investments of such Exar Originator); and (9) any obligations under Swap Contracts; provided, that such agreements are entered into for bona fide hedging purposes of the Borrowers or their respective Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Borrower Representative, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Borrowers or their Subsidiaries entered into in the Ordinary Course of Business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Debt of the Borrowers or their Subsidiaries incurred without violation of this Agreement.

Notwithstanding anything in this Agreement to the contrary, Debt shall not include, and shall be calculated without giving effect to, the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase

or decrease an amount of Debt for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Debt; and any such amounts that would have constituted Debt under this Agreement but for the application of this sentence shall not be deemed an incurrence of Debt under this Agreement.

“Debtor Relief Laws” means the Bankruptcy Code, the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-up and Restructuring Act* (Canada), any corporate statute which is used by a Person to propose an arrangement in connection with a compromise of such Person’s debt obligations each as now and hereafter in effect, any successors to such statutes, 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, Canada or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

“Defined Period” means, for purposes of calculating the Fixed Charge Coverage Ratio for any given calendar month, the twelve (12) month period immediately preceding any such calendar month.

“Deposit Account” means a “deposit account” (as defined in Article 9 of the UCC), bank account or an investment account, or other account in which funds are deposited, held or invested for credit to or for the benefit of any Credit Party.

“Deposit Account Control Agreement” means an agreement, in form and substance satisfactory to Agent, among Agent, any Credit Party and each financial institution in which such Credit Party maintains a Deposit Account, which agreement provides that (a) such financial institution shall comply with instructions originated by Agent directing disposition of the funds in such Deposit Account without further consent by the applicable Credit Party, and (b) such financial institution shall agree that it shall have no Lien on, or right of setoff or recoupment against, such Deposit Account or the contents thereof, other than in respect of usual and customary service fees and returned items for which Agent has been given value, in each such case expressly consented to by Agent, and containing such other terms and conditions as Agent may require, including as to any such agreement pertaining to any Lockbox Account, providing that during any Cash Dominion Period such financial institution shall wire, or otherwise transfer, in immediately available funds, on a daily basis to the Payment Account all funds received or deposited into such Lockbox or Lockbox Account.

“Dilution” means, as of any date of determination, a percentage, based upon the experience during any prior period selected from time to time by Agent in its sole discretion, that is the result of dividing the Dollar amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to Credit Parties’ Accounts during such period, by (b) Credit Parties’ billings with respect to Accounts during such period.

“Dilution Reserve” means, as of any date of determination, an amount sufficient to reduce the applicable advance rate against each applicable category of Eligible Accounts by one

16

(1) percentage point for each percentage point by which Dilution is in excess of two and one-half (2.5%) percent.

“**Dollars**” means the lawful currency of the United States of America.

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

(1) Consolidated Taxes; *plus*

(2) (i) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, (ii) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Consolidated Subsidiaries and (iii) costs of surety bonds in connection with financing activities; *plus*

(3) Consolidated Depreciation and Amortization Expense; *plus*

(4) Consolidated Non-Cash Charges; *plus*

(5) any (x) net after-tax extraordinary, nonrecurring or unusual losses (plus all fees and expenses relating thereto) or (y) expenses or charges, including, without limitation, severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any New Project or any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facility rebranding costs, acquisition integration costs, facility opening costs, project and contract start-up costs, business optimization costs, recruiting costs, signing, retention or completion bonuses, and any fees, expenses, charges or change in control payments related to the Transactions (including any costs relating to auditing prior periods, any transition-related expenses, and transaction expenses incurred before, on or after the Closing Date) for such period, in each case, to the extent not already added back in clause (21) or (23) below; *plus*

(6) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Consolidated Subsidiaries and including, without limitation, the effects of adjustments to (A) deferred rent, (B) capitalized lease obligations or other obligations or deferrals attributable to capital spending funds with suppliers or (C) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, for such period; *plus*

(7) any net after-tax loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets during such period; *plus*

(8) any net after-tax losses (plus all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Borrower Representative) during such period; *plus*

(9) any net after-tax losses (plus all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Swap Contracts or other derivative instruments during such period; *plus*

(10) [reserved]; *plus*

(11) any impairment charges and asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments to good will and other intangible assets arising pursuant to GAAP for such period; *plus*

(12) any non-cash expense realized or resulting from stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights, in each case to the extent not otherwise added back pursuant to clause (13) or (24); *plus*

(13) any (a) non-cash compensation charges, (b) [reserved], or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Closing Date of officers, directors and employees, in each case of such Person or any Consolidated Subsidiary, to the extent not already added back pursuant to clause (12); *plus*

(14) (a) the non-cash portion of “straight-line” rent expense and (b) the non-cash amortization of tenant allowances; *plus*

(15) any currency translation gains and losses related to currency remeasurements of Debt, and any net loss or gain resulting from hedging transactions for currency exchange risk, for such period; *plus*

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

(17) Capitalized Software Expenditures for such period; *plus*

(18) non-cash charges for deferred tax asset valuation allowances for
such period; *plus*

18

(19) any other costs, expenses or charges resulting from facility closures or sales, including income (or losses) from such facility closures or sales, to the extent not already added back pursuant to clause (5)(y); *plus*

(20) business optimization expenses and other restructuring charges, reserves or expenses not related to the Transactions (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges) and Pre-Opening Expenses; to the extent not already added back pursuant to clause (5)(y); *plus*

(21) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) (i) related to any issuance of equity interests, Investment, acquisition, New Project, disposition, loan origination, recapitalization or the incurrence, modification or repayment of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful) or (ii) incurred in connection with the Transactions, including (A) such fees, expenses or charges related to the Transactions, the Obligations or any Debt and (B) any amendment or other modification of the Obligations or other Debt, in each case, to the extent not already added back pursuant to clause (5)(y); *plus*

(22) [reserved]; *plus*

(23) [reserved]; *plus*

(24) any costs or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of a Borrower or a Guarantor or net cash proceeds of an issuance of equity interests of the Borrowers (other than customary disqualified equity interests), and to the extent not otherwise added back pursuant to clause (12) or (13); *plus*

(25) the amount of any loss attributable to a New Project, until the date that is 12 months after the date of completing the construction, acquisition, assembling or creation of such New Project, as the case may be; provided, that (a) such losses are reasonably identifiable and factually supportable and certified by a responsible financial or accounting officer of the Borrowers and (b) losses attributable to such New Project after 12 months from the date of completing such construction, acquisition, assembling or creation, as the case may be, shall not be included in this clause (25); *plus*

(26) [reserved]; *plus*

(27) with respect to any joint venture that is not a Subsidiary and solely to the extent relating to any net income referred to in clause (2) of the definition of “Consolidated Net Income” an amount equal to the proportion of those items described in

clauses (1) and (2) above relating to such joint venture corresponding to the Borrower's and the Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Subsidiary); *plus*

(28) [reserved]; *plus*

(29) [reserved]; and

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

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

(31) any net after-tax extraordinary, nonrecurring or unusual gains (less all fees and expenses relating thereto); *plus*

(32) any net after-tax income from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets during such period; *plus*

(33) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Borrower Representative) during such period; *plus*

(34) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Swap Contracts or other derivative instruments during such period;

provided that for all purposes, the individual amount added back to EBITDA pursuant to any of clauses (5), (13), (14), (19), (20), (21)(i), (23), (24) or (25) above shall not be more than 15% of EBITDA for the most recently ended twelve month period (calculated prior to giving effect to such adjustments and exclusions) and, together with the aggregate amount added back pursuant to clauses (5), (13), (14), (19), (20), (21)(i), (23), (24) or (25) above, shall not be more than 30% of EBITDA for the most recently ended twelve month period (calculated prior to giving effect to such adjustments and exclusions).

Notwithstanding the foregoing, for purposes of determining EBITDA for any period that includes any of the months set forth below, EBITDA for such month shall equal the respective amount set forth opposite such month in the table set forth below:

<u>Month</u>	<u>EBITDA (in thousands)</u>
July 2024	\$6,321
August 2024	\$4,863
September 2025	\$6,989
October 2024	\$9,035

	November 2024		\$8,412	



December 2024	\$10,912
January 2025	\$4,269
February 2025	\$8,143
March 2025	\$9,504
April 2025	\$7,596
May 2025	\$4,069
June 2025	\$6,059

“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 delegatee), having responsibility for the resolution of any EEA Financial Institution.

“Eligibility Reserves” means, effective as of five (5) Business Days after the date of written notice of any determination thereof to the Borrower Representative by Agent (which notice shall include a reasonable description of the basis for such determination), such amounts as Agent, in its Permitted Discretion, may from time to time establish, against the gross amounts of Eligible Billed Accounts, Eligible Exar Billed Accounts, Eligible Unbilled Accounts, Eligible Exar Unbilled Accounts and Eligible Investment Grade Billed Accounts to reflect Dilution Reserves, Canadian Priority Payables Reserves, sales, excise or similar taxes and other risks or contingencies that may adversely affect any one or more class of such items or that may affect the credit risk or lending against the Eligible Accounts, in each case subject to the last sentence of the definition of “Borrowing Base”; *provided* that, during such five Business Day period, no Revolving Loans may be borrowed to the extent the aggregate Revolving Loan Outstandings after giving effect thereto would exceed the Revolving Loan Limit determined as if such new Eligibility Reserve were in effect.

“Eligible Account” means Eligible Billed Accounts, Eligible Exar Billed Accounts, Eligible Unbilled Accounts, Eligible Exar Unbilled Accounts and Eligible Investment Grade Billed Accounts.



“Eligible Billed Account” means, subject to the criteria below, an account receivable of a Credit Party (other than (until the termination of the Exar Facility) an Exar Originator or a Canadian Credit Party until such time a Solvency Certificate has been delivered with respect to such Canadian Credit Party), which was generated in the Ordinary Course of Business, which was generated originally in the name of a Credit Party (other than (until the termination of the Exar Facility) an Exar Originator or a Canadian Credit Party until such time a Solvency Certificate has been delivered with respect to such Canadian Credit Party) and not acquired via assignment or otherwise. The net amount of an Eligible Billed Account at any time shall be the face amount of such Eligible Billed Account as originally billed *minus* all cash collections and other proceeds of such Account received from or on behalf of the Account Debtor thereunder as of such date and any and all returns, rebates, discounts (which may, at Agent’s option, be calculated on shortest terms), credits, allowances or excise taxes of any nature at any time issued, owing, claimed by Account Debtors, granted, outstanding or payable in connection with such Accounts at such time. Without limiting the generality of the foregoing, no Account shall be an Eligible Billed Account if:

(a) the Account remains unpaid more than ninety (90) days past the due date (but in no event more than one hundred fifty (150) days after invoice date or the date that the applicable goods or services have been rendered, serviced or delivered);

(b) the Account is subject to any defense, set-off, recoupment, counterclaim, deduction, discount, backdating, postdating, redating, credit, chargeback, freight claim, allowance, or adjustment of any kind (but only to the extent of such defense, set-off, recoupment, counterclaim, deduction, discount, backdating, postdating, redating, credit, chargeback, freight claim, allowance, or adjustment), or the applicable Credit Party is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial process;

(c) if the Account arises from the sale of goods, any part of any goods the sale of which has given rise to the Account has been returned, rejected, lost, or damaged (but only to the extent that such goods have been so returned, rejected, lost or damaged);

(d) if the Account arises from the sale of goods, the sale was not an absolute, bona fide sale, or the sale was made on consignment or on approval or on a sale-or-return or bill-and-hold or progress billing basis, or the sale was made subject to any other repurchase or return agreement, or the goods have not been shipped to the Account Debtor or its designee or the sale was not made in compliance with applicable Laws;

(e) if the Account arises from the performance of services, the services have not actually been performed or the services were undertaken in violation of any Law or the Account represents a progress billing for which services have not been fully and completely rendered;

(f) the Account is subject to a Lien other than a Permitted Lien, or Agent does not have a first priority, perfected Lien on such Account;

(g) the Account is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment, unless such Chattel Paper or Instrument has been delivered to Agent;

(h) the Account Debtor is an Affiliate or Subsidiary of a Credit Party, or if the Account Debtor holds any Debt of a Credit Party;

(i) more than fifty percent (50%) of the aggregate balance of all Accounts owing from the Account Debtor obligated on the Account are ineligible under subclause (a) above (in which case all Accounts from such Account Debtor shall be ineligible);

(j) the Credit Party owning such Account is an Exar Originator;

(k) the total unpaid Accounts of the Account Debtor obligated on the Account exceed twenty percent (20%) of the net amount of all Eligible Accounts owing from all Account Debtors (but only the amount of the Accounts of such Account Debtor exceeding such twenty percent (20%) limitation shall be considered ineligible);

(l) any covenant, representation or warranty contained in the Financing Documents with respect to such Account has been breached in any respect;

(m) the Account is unbilled or has not been invoiced to the Account Debtor in accordance with the procedures and requirements of the applicable Account Debtor;

(n) the Account is an obligation of an Account Debtor that is the federal, state, provincial, territorial or local government or any political subdivision thereof, unless Agent has agreed to the contrary in writing in the exercise of its Permitted Discretion and, if requested by Agent, in the exercise of its Permitted Discretion, Agent has received from the Account Debtor the acknowledgement of Agent's notice of assignment of such obligation pursuant to this Agreement;

(o) the Account is an obligation of an Account Debtor that has suspended business, made a general assignment for the benefit of creditors, is unable to pay its debts as they become due or as to which a petition has been filed (voluntary or involuntary) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or the Account is an Account as to which any facts, events or occurrences exist which could reasonably be expected to impair the validity, enforceability or collectability of such Account or reduce the amount payable or delay payment thereunder;

(p) the Account Debtor has its principal place of business or executive office outside the United States or Canada;

(q) the Account is payable in a currency other than United States Dollars or Canadian Dollars; *provided* that, in the case of Canadian Dollars, the aggregate amount of such Accounts does not exceed 20% of the aggregate amount of Eligible Accounts at any time;

(r) the Account Debtor is an individual;

23

(s) the Credit Party owning such Account has not signed and delivered to Agent notices, in the form requested by Agent, directing the Account Debtors to make payment to the applicable Lockbox Account;

(t) the Account includes late charges or finance charges (but only such portion of the Account shall be ineligible);

(u) the Account arises out of the sale of any Inventory upon which any other Person holds, claims or ~~assets~~asserts a Lien (unless such Lien does not also include proceeds of such Inventory); or

(v) the Account or Account Debtor fails to meet such other specifications and requirements which may from time to time be established by Agent in its good faith credit judgment and Permitted Discretion and in accordance with its customary criteria.

“Eligible Cash” means cash and Cash Equivalents of a Credit Party that is held in a Cash Collateral Account or held in escrow by Agent on behalf of a Credit Party in a Deposit Account owned by Agent.

“Eligible Exar Billed Accounts” means, only following the termination of the Exar Facility and the release of any liens pursuant thereto, any Accounts held by an Exar Originator that:

(a) meet all criteria set forth in the definition of “Eligible Billed Account” except for clause (a) and (j) thereof; and

(b) do not remain unpaid more than one hundred fifty (150) days past the invoice date (or the date that the applicable goods or services have been rendered, serviced or delivered).

“Eligible Exar Unbilled Account” means, at any time of determination, Accounts of an Exar Originator that:

(a) qualify as Eligible Exar Billed Accounts, except that the invoice applicable to such Accounts has not been issued to the applicable Account Debtor; provided that an Account shall cease to be an Eligible Exar Unbilled Account upon the earlier of (i) the date the invoice applicable to such Account is issued to the applicable Account Debtor and (ii) ninety (90) days after the services giving rise to such Account have been completed by the applicable Exar Originator; and

(b) are evidenced by supporting documentation in form and substance reasonably satisfactory to Agent in form consistent with documentation delivered prior to the Closing Date.

“Eligible Investment Grade Billed Account” means, at any time of determination, Accounts of a Credit Party that:



- (a) qualify as Eligible Billed Accounts;
- (b) the Account Debtor is an Investment Grade Account Debtor; and
- (c) are evidenced by supporting documentation in form and substance reasonably satisfactory to Agent in form consistent with documentation delivered prior to the Closing Date.

“Eligible Unbilled Account” means, at any time of determination, Accounts of a Credit Party (other than an Exar Originator) that:

- (a) qualify as Eligible Billed Accounts, except that the invoice applicable to such Accounts has not been issued to the applicable Account Debtor; provided that an Account shall cease to be an Eligible Unbilled Account upon the earlier of (i) the date the invoice applicable to such Account is issued to the applicable Account Debtor and (ii) thirty (30) days after the services giving rise to such Account have been completed by the applicable Credit Party; and
- (b) are evidenced by supporting documentation in form and substance reasonably satisfactory to Agent in form consistent with documentation delivered prior to the Closing Date.

In determining the amount to be included, Eligible Unbilled Accounts shall be calculated net of customer deposits and unapplied cash.

“Environmental Laws” means any present and future federal, state, provincial, territorial, municipal and local laws, statutes, ordinances, rules, regulations, standards, policies and other governmental directives or requirements, as well as common law, pertaining to the environment, natural resources, pollution, health (including any environmental clean-up statutes and all regulations adopted by any local, state, provincial, territorial, municipal, federal or other Governmental Authority, and any statute, ordinance, code, order, decree, law rule or regulation all of which pertain to or impose liability or standards of conduct concerning medical waste or medical products, equipment or supplies), safety or clean-up that apply to any Borrower and relate to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. § 5101 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 *et seq.*), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 *et seq.*), the Occupational Safety and Health Act (29 U.S.C. § 651 *et seq.*), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. § 4851 *et seq.*), the *Canadian Environmental Protection Act, 1999*, any analogous federal, state, provincial, territorial, municipal or local laws, any amendments thereto, and the regulations promulgated pursuant to said laws, together with all amendments from time to time to any of the foregoing and judicial interpretations thereof.

“Equivalent Amount” means, on any date of determination, with respect to obligations or valuations denominated in one currency (the “first currency”), the amount of another currency

~~25~~

(the “second currency”) which would result from Agent converting the first currency into the second currency at the Spot Rate on the applicable date of determination, or at such other rate as Agent may determine in its sole discretion.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

“**ERISA Plan**” means any “employee benefit plan”, as such term is defined in Section 3(3) of ERISA (other than a Multiemployer Plan), which any Credit Party maintains, sponsors or contributes to, or, in the case of an employee benefit plan which is subject to Section 412 of the Code or Title IV of ERISA, to which any Credit Party or any member of the Controlled Group may have any liability, including any liability by reason of having been a substantial employer within the meaning of Section 4063 of ERISA at any time during the preceding five (5) years, or by reason of being deemed to be a contributing sponsor under Section 4069 of ERISA.

“**Erroneous Payment**” has the meaning specified therefor in Section 11.20.

“**Erroneous Payment Deficiency Assignment**” has the meaning specified therefor in Section 11.20.

“**Erroneous Payment Impacted Loans**” has the meaning specified therefor in Section 11.20.

“**Erroneous Payment Return Deficiency**” has the meaning specified therefor in Section 11.20.

“**ETI**” means Exela Technologies, Inc.

“**ETI Funding Obligation**” has the meaning assigned to it in the Plan of Reorganization.

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

“**Event of Default**” has the meaning set forth in Section 10.1.

“**Exar Billed Advance Rate**” means the advance rate applicable to Eligible Exar Billed Accounts, as set forth in the table below, which shall adjust automatically on the dates specified unless otherwise agreed by Agent in its sole discretion:

Date	Advance Rate on Eligible Exar Billed Accounts

Closing Date through and including the date that is six months after the first date upon which any Eligible Exar Billed Account is	85.0%

included in the Borrowing Base	
One day after the end of the period described immediately above, through and including the date that is seven months ~~after the first date upon which any Eligible~~	83.33%
One day after the end of the period described immediately above, through and including the date that is eight months after	81.67%
One day after the end of the period described immediately above, through and including the date that is nine months after	80.00%
One day after the end of the period described immediately above, through and including the date that is ten months after ~~the first date upon which any Eligible Exar~~	78.33%
One day after the end of the period described immediately above, through and including the date that is eleven months ~~after the first date upon which any Eligible~~	76.67%
One day after the end of the period described immediately above, and	75%

“**Exar Facility**” means the receivables purchase facility established pursuant to that certain Receivables Purchase Agreement, dated as of February 12, 2024, among Exela BR SPV LLC, a Delaware limited liability company (“**Exar SPV**”), as seller, BR EXAR, LLC, a Delaware limited liability company (as successor by assignment to B. Riley Securities, Inc.), as buyer (the “**Exar Buyer**”), and the originators party thereto as of the Closing Date (the “**Exar Originators**”), as amended, restated, amended and restated, supplemented or otherwise modified from time to time (for the avoidance of doubt, other than with respect to amendments, restatements amendments and restatements, supplements or modifications which change the identities of the Exar Originators).

“Exar Facility Amendment” means the Exar Facility as amended and restated by that certain Amended and Restated Receivables Purchase Agreement, dated as of January 21, 2026, and as may be subsequently amended, or amended and restated, provided that the aggregate amount of principal Indebtedness incurred with respect to the Exar Facility Amendment shall not exceed \$10,000,000.

“Exar Originator” has the meaning specified therefore in the definition of Exar Facility.

“Exar Unbilled Advance Rate” means the advance rate applicable to Eligible Exar Unbilled Accounts, as set forth in the table below, which shall adjust automatically on the dates specified unless otherwise agreed by Agent in its sole discretion:

Date	Advance Rate on Eligible Exar Unbilled Accounts
Closing Date through and including the date that is six months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	85.0%
One day after the end of the period described immediately above, through and including the date that is seven months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	79.17%
One day after the end of the period described immediately above, through and including the date that is eight months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	73.33%
One day after the end of the period described immediately above, through and including the date that is nine months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	67.50%
One day after the end of the period described immediately above, through and including the date that is ten months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	61.67%

One day after the end of the period described immediately above, through and including the date that is eleven months after the first date	55.83%

upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	
One day after the end of the period described immediately above, and	50.0%

“**Excess Availability**” means, at a particular date, an amount equal to the Revolving Loan Availability.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Excluded Account**” has the meaning specified therefor in Section 5.14.

“**Excluded Subsidiary**” means, with respect to any Subsidiary of the Borrowers, (a) each Subsidiary that is prohibited from Guaranteeing the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a governmental (including regulatory) authority to Guarantee the Obligations (unless such consent, approval, license or authorization has been received); provided, that, for the avoidance of doubt, such Subsidiary shall have no obligation to seek such consent, approval, license or authorization, (b) each Subsidiary that is prohibited by any applicable contractual requirement from Guaranteeing the Obligations on the Closing Date or at the time such Subsidiary becomes a Subsidiary (in each case for so long as such restriction or any replacement or renewal thereof is in effect and only to the extent that such prohibition was not implemented or consented to with the intent of evading the requirements of Section 4.10), (c) [reserved], (d) any Subsidiary that (i) did not, as of the last day of the fiscal quarter of the Borrowers most recently ended, have assets with a value in excess of 5.0% of the total assets or revenues representing in excess of 5.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date and (ii) taken together with all other such Subsidiaries being excluded pursuant to this clause (d), as of the last day of the fiscal quarter of the Borrowers most recently ended, did not have assets with a value in excess of 10.0% of the total assets or revenues representing in excess of 10.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date, and (e) any Subsidiary for which providing a Guarantee or granting Liens required by the Security Documents to secure Indebtedness could reasonably be expected to result in material tax consequences as determined in good faith by the Borrowers in consultation with the Required Lenders, in each case pursuant to clauses (a) through (e) hereof, only for so long as it remains as such; provided that any Subsidiary that incurs or provides a guarantee under (or has pledged its assets to secure the obligations of) any Indebtedness for borrowed money shall not be an Excluded Subsidiary.

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to Agent, any Lender or any other recipient of any payment to be made by or on behalf of any obligation of Credit Parties hereunder or the Obligations or required to be withheld or deducted from a payment to Agent, such Lender or such recipient: (a) Taxes to the extent imposed on or measured by Agent’s, any Lender’s or such other recipient’s net income

(however denominated), branch profits Taxes, and franchise Taxes, in each case, (i) imposed by the jurisdiction (or any political subdivision thereof) under which Agent, such Lender or such other recipient is

organized, has its principal office or, in the case of any Lender, has its applicable lending office or (ii) that are Other Connection Taxes; (b) in the case of a Lender, United States withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in the Loans pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loans other than as a result of an assignment requested by a Credit Party under the terms hereof or (ii) such Lender changes its lending office for funding its Loan, except in each case to the extent that, pursuant to Section 2.8, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan or Revolving Loan Commitment or to such Lender immediately before it changed its lending office; (c) Taxes attributable to Agent's, such Lender's or such other recipient's failure to comply with Section 2.8(c); and (d) any Taxes imposed under FATCA.

"Exit Notes" means the notes under the Exit Notes Indenture.

"Exit Notes Collateral Agent" means Ankura Trust Company, LLC, as the collateral agent under the Exit Notes Indenture.

"Exit Notes Indenture" means the indenture dated as of the date hereof among the XBP Americas, LLC, Exela Finance Inc., the guarantors named therein, the financial institutions named therein, the Trustee and the Exit Notes Collateral Agent, as in effect on the date hereof.

"Fair Value" means the amount at which the assets (both tangible and intangible), in their entirety, of the Borrower and its Subsidiaries taken as a whole and after giving effect to the consummation of the Transactions would change hands between a willing buyer and a willing seller, within a commercially reasonable period of time, each having reasonable knowledge of the relevant facts, with neither being under any compulsion to act.

"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 Treasury regulations or official interpretations thereof and any agreement entered into pursuant to the implementation of Section 1471(b)(1) of the Code, and any intergovernmental agreement, treaty or convention between the United States Internal Revenue Service, the U.S. Government and any governmental or taxation authority under any other jurisdiction which agreement's principal purposes deals with the implement such sections of the Code.

"Financing Documents" means this Agreement, the ABL Intercreditor Agreement, any other intercreditor agreements, any Notes, the Security Documents, any subordination or intercreditor agreement pursuant to which any Debt and/or any Liens securing such Debt is subordinated to all or any portion of the Obligations and all other documents, instruments and agreements (other than any Swap Contract) related to the Obligations and heretofore executed, executed concurrently herewith or executed at any time and from time to time hereafter, as any or all of the same may be amended, supplemented, restated or otherwise modified from time to time.



“**Fixed Charge Calculation Date**” has the meaning assigned in the “Fixed Charge Coverage Ratio” definition.

“**Fixed Charge Coverage Ratio**” means, with respect to any Person for any period, the ratio of (a) (i) EBITDA of such Person for such period *minus* (ii) the Unfinanced Capital Expenditures of the Borrower and its Subsidiaries during such period *minus* (iii) Capitalized Software Expenditures to (b) the Fixed Charges of such Person for such period. In the event that the Borrowers or any of its Subsidiaries incurs, repays, repurchases or redeems any Debt or issues, repurchases or redeems disqualified equity interests or preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Fixed Charge Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Debt, or such issuance, repurchase or redemption of disqualified equity interests or preferred stock, as if the same had occurred at the beginning of the applicable period.

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

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower Representative. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in a Responsible Officer’s certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings reasonably

expected to have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the reference period (including, to the extent applicable, the Transactions); provided, that for all purposes of determining EBITDA hereunder all adjustments (to the extent

such adjustment is effected pursuant to the definition of EBITDA) shall not be more than the amount of applicable adjustments permitted pursuant to the applicable provision(s) of the definition of EBITDA, as the case may be for the most recently ended reference period (calculated prior to giving effect to such capped adjustments and exclusions (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.

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

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

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

“Fixed Charges” means, with respect to any Person for any period, the sum, without duplication, of: (a) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, (b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock or customary disqualified equity interests of such Person and its Subsidiaries, (c) regularly scheduled payments of principal on Debt for borrowed money that were paid or payable (but without duplication) during such period (excluding, for the avoidance of doubt, that attributable to Capital Lease Obligations, the Exar Facility and the Exar Facility

[Amendment](#)) and (d) the aggregate amount of cash payments made in respect of Taxes (other than payroll taxes, sales taxes and Transaction Tax Liability (as defined in the Plan of Reorganization)) during such period.

“**Floor**” means the rate per annum of interest equal to 1.00%.

“Foreign Lender” has the meaning specified therefor in Section 2.8(c)(i).

“GAAP” means generally accepted accounting principles set forth from time to time 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 agencies with similar functions of comparable stature and authority within the United States accounting profession), which are applicable to the circumstances as of the date of determination.

“General Intangible” means any “general intangible” as defined in Article 9 of the UCC (and includes, for certainty, any “intangible” as defined in the PPSA), and any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction, but including payment intangibles and software.

“Governmental Authority” means any nation or federal government, any state, province, territory, municipality or other political subdivision thereof, and any agency, department or Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any corporation or other Person owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing, whether domestic or foreign.

“guarantee” by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt 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 conditions or otherwise), or (b) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), *provided, however*, that the term guarantee shall not include endorsements for collection or deposit in the Ordinary Course of Business. The term **“guarantee”** used as a verb has a corresponding meaning.

“Guarantee” means the guarantee of the Guaranteed Obligations made by the Guarantors as set forth in Section 12 of this Agreement or in such other form as may be accepted by Agent in its reasonable discretion.

“Guarantee Supplement” has the meaning specified in Section 12.6.

“Guaranteed Obligations” has the meaning specified therefor in Section 12.2(a).

“Guarantor” means each Subsidiary of the Borrowers (other than an Excluded Subsidiary or other Person designated in writing by Agent as not required to be a Guarantor).

For the avoidance of doubt, each Guarantor shall be jointly and severally liable for the Obligations to the extent provided in this Agreement and the other Financing Documents.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which is prohibited by any Environmental Laws; toxic mold, any substance that requires special handling; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” “pollutant” or other words of similar import within the meaning of any Environmental Law, including: (a) any “hazardous substance” defined as such in (or for purposes of) CERCLA, or any so-called “superfund” or “superlien” Law, including the judicial interpretation thereof; (b) any “pollutant or contaminant” as defined in 42 U.S.C.A. § 9601(33); (c) any material now defined as “hazardous waste” pursuant to 40 C.F.R. Part 260; (d) any petroleum or petroleum by-products, including crude oil or any fraction thereof; (e) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel; (f) any “hazardous chemical” as defined pursuant to 29 C.F.R. Part 1910; (g) any toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls (“**PCB’s**”), flammable explosives, radioactive materials, infectious substances, materials containing lead-based paint or raw materials which include hazardous constituents); and (h) any other toxic substance or contaminant that is subject to any Environmental Laws or other past or present requirement of any Governmental Authority.

“Hazardous Materials Contamination” means contamination (whether now existing or hereafter occurring) of the improvements, buildings, facilities, personalty, soil, groundwater, air or other elements on or of the relevant property by Hazardous Materials, or any derivatives thereof, or on or of any other property as a result of Hazardous Materials, or any derivatives thereof, generated on, emanating from or disposed of in connection with the relevant property.

“IG Advance Rate” means the advance rate applicable to Eligible Investment Grade Billed Accounts, as set forth in the table below, which shall adjust automatically on the dates specified unless otherwise agreed by Agent in its sole discretion:

Date	Advance Rate on Eligible Investment Grade Billed Accounts
Closing Date through and including January 29, 2026	95.0%
January 30, 2026, through and including July 29, 2026	92.5%
After July 29, 2026	90.0%



“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 Borrowers or any other Credit Party under any Financing Documents and (b) to the extent not otherwise described in (a), Other Taxes.

“Instrument” means “instrument”, as defined in Article 9 of the UCC or in the PPSA, as applicable.

“Intellectual Property” means, with respect to any Person, all patents, patent applications, industrial designs, industrial design applications and like protections, including improvements divisions, continuation, renewals, reissues, extensions and continuations in part of the same, trademarks, trade names, trade styles, trade dress, service marks, logos and other business identifiers and, to the extent permitted under applicable law, any applications therefor, whether registered or not, and the goodwill of the business of such Person connected with and symbolized thereby, copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative works, whether published or unpublished, technology, know-how and processes, operating manuals, trade secrets, computer hardware and software, rights to unpatented inventions and all applications and licenses therefor, used in or necessary for the conduct of business by such Person and all claims for damages by way of any past, present or future infringement of any of the foregoing.

“Interest Period” means any period commencing on the first day of a calendar month and ending on the last day of such calendar month.

“Inventory” means “inventory” as defined in Article 9 of the UCC or in the PPSA, as applicable.

“Investment” means any investment in any Person, whether by means of acquiring (whether for cash, property, services, securities or otherwise), making or holding Debt, securities, capital contributions, loans, time deposits, advances, guarantees or otherwise. The amount of any Investment shall be the original cost of such Investment *plus* the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect thereto.

“Investment Grade Account Debtor” means an Account Debtor listed on **Schedule 1.1** (as such list may be updated from time to time by Borrower and consented to by Agent) that, at any time of determination, has a corporate credit rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P.

“IRS” has the meaning specified therefor in Section 2.8(c)(i).

“Junior Lien Obligations” means the obligations with respect to Debt permitted to be incurred under this Agreement, which is by its terms intended to be secured by the Collateral on a basis junior to the Obligations, excluding the Term Loan Agreement and the Exit Notes.

“**Laws**” means any and all federal, state, provincial, territorial, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or

hereafter in effect, which are applicable to any Credit Party in any particular circumstance. “**Laws**” includes, without limitation, Environmental Laws.

“**Lender**” means each of (a) MidCap Financial Trust, in its capacity as a lender hereunder, (b) each other Person party hereto in its capacity as a lender hereunder, (c) each other Person that becomes a party hereto as Lender pursuant to Section 11.17, and (d) the respective successors of all of the foregoing, and “**Lenders**” means all of the foregoing. In addition to the foregoing, solely for the purpose of identifying the Persons entitled to share in payments and collections from the Collateral as more fully set forth in this Agreement and the Security Documents, the term “**Lender**” shall include Eligible Swap Counterparties. In connection with any such distribution of payments and collections, Agent shall be entitled to assume that no amounts are due to any Eligible Swap Counterparty unless such Eligible Swap Counterparty has notified Agent of the amount of any such liability owed to it prior to such distribution.

“**Liabilities**” means the recorded liabilities (including contingent liabilities that would be recorded in accordance with GAAP) of the Borrower and its Subsidiaries taken as a whole, as of the Closing Date after giving effect to the consummation of the Transactions determined in accordance with GAAP consistently applied.

“**Lien**” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset. For the purposes of this Agreement and the other Financing Documents, any Borrower or any Subsidiary 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.

“**Litigation**” means any action, suit or proceeding before any court, mediator, arbitrator or Governmental Authority.

“**Loan(s)**” means the Revolving Loans.

“**Loan Account**” has the meaning specified therefor in Section 2.6(b).

“**Lockbox**” has the meaning specified therefor in Section 2.11.

“**Lockbox Account**” means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid, which account or accounts shall be, if requested by Agent, opened in the name of Agent (or a nominee of Agent).

“**Lockbox Bank**” has the meaning specified therefor in Section 2.11.

“**Material Adverse Effect**” means a material adverse effect on any of (a) the operations, assets, liabilities, financial condition or prospects of the Credit Parties taken as a whole, (b) the ability of the Credit Parties taken as a whole to perform any of their obligations under any Financing Document, (c) the legality, validity or enforceability of this Agreement or any other Financing Document, (d) the rights and remedies of any Agent or any Lender under any

Financing Document, or (e) the validity, perfection or priority of a Lien in favor of Agent on Collateral having a fair market value in excess of \$25,000,000.

“**Material Contracts**” means, with respect to any Person, (a) each contract or agreement to which such Person or any of its Subsidiaries is a party involving aggregate consideration payable to or by such Person or such Subsidiary of \$10,000,000 or more in any fiscal year (other than purchase orders in the ordinary course of the business of such Person or such Subsidiary and other than contracts that by their terms may be terminated by such Person or Subsidiary in the ordinary course of its business upon less than 60 days’ notice without penalty or premium) and (b) all other contracts or agreements as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

“**Maximum Lawful Rate**” has the meaning specified therefor in Section 2.7.

“**MCF**” means MidCap Funding IV Trust, a Delaware statutory trust, and its successors and assigns.

“**Minimum Balance**” shall mean, on any day, an amount that equals the product of: (i) the average Borrowing Base (or, if less on any given day, the Revolving Loan Commitment) during the immediately preceding month *multiplied by* (ii) twenty percent (20.0%).

“**Minimum Balance Fee**” shall mean a fee equal to (a) the positive difference, if any, remaining after subtracting (i) the average end-of-day principal balance of Revolving Loans outstanding during the immediately preceding month (without giving effect to the clearance day calculations referenced above) or in Section 2.2(a) from (ii) the Minimum Balance multiplied by (b) the highest interest rate applicable to the Revolving Loans during such month (or, during the existence of an Event of Default, the default rate of interest set forth in Section 10.5).

“**Multiemployer Plan**” means a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA to which any Credit Party or any other member of the Controlled Group (or any Person who in the last five years was a member of the Controlled Group) is making or accruing an obligation to make contributions or has within the preceding five plan years (as determined on the applicable date of determination) made contributions.

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

“**New Project**” means (x) each contract or project with respect to new customers and any expansions of contracts or projects with respect to existing customers and (y) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market, in each case, to the extent and for so long as not capitalized in the Ordinary Course of Business of the Borrowers and their Subsidiaries.

“**Notes**” has the meaning specified therefor in Section 2.3.

37

“Notice of Borrowing” means a notice of a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit D hereto.

“Obligations” means all obligations, liabilities and indebtedness (monetary (including, without limitation, the payment of interest and other amounts arising after the commencement of any case with respect to any Credit Party under any Debtor Relief Laws or any similar statute which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case) or otherwise) of each Credit Party under this Agreement or any other Financing Document, in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due. In addition to, but without duplication of, the foregoing, the Obligations shall include, without limitation, all obligations, liabilities and indebtedness arising from or in connection with all Swap Contracts entered into with any Eligible Swap Counterparty.

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

“OFAC Lists” means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

“Operative Documents” means the Financing Documents, the Term Loan Documents, the Exit Notes Indenture and the B. Riley Credit Agreement.

“Ordinary Course of Business” means, in respect of any transaction involving any Credit Party, the ordinary course of business of such Credit Party, as conducted by such Credit Party in accordance with past practices.

“Organizational Documents” means, with respect to any Person other than a natural person, the documents by which such Person was organized or formed (such as a certificate of incorporation, certificate of limited partnership or articles of organization, and including, without limitation, any certificates of designation for preferred stock or other forms of preferred equity) and which relate to the internal governance of such Person (such as by-laws, memoranda of association, a partnership agreement or an operating, limited liability company or members agreement), including any and all shareholder agreements or voting agreements relating to the capital stock or other equity interests of such Person.

“Other Connection Taxes” means, with respect to a Lender or Agent, taxes imposed as a result of a present or former connection between Agent or any Lender and the jurisdiction imposing such tax (other than connections arising solely from Agent or such Lender having executed, delivered, become a party to, performed its obligations under, received payments under, engaged in any other transaction pursuant to or enforced any Financing Document, or sold or assigned an interest in any Loans or any Financing Document).

“Other Taxes” means all present or future stamp, court or 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 Financing Document, except any such taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.8(i)).

“Parent” means XBP Europe Holdings Inc., a Delaware corporation, and any successor thereto.

“Participant Register” has the meaning specified therefor in Section 11.17(a)(iii).

“Payment Account” means the account specified on the signature pages hereof into which all payments by or on behalf of each Borrower to Agent under the Financing Documents shall be made, or such other account as Agent shall from time to time specify by notice to Borrower Representative.

“Payment Condition” means, with respect to any payment subject to such condition, that:

(a) the Credit Parties shall have a pro forma Fixed Charge Coverage Ratio of not less than 1.00:1.00 after giving effect to such payment;

(b) the Credit Parties shall have maintained Excess Availability (after giving pro forma effect to any advance with respect to the subject payment) of not less than twenty percent (20%) of the Revolving Loan Limit for the 30-day period immediately preceding the date of such payment; and

(c) no Default or Event of Default shall have occurred and be continuing on the date of such payment or as a result thereof.

“Payment Recipient” has the meaning specified therefor in Section 11.20.

“PBGC” means the Pension Benefit Guaranty Corporation and any Person succeeding to any or all of its functions under ERISA.

“Pension Plan” means any ERISA Plan that is subject to Section 412 of the Code or Title IV of ERISA.

“Permits” means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of a Credit Party required under all applicable Laws and required for such Credit Party in order to carry on its business as now conducted.

“Permitted Affiliate” means with respect to any Person (a) any Person that directly or indirectly controls such Person, and (b) any Person which is controlled by or is under common control with such controlling Person. As used in this definition, the term “control” of a Person means the possession, directly or indirectly, of the power to vote eighty percent (80%) or more of any class of voting securities of such Person or to direct or cause the direction of the



management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Permitted Asset Dispositions” means the following Asset Dispositions: (a) dispositions of Inventory in the Ordinary Course of Business and not pursuant to any bulk sale, (b) dispositions of furniture, fixtures and equipment in the Ordinary Course of Business that the applicable Borrower or Subsidiary determines in good faith is no longer used or useful in the business of such Borrower and its Subsidiaries, (c) dispositions approved by Agent, (d) licensing, on a non-exclusive basis, intellectual property rights in the ordinary course of business of the Borrowers or any Subsidiary, (e) leasing or subleasing assets in the ordinary course of business of the Borrower or any Subsidiary, (f) so long as no Event of Default has occurred and is continuing or would result therefrom, transfers of assets (i) from the Borrower or any Subsidiary to a Credit Party and (ii) from any Subsidiary that is not a Credit Party to any other Subsidiary, (g) any Asset Disposition occurring in accordance with the terms of the Tax Funding Agreement, (h) any involuntary loss, damage or destruction of property and any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property, (i) any involuntary loss, damage or destruction of property, (j) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property, (k)(i) the lapse of Registered Intellectual Property of the Borrowers or any Subsidiary of the Borrowers to the extent not economically desirable in the conduct of their business or (ii) the abandonment of Intellectual Property rights in the ordinary course of their business so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Lenders, and (l) sales and contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility ~~in effect as of the date hereof~~ as amended and restated by that certain Exar Facility Amendment; provided that certain of the proceeds from such sale and contribution pursuant to this clause (i) are used to repay the B. Riley Credit Agreement (which may be by way of a purchase of a participation interest, so long as such participation interest is purchased by a Credit Party or immediately transferred to a Credit Party) in accordance with the terms of the Exar Facility as ~~in effect as of the date hereof~~ as amended and restated by that certain Exar Facility Amendment.

“Permitted Contest” means, with respect to any tax obligation or other obligation allegedly or potentially owing from any Borrower or its Subsidiary to any governmental tax authority or other third party, a contest maintained in good faith by appropriate proceedings promptly instituted and diligently conducted and with respect to which such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made on the books and records and financial statements of the applicable Credit Party(ies); *provided, however*, that (a) compliance with the obligation that is the subject of such contest is effectively stayed during such challenge; (b) Borrowers’ and its Subsidiaries’ title to, and its right to use, the Collateral is not adversely affected thereby and Agent’s Lien and priority on the Collateral are not adversely affected, altered or impaired thereby; (c) Borrowers have given prior written notice to Agent of a Borrower’s or its Subsidiary’s intent to so contest the obligation; (d) the Collateral or any part thereof or any interest therein shall not be in any

danger of being sold, forfeited or lost by reason of such contest by Borrowers or its Subsidiaries; (e) Borrowers have given Agent notice of the commencement of such contest and upon request by Agent, from

time to time, notice of the status of such contest by Borrowers and/or confirmation of the continuing satisfaction of this definition; and (f) upon a final determination of such contest, Borrowers and its Subsidiaries shall promptly comply with the requirements thereof.

“Permitted Contingent Obligations” means (a) Contingent Obligations arising in respect of the Debt under or permitted by the Financing Documents; (b) Contingent Obligations resulting from endorsements for collection or deposit in the Ordinary Course of Business; (c) Contingent Obligations outstanding on the date of this Agreement and set forth on Schedule 5.1 (but not including any refinancings, extensions, increases or amendments to the indebtedness underlying such Contingent Obligations other than extensions of the maturity thereof without any other change in terms); (d) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations; (e) Contingent Obligations arising under indemnity agreements with title insurers to cause such title insurers to issue to Agent mortgagee title insurance policies; (f) Contingent Obligations arising with respect to customary indemnification obligations in favor of purchasers in connection with dispositions of personal property assets permitted under Section 5.6; (g) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Contingent Obligations existing or arising under any Swap Contract, *provided, however*, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation; and (h) other Contingent Obligations not permitted by clauses (a) through (h) above, not to exceed the Threshold Amount in the aggregate at any time outstanding.

“Permitted Debt” means:

(a) Borrowers’ and its Subsidiaries’ Debt to Agent and each Lender under this Agreement and the other Financing Documents;

(b) Debt incurred as a result of endorsing negotiable instruments received in the Ordinary Course of Business;

(c) purchase money Debt to finance (whether prior to or within 180 days after) the acquisition of property or capital lease obligations not to exceed \$35,000,000 at any time (whether in the form of a loan or a lease and including any refinancing of such indebtedness pursuant to clause (II) below) used solely to acquire, lease, construct, repair, replace or improve property or equipment used in the Ordinary Course of Business;

(d) Debt existing on the date of this Agreement and described on Schedule 5.1 (but not including any refinancings, extensions, increases or amendments to such Debt other than extensions of the maturity thereof without any other change in terms);

(i) Debt incurred pursuant to the Exar Facility amended and restated by that certain Exar Facility Amendment;

(e) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Debt existing or arising under any Swap

41

Contract, *provided, however*, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation;

(f) Debt in the form of insurance premiums financed through the applicable insurance company;

(g) trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business;

(h) Borrowers' and its Subsidiaries' Debt incurred in connection with the Term Loan Documents;

(i) [reserved];

(j) Debt of any Credit Party in an aggregate amount not to exceed \$25,000,000 so long as (x) the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries for the most recently ended four fiscal quarters for which financial statements have been delivered to Agent would have been at least 2.00 to 1.00 determined on a pro forma basis and (y) any such Debt shall be subordinated in right of payment to the Obligations and, if secured, subordinated in respect of lien priority to the Liens securing the Obligations on terms acceptable to Agent;

(k) [reserved];

(l) Debt in an aggregate amount not to exceed \$5,000,000 so long as the Senior Secured Leverage Ratio for the most recently ended four fiscal quarters for which financial statements have been delivered to Agent does not exceed 3.75 to 1.00 determined on a pro forma basis;

(m) the Exit Notes issued on the Closing Date;

(n) [reserved];

(o) Debt (x) incurred to finance an acquisition or (y) of Persons that are acquired, in each case so long as (A)(i) the Borrowers would be permitted to incur at least \$1.00 of additional Debt pursuant to the Fixed Charge Coverage Ratio test set forth in clause (j) above or (ii) the Fixed Charge Coverage Ratio of the Borrowers would be no less than immediately prior to such acquisition, (B) the aggregate principal amount of Debt under clause (o)(x) shall not exceed \$10,000,000, and (C) any such Debt shall be subordinated in right of payment to the Obligations on terms acceptable to Agent;

(p) Debt of any Subsidiary that is not a Credit Party in an aggregate amount not to exceed \$4,000,000;

(q) Debt incurred on behalf of, or representing guarantees of Debt of, joint ventures of any Borrower or any Subsidiary in an aggregate principal amount not to exceed

42

\$10,000,000, so long as any such Debt shall be subordinated in right of payment to the Obligations on terms acceptable to Agent;

(r) [reserved];

(s) Debt of the Borrowers or any Subsidiary in respect of the B. Riley Credit Agreement in an aggregate principal amount outstanding at any time not to exceed \$22,500,000 (it being understood and agreed that, notwithstanding anything herein to the contrary, the aggregate principal amount of the B. Riley Credit Agreement outstanding will be deemed to be reduced by the amount of the participation interest in respect thereof held by any Credit Party); provided that such Debt under the B. Riley Credit Agreement shall not be permitted after March 31, 2027;

(t) [reserved];

(u) (i) Additional Notes issued in connection with the ETI Funding Obligation and (ii) Additional Notes issued other than in connection with the ETI Funding Obligation in an amount not to exceed \$10,000,000;

(v) Debt of the Borrowers to any of the Subsidiaries; provided, that (x) any such Debt owed to a Subsidiary that is not a Borrower or a Guarantor is subordinated in right of payment to the Obligations on terms acceptable to Agent and (y) the aggregate amount of all such Debt owed to a Borrower or a Guarantor by any Subsidiary that is not a Borrower or a Guarantor shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any equity interests or any other event which results in any such Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such Debt (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Debt constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an incurrence of such debt not permitted by this clause (v);

(w) Debt of any Subsidiary to the Borrowers or any other Subsidiary; provided, that (x) if a Subsidiary that is a Guarantor incurs such Debt to a Subsidiary that is not a Borrower or a Guarantor, such Debt is subordinated in right of payment to the Guarantee of such Subsidiary on terms acceptable to Agent and (y) if any Subsidiaries that are not a Guarantor incur Debt to any Borrower or Guarantor, the aggregate amount of such Debt shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any equity interests or any other event which results in any Subsidiary of the Borrowers holding such Debt ceasing to be a Subsidiary of the Borrowers or any other subsequent transfer of any such Debt (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Debt constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an incurrence of such Debt not permitted by this clause (v);

(x) Debt of the Borrowers or any Subsidiary in respect of the Unsecured Cash Pool;

(y) Debt incurred by the Borrowers or any Subsidiary of the Borrowers owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, health, disability or other

employee benefits or property, casualty or liability insurance to the Borrowers or any of the Borrowers' Subsidiaries, respectively, pursuant to reimbursement or indemnification obligations to such Person, in each case, provided in the ordinary course of business or consistent with industry practices;

(z) Debt arising from agreements of the Borrowers or any Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Debt incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition, in each case, to the extent such obligation or transaction is permitted by this Agreement;

(aa) Debt of the Borrowers and the Subsidiaries in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case, reasonably required in the conduct of their respective business (giving effect to any growth or expansion of such business permitted hereunder), including those incurred to secure health, safety, insurance and environmental obligations of the Borrowers and the Subsidiaries, respectively, as conducted in accordance with good and prudent business industry practices and otherwise as permitted by this Agreement;

(bb) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business (provided that such Debt is extinguished within five Business Days of its incurrence) or other cash management services in the ordinary course of business;

(cc) Debt of the Borrowers or Subsidiary supported by a letter of credit or bank guarantee issued pursuant to Debt otherwise permitted by Section 5.1, in a principal amount not in excess of the stated amount of such letter of credit;

(dd) Debt of the Borrowers or Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(ee) Debt of the Borrowers and its respective Subsidiaries in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support their respective performance obligations and trade letters of credit (other than obligations in respect of other Debt) in the ordinary course of business;

(ff) to the extent constituting Debt of the Borrowers and the Subsidiaries, all premium (if any), defeasance costs, interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Debt otherwise permitted to be incurred pursuant to Section 5.1;

(gg) Debt in respect of obligations of the Borrowers or Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services for such Person; provided, that such obligations are incurred in connection with

open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Swap Contracts;

(hh) deposits raised by any Subsidiary that is subject to state and/or federal banking regulations that constitute Debt owing to such depositor;

(ii) Debt consisting of earn outs and obligations of the Borrowers or Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with any Permitted Investment by such Person;

(jj) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(kk) obligations in respect of Cash Management Agreements; and

(ll) the incurrence by the Borrowers or any of their Subsidiaries of Debt that serves to refund, refinance or defease any Debt as permitted under clauses (c), (d), (l), (n), (o), (p), (q) and (s) of the definition of “Permitted Debt” in an aggregate amount not to exceed the then- outstanding principal amount (or, if applicable, the liquidation preference face amount of the Debt being so refunded, refinanced or defeased), together with any accrued interest and any related fees, expenses and premiums (subject to the following proviso, “**Refinancing Indebtedness**”) prior to its respective maturity; provided, however, that such Refinancing Indebtedness:

(i) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Debt being refunded, refinanced or defeased and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Debt being refunded or refinanced that were due on or after the date that is one year following the last maturity date of the Obligations;

(ii) to the extent such Refinancing Indebtedness refinances Debt subordinated in right of payment to the Obligations or a Guarantee, as applicable, such Refinancing Indebtedness is subordinated in rights of payment to the Obligations or the Guarantee, as applicable, on terms acceptable to Agent;

(iii) shall not have any of the Borrower Representative or any Subsidiary of the Borrower Representative as an obligor thereon except to the extent such Person was an obligor on the Debt being extended, refinanced or modified, and shall not be secured by any Lien on any asset other than the assets that secured such Debt being extended, refinanced or modified or, if applicable, shall be unsecured;

(iv) shall not (if secured) have a Lien priority greater than such Debt being extended, refinanced or modified; and



(v) shall not include Debt (including any guarantees) of a Subsidiary that is not a Borrower or a Guarantor that refinances Debt of a Borrower or a Subsidiary that is a Guarantor.

For purposes of determining compliance with Section 5.1:

(A) in the event that an item of Debt (or any portion thereof) meets the criteria of more than one of the categories of permitted Debt described in clauses (a) through (ll) of the definition of “Permitted Debt”, then the Borrower Representative may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such item of Debt (or any portion thereof) in any manner that complies with Section 5.1; provided, that (1) any Exit Notes issued on the Effective Date (as defined therein) (but for the avoidance of doubt, not any Additional Notes) shall be incurred under clause (m) of the definition of “Permitted Debt” and Debt under the Term Loan Documents and B. Riley Credit Agreement shall be incurred under clauses (h) and (s), respectively, of the definition of “Permitted Debt”, (2) the Obligations shall be incurred under clause (a) of the definition of “Permitted Debt”, (3) [reserved], (4) the Unsecured Cash Pool shall be incurred under clause (x) of the definition of “Permitted Debt”, (5) Additional Notes incurred in connection with the ETI Funding Obligation shall be incurred under clause (u)(i) of the definition of “Permitted Debt” and (6) Additional Notes other than those issued pursuant to clause (u)(i) of the definition of “Permitted Debt” shall be incurred under clause (u)(ii) of the definition of “Permitted Debt”, and in each case, may not be reclassified;

(B) at the time of incurrence, classification or reclassification, the Borrowers will be entitled to divide and classify an item of Debt in more than one of the categories of Debt described in the definition of “Permitted Debt” (or any portion thereof) without giving pro forma effect to the Debt incurred, classified or reclassified pursuant to any other clause or paragraph of the definition of “Permitted Debt” (or any portion thereof) when calculating the amount of Debt that may be incurred, classified or reclassified pursuant to any such clause or paragraph (or any portion thereof) at such time; provided, that, for the avoidance of doubt, it is understood and agreed that for any Debt incurred, classified or reclassified in reliance on a category of permitted Debt involving the calculation of a ratio, such Debt will be included in the calculation of such ratio at the time of such incurrence, classification or reclassification; and

(C) in connection with (x) the incurrence or issuance, as applicable, of revolving loan Debt under Section 5.1 or (y) any commitment to incur or issue Debt under Section 5.1, the Borrowers or applicable Subsidiary may designate such incurrence or issuance as having occurred on the date of first incurrence of such revolving loan Debt or commitment (such date, the “**Deemed Date**”), and any related subsequent actual incurrence or issuance will be deemed for all purposes under this Agreement to have been incurred or issued on such Deemed Date, including without limitation for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets hereunder (if applicable), the Senior Secured Leverage Ratio and EBITDA (and all such calculations on and after the Deemed

Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith)

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Debt, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Debt for purposes of Section 5.1. Guarantees of, or obligations in respect of letters of credit relating to, Debt which is otherwise included in the determination of a particular amount of Debt shall not be included in the determination of such amount of Debt; provided, that the incurrence of the Debt represented by such guarantee or letter of credit, as the case may be, was in compliance with Section 5.1.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower U.S. dollar equivalent), in the case of revolving credit debt. However, if the Debt is incurred to refinance other Debt denominated in a foreign currency, and the refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Debt does not exceed the principal amount of the Debt being refinanced.

Notwithstanding any other provision of Section 5.1, the maximum amount of Debt that Borrowers and their respective Subsidiaries may incur pursuant to Section 5.1 shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt incurred to refinance other Debt, if incurred in a different currency from the Debt being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Debt is denominated that is in effect on the date of the refinancing.

“Permitted Discretion” means a determination made by Agent in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) credit judgment in accordance with its usual and customary practices (adhering to its established credit policies) and, as it relates to the establishment or increase of Eligibility Reserves or the adjustment or imposition of exclusionary criteria, shall require that the contributing factors to the imposition or increase of any Eligibility Reserve shall not duplicate (i) the exclusionary criteria set forth in the definitions of “Eligible Billed Accounts”, “Eligible Exar Billed Accounts”, “Eligible Unbilled Accounts”, “Eligible Exar Unbilled Accounts” and “Eligible Investment Grade Billed Accounts”, as applicable (and vice versa), or (ii) any reserves deducted in computing book value or orderly liquidation value.

“Permitted Distributions” means the following Restricted Distributions:

- (a) dividends by any Subsidiary of any Credit Party to such parent Credit Party;
- (b) dividends payable solely in common stock;

(c) repurchases of stock of former employees, directors or consultants pursuant to stock purchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase; *provided* however that such repurchase does not exceed the Threshold Amount in the aggregate per fiscal year;

(d) amounts required for any direct or indirect parent of any Borrower to pay fees and expenses (including franchise or similar taxes) required to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any direct or indirect parent of any Borrower and general corporate operating and overhead expenses of any direct or indirect parent of the Borrower in each case to the extent such fees and expenses are attributable to the ownership or operation of the Borrowers, if applicable, and its Subsidiaries;

(e) with respect to any taxable period (or portion thereof) for which the Borrowers and any of their Subsidiaries are members (or are disregarded from a member) of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state or local income tax purposes of which Parent is the common parent, dividends or distributions by the Borrowers or such applicable Subsidiaries, as the case may be, to such direct or indirect parent of the Borrowers in an amount not to exceed the lesser of (i) the sum of the amount of the relevant U.S. federal, state, or local income Taxes reduced by any such income Taxes directly paid or withheld at the level of the Borrowers or such Subsidiaries or (ii) the amount of any U.S. federal, state, or local income taxes that the Borrowers and/or its Subsidiaries, as applicable, would have paid for such taxable period (taking into account prior year losses) had the Borrowers and/or its Subsidiaries, as applicable, been a stand-alone corporate taxpayer or a stand-alone corporate group; provided that distributions pursuant to this clause shall not exceed the actual Tax liability of Parent in respect of the relevant U.S. federal, state, local or non-U.S. income Taxes;

(f) any Restricted Distribution used to fund the payment of professional fees and expenses of Loeb & Loeb LLP, Cleary Gottlieb Steen & Hamilton LLP and Ropes & Gray LLP in connection with the Transactions to the extent permitted by Section 5.8;

(g) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration thereof, if at the date of declaration or the giving notice of such redemption, as applicable, such payment would have otherwise complied with the provisions of this Agreement;

(h) voluntary prepayments of the Term Loans, the B. Riley Credit Agreement or the Exit Notes, so long as after giving effect to such voluntary prepayments of the Term Loans, the B. Riley Credit Agreement or the Exit Notes, the Payment Conditions are satisfied; and

(i) the redemption, repurchase, defeasance, or other acquisition or retirement of Subordinated Debt of a Borrower or Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Subordinated Debt of such Borrower or Guarantor, which is incurred in accordance with Section 5.1 so long as:

(i) the principal amount (or accreted value, if applicable) of such new Debt does not exceed the principal amount (or accreted value, if applicable), plus any accrued and unpaid interest, of the Subordinated Debt being so redeemed, repurchased, defeased, acquired or retired for value (plus the amount of any premium required to be paid under the terms of the instrument governing the Subordinated Debt being so redeemed, repurchased, acquired or retired, any tender premiums, plus any defeasance costs, fees and expenses incurred in connection therewith),

(ii) such Debt is subordinated to the Obligations or the related Guarantee of such Guarantor, as the case may be, on terms acceptable to Agent, at least to the same extent as such Subordinated Debt so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value,

(iii) such Debt has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Subordinated Debt being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Obligations then outstanding, and

(iv) such Debt has a Weighted Average Life to Maturity at the time incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Subordinated Debt being so redeemed, repurchased, defeased, acquired or retired and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Subordinated Debt being redeemed, repurchased, defeased, acquired or retired that were due on or after the date that is one year following the last maturity date of any Exit Notes then outstanding were instead due on such date.

“Permitted Investments” means:

(a) Investments shown on Schedule 5.7 and existing on the Closing Date;

(b) cash and Cash Equivalents;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the Ordinary Course of Business;

(d) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrowers or their Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrowers’ Board of Directors (or other governing body), but the aggregate of all such loans outstanding may not exceed the Threshold Amount at any time;

(e) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the Ordinary Course of Business;

(f) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the Ordinary Course of Business, *provided, however*, that this subpart (f) shall not apply to Investments of Borrowers in any Subsidiary;

(g) Investments consisting of deposit accounts in which Agent has received a Deposit Account Control Agreement;

(h) Investments by any Borrower or any Subsidiary in any Credit Party;

(i) other Investments in an amount not exceeding \$5,000,000 in the aggregate;

(j) Investments in a Person if as a result of such Investment (i) such Person becomes a Guarantor, or (ii) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, a Credit Party;

(k) Investments in any Subsidiary that is not a Guarantor not to exceed, at any one time in the aggregate outstanding under this clause (k), the Threshold Amount;

(l) [reserved];

(m) Investments in joint ventures (as determined in good faith by the Borrower at the time of the making thereof, and without giving effect to any subsequent changes in value) not to exceed, at any one time in the aggregate outstanding under this clause (m), the Threshold Amount;

(n) any Investment occurring in accordance with the terms of the Tax Funding Agreement;

(o) (i) Investments consisting of the licensing or contribution of intellectual property (on a non-exclusive basis) pursuant to joint marketing arrangements with other Persons in the ordinary course of business; (ii) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property (on a non-exclusive basis) in each case in the ordinary course of business;

(p) Investments of a Subsidiary acquired after the Closing Date or of an entity merged into, amalgamated with, or consolidated with the Borrowers or a Subsidiary of the Borrowers that is a Guarantor in a transaction that is not prohibited by 5.7 after the Closing Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(q) any Investment consisting of intercompany current liabilities in connection with the cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries;

50

(r) any Investment in the form of a participation interest in the B. Riley Credit Agreement which the Borrower and its Subsidiaries are required to make pursuant to the Exar Facility ~~in effect as of the date hereof~~ as amended and restated by that certain Exar Facility Amendment, so long as such Investment is immediately contributed to the Credit Parties and is not transferred to any Person other than a Credit Party;

(s) any Investment of the Exar Buyer in the Exar Originators or Exar Originators in Exar Buyer in connection with the Exar Facility amended and restated by that certain Exar Facility Amendment;

(t) ~~(s)~~ guarantees by the Borrowers or any Subsidiary of the Borrowers of operating leases or of other obligations that do not constitute Debt, in each case, entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business; and

(u) ~~(t)~~ Investments the payment for which consists of equity interests of the Borrowers (other than disqualified stock) or any direct or indirect parent of the Borrowers, as applicable.

“Permitted Liens” means:

(a) deposits or pledges of cash to secure obligations under workmen’s compensation, social security or similar laws, or under unemployment insurance (but excluding Liens arising under ERISA or in respect of any Canadian Pension Plan) pertaining to a Credit Party’s or its Subsidiary’s employees, if any;

(b) deposits or pledges of cash to secure bids, tenders, contracts (other than contracts for the payment of money or the deferred purchase price of property or services), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the Ordinary Course of Business;

(c) carrier’s, warehousemen’s, mechanic’s, workmen’s, materialmen’s or other like Liens on Collateral, other than any Collateral which is part of the Borrowing Base, arising in the Ordinary Course of Business with respect to obligations which are not due, or which are being contested pursuant to a Permitted Contest;

(d) Liens on Collateral, other than Accounts, for taxes or other governmental charges not due and payable or the subject of a Permitted Contest, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(e) attachments, appeal bonds, judgments and other similar Liens on Collateral not exceeding \$15,000,000 in value, arising in connection with court proceedings and not giving rise to an Event of Default; *provided*, however, that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are the subject of a Permitted Contest;

(f) Liens and encumbrances in favor of Agent under the Term Loan Documents in accordance with the ABL Intercreditor Agreement;

54

(g) Liens and encumbrances in favor of Agent under the Financing Documents;

(h) Liens on Collateral, other than Collateral which is part of the Borrowing Base, existing on the date hereof and set forth on Schedule 5.2;

(i) any Lien on any property or equipment securing Debt permitted under subpart (c) of the definition of Permitted Debt and on any proceeds thereof, accessions and additions thereto, customary security deposits and related property with respect to such property or equipment, provided, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates);

(j) [reserved];

(k) [reserved];

(l) Liens securing obligations in respect of Debt incurred pursuant to clause (l) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(m) Liens securing obligations in respect of Debt incurred pursuant to the Exit Notes in accordance with the ABL Intercreditor Agreement;

(n) Liens securing obligations in respect of Debt incurred pursuant to clause (j) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(o) Liens securing obligations in respect of Debt incurred pursuant to clause (o) of the definition of “Permitted Debt” so long as such Liens secure Debt not created or incurred in connection with, or in contemplation of, the acquisition and only extend to the property or assets acquired in such acquisition (and accessions and additions thereto and proceeds and products thereof);

(p) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary of a Borrower, or on assets or property acquired by a Borrower or a Subsidiary, so long as in each case such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary or such acquisition and do not extend to any other property of the Borrowers or their Subsidiaries (other than pursuant to after-acquired property clauses in effect at the time of the acquisition);

(q) Liens (i) on not more than \$2,000,000 of deposits securing Swap Contracts entered into for non-speculative purposes and (ii) on cash or Cash Equivalents securing Swap Contracts in the Ordinary Course of Business submitted for clearing in accordance with applicable requirements of law;

(r) Claims Administration Liens;



(s) Liens securing obligations in respect of Debt incurred pursuant to the B. Riley Credit Agreement on a junior basis to the Obligations in accordance with the ABL Intercreditor Agreement;

(t) Liens of the Borrower or any Subsidiary securing obligations the outstanding principal amount of which does not, taken together with the principal amount of all other obligations secured by Liens incurred under this clause (t) that are at that time outstanding, exceed (i) in the event such Liens incurred under this clause (t) are subordinated to the Liens securing the Obligations on terms acceptable to the Agent and the Required Lenders, \$15,000,000 or (ii) otherwise, \$1,000,000;

(u) Liens on non-Collateral assets in an aggregate amount not to exceed \$5,000,000;

(v) [reserved];

(w) non-consensual Liens (not incurred in connection with borrowed money) on equipment of any of the Borrowers or any of their Subsidiaries not exceeding \$5,000,000 in value and granted in the ordinary course of business to any client of a Borrower or such Subsidiary at which such equipment is located;

(x) Liens securing obligations in respect of Debt incurred pursuant to the clause (u) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(y) Liens securing obligations in respect of Debt incurred pursuant to clause (x) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(z) Liens securing obligations in respect of Debt incurred pursuant to clause (p) of the definition of “Permitted Debt” so long as any such Liens do not extend to the property or assets of the Borrowers or any Subsidiary of the Borrowers other than a Subsidiary that is not a Borrower or a Guarantor;

(aa) Liens securing obligations in respect of Debt incurred pursuant to clause (q) of the definition of “Permitted Debt”;

(bb) licenses of intellectual property and software that are not material to the conduct of any of the business lines of the Borrowers or any Subsidiary of the Borrowers and the value of which does not constitute a material portion of the assets of the Borrowers and their respective Subsidiaries, taken as a whole, respectively, and such license does not materially interfere with the ordinary course of conduct of the business of the Borrowers or any of their Subsidiaries;

(cc) Liens that (i) are contractual rights of set-off (and related pledges)
(a) relating to the establishment of depository relations with banks and other financial institutions not given in connection with the issuance of Indebtedness or (b) relating to pooled deposits, sweep accounts, reserve accounts or similar accounts of the Borrowers or any Subsidiary to

permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrowers or any Subsidiary, including with respect to credit card charge-backs and similar obligations, or (ii) relate to purchase orders and other agreements entered into with customers, suppliers or service providers of the Borrowers or any Subsidiary (a) in the ordinary course of business or (b) in connection with implementation of business optimization programs;

(dd) [reserved];

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

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

(gg) Liens on the Collateral securing Junior Lien Obligations (subject to a junior lien intercreditor agreement in form and substance satisfactory to Agent) in an aggregate amount not to exceed the Threshold Amount; provided that the Obligations are secured on a senior priority basis to the obligations so secured until such time as such obligations are no longer secured by a Lien;

(hh) Liens to secure cash management services in the ordinary course of business; provided, that such Liens are not incurred in connection with, and do not secure, any borrowings or Indebtedness;

(ii) Liens granted by (i) each Exar Originator in favor of Exar SPV and (ii) Exar SPV to the Exar Buyer, in each case, in Receivables Assets, pursuant to the Exar Facility in effect as ~~of the date hereof~~ amended and restated by that certain Exar Facility Amendment; and

(jj) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Debt secured by any Lien referred to in clauses (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (x), (y), (z), (aa) and (gg) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to

the after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount

(or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under clauses (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (x), (y), (z), (aa) and (gg) of this definition at the time the original Lien became a Permitted Lien under this Agreement, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided, further, that in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clauses (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition, the principal amount of any Debt incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition and not this clause (jj) of this definition for purposes of determining the principal amount of Debt outstanding under clause (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition; provided, further, however, that any Lien securing any refinancing of any Debt secured by a Lien referred to in clause (gg) shall be a junior Lien (subject to a junior lien intercreditor agreement in form and substance satisfactory to Agent) and any Lien securing any refinancing of any Debt referenced to in clauses (s), (x) and (y) shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent; provided, further, that Liens securing the Term Loan Agreement, the Exit Notes and the B. Riley Credit Agreement shall be subject to the ABL Intercreditor Agreement.

For purposes of determining compliance with Section 5.2, (i) a Lien need not be permitted solely by reference to one category of permitted Liens described in the definition of “Permitted Liens” but may be permitted in part under any combination thereof and (ii) in the event that a Lien meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of “Permitted Liens”, the Borrower Representative may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such Lien in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien in one of the categories of permitted Liens (or any portion thereof) described in the definition of “Permitted Liens” and, in such event, such Lien will be treated as being incurred or existing pursuant to only such clause or clauses (or any portion thereof) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be incurred pursuant to any other clause or paragraph (or portion thereof) at such time. In addition, with respect to any revolving loan Debt or commitment to incur Debt that is designated to be incurred on any Deemed Date pursuant to clause (C) of the definition of “Permitted Debt”, any Lien that does or that shall secure such Debt may also be designated by the Borrower Representative or any Subsidiary to be incurred on such Deemed Date and, in such event, any related subsequent actual incurrence of such Lien shall be deemed for all purposes under this Agreement to be incurred on such prior date, including for purposes of calculating usage of any “Permitted Lien” (and any calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith).

With respect to any Lien securing Debt that was permitted to secure such Debt at the time of the incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization

of original issue discount, the payment of interest in the form of additional Debt with the same terms or in the form of common stock of the Borrowers, the payment of dividends on equity interests constituting Debt in the form of additional shares of equity interests of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt described in clause (g) of the definition of “Debt.”

“Permitted Modifications” means (a) such amendments or other modifications to a Borrower’s or Subsidiary’s Organizational Documents as are required under this Agreement or by applicable Law and fully disclosed to Agent within thirty (30) days after such amendments or modifications have become effective, and (b) such amendments or modifications to a Borrower’s or Subsidiary’s Organizational Documents (other than those involving a change in the name of a Borrower or Subsidiary or involving a reorganization of a Borrower or Subsidiary under the laws of a different jurisdiction) that would not materially adversely affect the rights and interests of Agent or Lenders and fully disclosed to Agent within thirty (30) days after such amendments or modifications have become effective.

“Person” means any natural person, corporation, limited liability company, unlimited liability company, professional association, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority.

“Plan of Reorganization” means the Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, attached to the Confirmation Order as Exhibit A, and all exhibits, supplements, appendices, and schedules thereto, as may be altered, amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof.

“Pledged ULC Shares” means the equity interests which are shares in the capital stock of a ULC and which are mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the Security Documents, including, without limitation, all of the property described in Schedule 9.1 hereto.

“PPSA” means the Personal Property Security Act (Ontario) (or any successor statute) and the regulations thereunder; *provided* that if validity, perfection and effect of perfection and non-perfection and opposability of Agent’s Lien in any Collateral are governed by the personal property security laws of any Canadian jurisdiction other than Ontario, PPSA shall mean those personal property security laws (including the Civil Code of Quebec) of such other jurisdiction for the purposes of the provisions hereof relating to such validity, perfection, and effect of perfection and non-perfection and for the definitions related to such provisions, as from time to time in effect.

“Pre-Opening Expenses” means, with respect to any fiscal period, the amount of expenses (other than interest expense) incurred with respect to facilities which are classified as “pre-opening expenses” (or any similar or equivalent caption) on the applicable financial

statements of the Borrowers and their respective Subsidiaries for such period, prepared in accordance with GAAP.

“Pro Rata Share” means (a) [reserved], (b) with respect to a Lender’s obligation to make Revolving Loans, such Lender’s right to receive the unused line fee described in Section 2.2(b), the Revolving Loan Commitment Percentage of such Lender, (c) with respect to a Lender’s right to receive payments of principal and interest with respect to Revolving Loans, such Lender’s Revolving Loan Exposure with respect thereto; and (d) for all other purposes (including, without limitation, the indemnification obligations arising under Section 11.6) with respect to any Lender, the percentage obtained by *dividing* (i) the sum of the Revolving Loan Commitment Amount of such Lender (or, in the event the Revolving Loan Commitment shall have been terminated, such Lender’s then existing Revolving Loan Outstandings), *by* (ii) the sum of the Revolving Loan Commitment (or, in the event the Revolving Loan Commitment shall have been terminated, the then existing Revolving Loan Outstandings) of all Lenders.

“Proceeds of Crime Act” means the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada), as amended from time to time, and including all regulations thereunder.

“Public Reporting Entity” has the meaning specified therefor in Section 4.1. **“Receivables Assets”** means accounts receivable (including any bills of exchange) from time to time originated, acquired or otherwise owned by the Exar Originators and all right, title and interests in and to (i) all security interests or liens securing payment of such accounts receivable, (ii) any obligations supporting such accounts receivable, including all guarantees, insurance and other agreements or arrangements supporting or securing payment of such accounts receivable, (iii) all books and records relating to such accounts receivables and the related obligor and (iv) all payments and collections with respect to, and other proceeds of, such accounts receivable.

“Reference Time” means approximately a time substantially consistent with market practice two (2) SOFR Business Days prior to the first day of each calendar month. If by 5:00 pm (New York City time) on any interest lookback day, Term SOFR in respect of such interest lookback day has not been published on the SOFR Administrator’s Website, then Term SOFR for such interest lookback day will be Term SOFR as published in respect of the first preceding SOFR Business Day for which Term SOFR was published on the SOFR Administrator’s Website; provided that such first preceding SOFR Business Day is not more than three (3) SOFR Business Days prior to such interest lookback day.

“Register” has the meaning specified therefor in Section 11.17(a)(iii).

“Registered Intellectual Property” means Intellectual Property that is issued, registered, renewed or the subject of a pending application.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“Required Lenders” means at any time Lenders holding (a) fifty percent (50%) or more of the Revolving Loan Commitment, or (b) if the Revolving Loan Commitment has been terminated, fifty percent (50%) or more of the then aggregate outstanding principal balance of the Loans.

“Requirements of Law” means, with respect to any Person, collectively, the common law and any and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities), and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

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

“Responsible Officer” means any of the Chief Executive Officer, Chief Financial Officer or any other officer of the applicable Borrower acceptable to Agent.

“Restricted Cash” means cash and Cash Equivalents held by Subsidiaries of the Borrowers that would appear as “restricted” on a consolidated balance sheet of the Borrowers or any of their respective Subsidiaries.

“Restricted Distribution” means as to any Person (a) any dividend or other distribution (whether in cash, securities or other property) on any equity interest in such Person (except those payable solely in its equity interests of the same class), (b) any payment by such Person on account of (i) the purchase, redemption, retirement, defeasance, surrender, cancellation, termination or acquisition of any equity interests in such Person or any claim respecting the purchase or sale of any equity interest in such Person, or (ii) any option, warrant or other right to acquire any equity interests in such Person, (c) any management fees, salaries or other fees or compensation to any Person holding an equity interest in a Borrower or a Subsidiary of a Borrower (other than (i) payments of salaries to individuals, (ii) directors fees, and (iii) advances and reimbursements to employees or directors, all in the Ordinary Course of Business), an Affiliate of a Borrower or an Affiliate of any Subsidiary of a Borrower, (d) any lease or rental payments to an Affiliate or Subsidiary of a Borrower, or (e) repayments of or debt service on Subordinated Debt (other than the B. Riley Credit Agreement and Debt permitted under clauses (v) and (w) of the definition of “Permitted Debt”) unless permitted under and made pursuant to a Subordination Agreement applicable to such loans or other indebtedness and voluntary prepayments of the Term Loans or the Exit Notes.

“Revolving Lender” means each Lender having a Revolving Loan Commitment Amount in excess of \$0 (or, in the event the Revolving Loan Commitment shall have been terminated at any time, each Lender at such time having Revolving Loan Outstandings in excess of \$0).

“Revolving Loan Availability” means, at any time, the Revolving Loan Limit *minus* the Revolving Loan Outstandings.

“Revolving Loan Borrowing” means a borrowing of a Revolving Loan.

“Revolving Loan Commitment” means, as of any date of determination, the aggregate Revolving Loan Commitment Amounts of all Lenders as of such date.

“Revolving Loan Commitment Amount” means, as to any Lender, the dollar amount set forth opposite such Lender’s name on the Commitment Annex under the column “Revolving Loan Commitment Amount” (if such Lender’s name is not so set forth thereon, then the dollar amount on the Commitment Annex for the Revolving Loan Commitment Amount for such Lender shall be deemed to be \$0), as such amount may be adjusted from time to time by (a) any amounts assigned (with respect to such Lender’s portion of Revolving Loans outstanding and its commitment to make Revolving Loans) pursuant to the terms of any and all effective assignment agreements to which such Lender is a party, and (b) any Additional Tranche(s) activated by Borrowers. For the avoidance of doubt, the aggregate Revolving Loan Commitment Amount of all Lenders on the Closing Date shall be \$150,000,000 and if the Additional Tranche is fully activated by Borrowers pursuant to the terms of the Agreement such amount shall increase to \$175,000,000.

“Revolving Loan Commitment Percentage” means, as to any Lender, (a) on the Closing Date, the percentage set forth opposite such Lender’s name on the Commitment Annex under the column “Revolving Loan Commitment Percentage” (if such Lender’s name is not so set forth thereon, then, on the Closing Date, such percentage for such Lender shall be deemed to be zero), and (b) on any date following the Closing Date, the percentage equal to the Revolving Loan Commitment Amount of such Lender on such date *divided by* the Revolving Loan Commitment on such date.

“Revolving Loan Exposure” means, with respect to any Lender on any date of determination, the percentage equal to the amount of such Lender’s Revolving Loan Outstandings on such date *divided by* the aggregate Revolving Loan Outstandings of all Lenders on such date.

“Revolving Loan Limit” means, at any time, the lesser of (a) the Revolving Loan Commitment and (b) the Borrowing Base.

“Revolving Loan Outstandings” means, at any time of calculation, (a) the then existing aggregate outstanding principal amount of Revolving Loans, and (b) when used with reference to any single Lender, the then existing outstanding principal amount of Revolving Loans advanced by such Lender.

“Revolving Loans” has the meaning specified therefor in Section 2.1(a). **“SEC”** means the United States Securities and Exchange Commission.

“Second Amendment Effective Date” means January 21, 2026.

“Secured Indebtedness” means any Consolidated Total Indebtedness secured by a Lien.

“Securities Account” means a “securities account” (as defined in Article 9 of the UCC or in the STA, as applicable), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of any Borrower.

“Securities Account Control Agreement” means an agreement, in form and substance satisfactory to Agent, among Agent, any applicable Borrower and each securities intermediary in which such Borrower maintains a Securities Account pursuant to which Agent shall obtain “control” (as defined in Article 9 of the UCC or in the STA, as applicable) over such Securities Account.

“Security Document” means this Agreement, the Canadian Security Agreement, any Control Agreements and any other agreement, document or instrument executed concurrently herewith or at any time hereafter pursuant to which one or more Credit Parties or any other Person either (a) guarantees payment or performance of all or any portion of the Obligations, and/or (b) provides, as security for all or any portion of the Obligations, a Lien on any of its assets in favor of Agent for its own benefit and the benefit of the Lenders, as any or all of the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Senior Secured Leverage Calculation Date” has the meaning assigned in the “Senior Secured Leverage Ratio” definition.

“Senior Secured Leverage Ratio” means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Subsidiaries constituting Obligations hereunder, Notes Obligations (as defined in the Exit Notes Indenture), Obligations (as defined in the Term Loan Credit Agreement) and obligations under the B. Riley Credit Agreement, in each case as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Subsidiaries and held by such Person and its Subsidiaries as of such date of determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to Agent immediately preceding such date on which such additional Debt is incurred. In the event that the Borrowers or any Subsidiary incurs, repays, repurchases or redeems any Debt subsequent to the commencement of the period for which the Senior Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Senior Secured Leverage Ratio is made (the **“Senior Secured Leverage Calculation Date”**), then the Senior Secured Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of customary disqualified equity interests or preferred stock as if the same had occurred at the beginning of the applicable four-quarter period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or

initiatives, New Projects, restructurings or reorganizations that the Borrowers or any Subsidiary has made during the four-quarter reference period (each, for purposes of this definition, a “pro forma event”) shall

be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Subsidiary or was merged with or into the Borrowers or any Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project of initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Senior Secured Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project of initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower Representative. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in an Responsible Officer's certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings that would have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the four-quarter reference period (including, to the extent applicable, the Transactions); provided, that for all purposes of determining EBITDA hereunder all adjustments and exclusions (to the extent such adjustment or exclusion is effected pursuant to the definition of EBITDA) shall not be more than the amount of applicable adjustments or exclusions permitted pursuant to the applicable provision(s) of the definitions of EBITDA and/or Consolidated Net Income, as the case may be for the most recently ended twelve month period (calculated prior to giving effect to such capped adjustments and exclusions (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.

If any Debt bears a floating rate of interest and is being given pro forma effect, the interest on such Debt shall be calculated as if the rate in effect on the Senior Secured Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Swap Contracts applicable to such Debt if such Swap Contract has a remaining term in excess of 12 months). Interest on a capitalized lease obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Borrowers to be the rate of interest implicit in such capitalized lease obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Debt under a revolving credit facility computed on a pro forma basis shall be

computed based upon the average daily balance of such Debt during the applicable period.
Interest on Debt that may optionally be determined at an interest rate based upon a factor of
a prime or similar rate, a Eurocurrency

64

interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Borrowers may designate.

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

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

"Significant Subsidiary" means any Subsidiary that would be a "Significant Subsidiary" of the Borrowers within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

"SOFR" means, with respect to any SOFR Business Day, a rate per annum equal to the secured overnight financing rate for such SOFR Business Day.

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

"SOFR Administrator's Website" means the website of the SOFR Administrator, currently at <https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr.html>, or any successor source for Term SOFR identified by the SOFR Administrator from time to time.

"SOFR Business Day" means any day other than a Saturday or Sunday or 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.

"SOFR Interest Rate" means, with respect to each day during which interest accrues on a Loan, the rate per annum (expressed as a percentage) equal to (a) Term SOFR for the applicable Interest Period for such day; or (b) if the then-current Benchmark has been replaced with a Benchmark Replacement pursuant to Section 2.2(n), such Benchmark Replacement for such day. Notwithstanding the foregoing, the SOFR Interest Rate shall not at any time be less the Floor.

"SOFR Loan" means a Loan that bears interest at a rate based on Term SOFR.

"Solvent" means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its liabilities (including Contingent Obligations), and (ii) greater than the amount that will be

required to pay the probable liabilities of its then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to it; (b) has

62

capital that is not unreasonably small in relation to its business as presently conducted or after giving effect to any contemplated transaction; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due and (d) with respect to any Canadian Credit party as of the date any Accounts of such Canadian Credit Party are initially included on any Borrowing Base Certificate, such Person is not an “insolvent person” within the meaning of the Bankruptcy and Insolvency Act (Canada).

“**Specified Default**” shall mean an Event of Default arising under Section 10.1(a), 10.1(c) (solely as a result of any material misrepresentation in any Borrowing Base Certificate), Section 10.1(b) (solely as a result of a default in the due observance or performance of Section 2.11, Section 4.13, Section 6.1, Section 6.2, Section 4.1(m), or Section 5.14), Section 10.1(e), Section 10.1(f) or Section 10.1(p).

“**Spot Rate**” means, on any date, as determined by Agent, the spot selling rate posted by Reuters on its website for the sale of the applicable currency for Dollars at approximately 11:00 a.m., New York City time, on such date; provided, that if, for any reason, no such spot rate is being quoted, the spot selling rate shall be determined by reference to such publicly available services for displaying exchange rates as may be reasonably selected by Agent, or, in the event no such service is selected, such spot selling rate shall instead be the rate reasonably determined by Agent as the spot rate of exchange in the market where its foreign currency exchange operations in respect of the applicable currency are then being conducted, at or about 11:00 a.m., New York City time, on the applicable date for the purchase of the relevant currency for delivery two Business Days later; provided, that, Agent may obtain such spot rate from another financial institution designated by Agent if Agent does not have a spot rate for any such currency as of the date of determination.

“**STA**” means the Securities Transfer Act, 2006 (Ontario) or, to the extent applicable, similar legislation of any other Canadian jurisdiction, as amended from time to time.

“**Subordinated Debt**” means any Debt of Borrowers incurred pursuant to the terms of the Subordinated Debt Documents and with the prior written consent of Agent, all of which documents must be in form and substance acceptable to Agent in its sole discretion. For the avoidance of doubt, neither the Debt under the Term Loan Agreement nor the Exit Notes shall constitute Subordinated Debt solely by virtue of their respective junior lien priority with respect to the ABL Priority Collateral.

“**Subordinated Debt Documents**” means any documents evidencing and/or securing Debt governed by a Subordination Agreement, all of which documents must be in form and substance acceptable to Agent in its sole discretion.

“**Subordinated Obligations**” has the meaning specified therefor in Section 12.7.

“**Subordination Agreement**” means any agreement between Agent and another creditor of Borrowers, as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof, pursuant to which the Debt

owing from any Borrower(s) and/or the Liens securing such Debt granted by any Borrower(s) to such creditor are subordinated in any way to the Obligations and the Liens created under the Security Documents,

the terms and provisions of such Subordination Agreements to have been agreed to by and be acceptable to Agent in the exercise of its sole discretion.

“Subsidiary” means, with respect to any Person, (a) any corporation of which an aggregate of more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, capital stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned legally or beneficially by such Person or one or more Subsidiaries of such Person, or with respect to which any such Person has the right to vote or designate the vote of more than fifty percent (50%) of such capital stock whether by proxy, agreement, operation of law or otherwise, and (b) any partnership, limited liability company or unlimited liability company in which such Person and/or one or more Subsidiaries of such Person shall have an interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%) or of which any such Person is a general partner or may exercise the powers of a general partner. Unless the context otherwise requires, each reference to a Subsidiary shall be a reference to a Subsidiary of a Borrower.

“Supermajority Lenders” means at any time Lenders holding (a) sixty-six and two thirds percent (66 2/3%) or more of the Revolving Loan Commitment, or (b) if the Revolving Loan Commitment has been terminated, sixty-six and two thirds percent (66 2/3%) or more of the then aggregate outstanding principal balance of the Loans.

“Swap Contract” means any “swap agreement”, as defined in Section 101 of the Bankruptcy Code, that is obtained by Borrower to provide protection against fluctuations in interest or currency exchange rates, but only if Agent provides its prior written consent to the entry into such “swap agreement”.

“Tax Distributions” means any distributions described in clause (e) of the definition of “Permitted Distributions”.

~~**“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, additions to tax or penalties applicable thereto.~~

“Tax Funding Agreement” means that certain Tax Funding Agreement, dated as of the date hereof, by and among the XBP Americas, LLC and each of its debtor affiliates, XBP Americas, LLC, in its capacity as agent, the Parent, ETI, GP 3XCV LLC and XCV-STs, LLC.

~~**“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, additions to tax or penalties applicable thereto.~~

“Term Agent” as defined in the ABL Intercreditor Agreement.

“**Term Loan Agreement**” means that certain Financing Agreement, dated as of the Closing Date, by and among XBP Americas, LLC, the Guarantors, Ankura Trust Company, LLC, as administrative agent and collateral agent, and the other financial institutions party

thereto, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time.

“**Term Loan Documents**” means the collective reference to the Term Loan Agreement and any other document, agreement and instrument executed and/or delivered in connection therewith or relating thereto, together with any amendment, supplement, waiver, or other modification to any of the foregoing.

“**Term Priority Collateral**” has the meaning specified therefor in the ABL Intercreditor Agreement.

“**Term SOFR**” means the greater of (a) the forward-looking term rate for a period comparable to a one-month Interest Period based on SOFR that is published by the SOFR Administrator and is displayed on the SOFR Administrator’s Website at approximately the Reference Time for such Interest Period plus 0.11448%, reset monthly, and (b) the Floor. Unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 2.2(n), in the event that a Benchmark Replacement with respect to Term SOFR is implemented, then all references herein to Term SOFR shall be deemed references to such Benchmark Replacement.

“**Termination Date**” means the earlier to occur of (a) the Commitment Expiry Date, (b) any date on which Agent accelerates the maturity of the Loans pursuant to Section 10.2, or (c) the termination date stated in any notice of termination of this Agreement provided by Borrowers in accordance with Section 2.12; *provided* that, in each case, if such date is not a Business Day the Termination Date will be the next succeeding Business Day.

“**Third Party Funds**” means any accounts or funds, or any portion thereof, received by the Borrowers or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon the Borrowers or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“**Threshold Amount**” means \$3,000,000.

“**Transaction Costs**” has the meaning specified therefor in the definition of “Transactions.”

“**Transactions**” means each of the following transactions:

- (a) the execution, delivery and performance of the Operative Documents;
- (b) the borrowing of Revolving Loans on the Closing Date in an amount not less than \$58,652,539.79;
- (c) the execution, delivery and performance of the Term Loan Documents and the extensions of credit thereunder on the Closing Date;

(d) the execution, delivery and performance of the B. Riley Credit Agreement and the extensions of credit thereunder on the Closing Date;

(e) the transactions under or pursuant to or contemplated by the Plan of Reorganization, including the Restructuring Transactions (as defined in the Plan of Reorganization); and

(f) the payment of all fees, costs and expenses incurred in connection with the transactions described in the foregoing provisions of this definition (the “**Transaction Costs**”).

“**Trustee**” means U.S. Bank Trust Company, National Association, as trustee under the Exit Notes Indenture.

“**U.S. Tax Compliance Certificate**” has the meaning specified therefor in Section 2.8(c)(i).

“**UCC**” means the Uniform Commercial Code of the State of New York or of any other state the laws of which are required to be applied in connection with the perfection of security interests in any Collateral.

“**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.

“**ULC**” means any unlimited company, unlimited liability company or unlimited liability corporation or any similar entity existing under the laws of any province or territory of Canada and any successor to any such entity.

“**Unfinanced Capital Expenditures**” means, for any period, the amount equal to Capital Expenditures which are not financed by the incurrence of any Indebtedness (except to the extent funded with the proceeds of the Revolving Loans; it being understood and agreed that, to the extent any Capital Expenditures are financed with Revolving Loans, such Capital Expenditures shall be deemed Unfinanced Capital Expenditures).

“**United States**” means the United States of America.

“**Unsecured Cash Pool**” has the meaning specified in the Plan of Reorganization.

“Weighted Average Life to Maturity” means, when applied to any Debt, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the

date of determination to the date of each successive scheduled principal payment of such Debt multiplied by the amount of such payment, by (2) the sum of all such payments.

“Withholding Agent” means any Borrower or 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 Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder (including, without limitation, determinations made pursuant to the exhibits hereto) shall be made, and all financial statements required to be delivered hereunder shall be prepared on a consolidated basis in accordance with GAAP applied on a basis consistent with the most recent audited consolidated financial statements of each Borrower and its Consolidated Subsidiaries delivered to Agent and each of the Lenders on or prior to the Closing Date. If at any time any change in GAAP would affect the computation of any financial ratio or financial requirement set forth in any Financing Document, and either Borrowers or the Required Lenders shall so request, Agent, the Lenders and Borrowers 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, however*, that until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) Borrowers shall provide to Agent and the Lenders financial statements and other documents required under this Agreement which include a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Debt or other liabilities of any Credit Party or any Subsidiary of any Credit Party at “fair value”, as defined therein.

Section 1.3 Other Definitional and Interpretive Provisions. References in this Agreement to “Articles”, “Sections”, “Annexes”, “Exhibits”, or “Schedules” shall be to Articles, Sections, Annexes, Exhibits or Schedules of or to this Agreement unless otherwise specifically provided. Any term defined herein may be used in the singular or plural.

“Include”, “includes” and “including” shall be deemed to be followed by “without limitation”. Except as otherwise specified or limited herein, references to any Person include the successors and assigns of such Person. References “from” or “through” any date mean, unless otherwise specified, “from and

including” or “through and including”, respectively. Unless otherwise specified herein, the settlement of all payments and fundings hereunder between or among the parties hereto shall be made in lawful money of the United States and in immediately available funds. References to any statute or act shall include all related current regulations and all amendments and any successor statutes, acts and regulations. All amounts used for purposes of financial calculations required to be made herein shall be without duplication. References to any statute or act, without additional reference, shall be deemed to refer to federal statutes and acts of the United States. References to any agreement, instrument or document shall include all schedules, exhibits, annexes and other attachments thereto. References to capitalized terms that are not defined herein, but are defined in the UCC or PPSA, shall have the meanings given them in the UCC or PPSA, as applicable. All references herein to times of day shall be references to daylight or standard time, as applicable. All references herein to a merger, transfer, consolidation, amalgamation, assignment, sale or transfer, or analogous term, will be construed to mean also a division of or by a limited liability company, as if it were a merger, transfer, consolidation, amalgamation, assignment, sale or transfer, or similar term, as applicable. Any series of limited liability company shall be considered a separate Person.

Section 1.4 Time is of the Essence. Time is of the essence in Borrower’s and each other Credit Party’s performance under this Agreement and all other Financing Documents.

Section 1.5 Exchange Rates.

(a) Principal, interest, reimbursement obligations, fees, and all other amounts payable under this Agreement and the other Financing Documents to Agent and the Lenders shall be payable in Dollars. Unless stated otherwise, all calculations, comparisons, measurements or determinations under this Agreement shall be made in Dollars. For the purpose of such calculations, comparisons, measurements or determinations, amounts or proceeds denominated in other currencies shall be converted to the Equivalent Amount of Dollars on the date of calculation, comparison, measurement or determination. Unless expressly provided otherwise, where a reference is made to a Dollar amount, the amount is to be considered as the amount in Dollars and, therefore, each other currency shall be converted into the Equivalent Amount thereof in Dollars. If at any time following one or more fluctuations in the exchange rate of any currency against the Dollar, the Revolving Loan Outstandings exceed the Revolving Loan Limit or any other limitations hereunder based on Dollars, the Credit Parties shall, not later than the next Business Day, make the necessary payments or repayments to reduce such Revolving Loan Outstandings to an amount necessary to eliminate such excess.

Section 1.6 Quebec Interpretation. For purposes of the interpretation or construction of this Agreement pursuant to the laws of the Province of Quebec, for purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Financing Document) and for all other purposes pursuant to which the interpretation or construction of any other Financing Document may be subject to the laws

of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) “personal property” shall be deemed to include “movable property”, (b) “real property” shall be deemed to include “immovable property”, (c) “tangible property” shall be deemed to include “corporeal

property”, (d) “intangible property” shall be deemed to include “incorporeal property”, (e) “security interest”, “mortgage” and “lien” shall be deemed to include a “hypothec”, a “reservation of ownership”, “prior claim” and a “resolutive clause,” (f) all references to filing, registering or recording under the PPSA or the UCC shall be deemed to include publication under the Civil Code of Québec, (g) all references to “perfection” of or “perfected” Liens shall be deemed to include a reference to an “opposable” or “set up” Liens as against third parties, (h) any “right of offset”, “right of setoff” or similar expression shall be deemed to include a “right of compensation”, (i) “goods” shall be deemed to include “corporeal movable property” other than chattel paper, documents of title, instruments, money and securities, (j) an “agent” shall be deemed to include a “mandatary,” (k) “construction liens” shall be deemed to include “legal hypothecs in favor of persons having taken part in the construction or renovation of an immovable”, (l) “joint and several” shall be deemed to include “solidary” and “jointly and severally” shall be deemed to include “solidarily” (m) “gross negligence or willful misconduct” shall be deemed to be “intentional or gross fault”, (n) “beneficial ownership” shall be deemed to include “ownership on behalf of another as mandatary”, (o) “legal title” shall be deemed to include “holding title on behalf of an owner as mandatary or prête-nom”, (p) “easement” shall be deemed to include “servitude”, (q) “priority” shall be deemed to include “prior claim” or “rank”, as applicable, (r) “survey” shall be deemed to include “certificate of location and plan”, (s) “fee simple title” and “fee title” shall be deemed to include “right of ownership”, (t) “foreclosure” shall be deemed to include “the exercise of a hypothecary right”, (u) “leasehold interest” shall be deemed to include “valid rights resulting from a lease”, (v) “lease” for personal or movable property shall be deemed to include a “contract of leasing (crédit-bail)”, (x) “deposit account” shall include a “financial account” as defined in Article 2713.6 of the Civil Code of Québec, and

(y) “guarantee” and “guarantor” shall include “suretyship” and “surety”, respectively. The parties hereto confirm that it is their wish that this Agreement and any other Financing Document be drawn up in the English language only and that all other documents contemplated hereunder or relating hereto, including notices, shall also be drawn up in the English language only. *Les parties aux présentes confirment que c’est leur volonté que cette convention et les autres documents de credit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisages par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*

ARTICLE 2 - LOANS

Section 2.1 Loans.

(a) Revolving Loans.

(i) Revolving Loans and Borrowings. On the terms and subject to the conditions set forth herein, each Lender severally agrees to make loans to Borrowers from time to time as set forth herein (each a “**Revolving Loan**”, and collectively, “**Revolving Loans**”) equal to such Lender’s Revolving Loan Commitment Percentage of Revolving Loans requested by Borrowers hereunder, *provided, however*, that after giving

effect thereto, the Revolving Loan Outstandings shall not exceed the Revolving Loan Limit. Borrowers shall deliver to Agent a Notice of Borrowing with respect to each proposed Revolving Loan Borrowing, such Notice of Borrowing to be delivered before 1:00 p.m. (Eastern

time) two (2) Business Days prior to the date of such proposed borrowing. Each Borrower and each Revolving Lender hereby authorizes Agent to make Revolving Loans on behalf of Revolving Lenders, at any time in its sole discretion, to pay principal owing in respect of the Loans and interest, fees, expenses and other charges payable by any Credit Party from time to time arising under this Agreement or any other Financing Document. The Borrowing Base shall be determined by Agent based on the most recent Borrowing Base Certificate delivered to Agent in accordance with this Agreement and such other information as may be available to Agent. Without limiting any other rights and remedies of Agent hereunder or under the other Financing Documents, the Revolving Loans shall be subject to Agent's continuing right to withhold from the Borrowing Base Eligibility Reserves, and to increase and decrease such Eligibility Reserves from time to time, if and to the extent that in Agent's Permitted Discretion, such Eligibility Reserves are necessary.

(ii) Mandatory Revolving Loan Repayments and Prepayments.

(A) The Revolving Loan Commitment shall terminate on the Termination Date. On such Termination Date, there shall become due, and Borrowers shall pay, the entire outstanding principal amount of each Revolving Loan, together with accrued and unpaid Obligations pertaining thereto incurred to, but excluding the Termination Date; *provided, however*, that such payment is made not later than 12:00 Noon (Eastern time) on the Termination Date.

(B) If at any time the Revolving Loan Outstandings exceed the Revolving Loan Limit, then, on the next succeeding Business Day, Borrowers shall repay the Revolving Loans in an aggregate amount equal to such excess.

(C) Principal payable on account of Revolving Loans shall be payable by Borrowers to Agent (I) during any Cash Dominion Period, immediately upon the receipt by any Borrower or Agent of any payments on or proceeds from any of the Accounts, to the extent of such payments or proceeds, as further described in Section 2.11 below, and (II) in full on the Termination Date.

(iii) Optional Prepayments. Borrowers may from time to time prepay the Revolving Loans in whole or in part; *provided, however*, that any such partial prepayment shall be in an amount equal to \$1,000,000 or a higher integral multiple of \$250,000.

(b) Additional Tranches. After the Closing Date, so long as no Default or Event of Default exists and subject to the terms of this Agreement, with the prior written consent of Agent and the Required Lenders in their sole discretion, the Revolving Loan Commitment may be increased upon the written request of Borrower Representative (which such request shall state the aggregate amount of the Additional

Tranche requested and shall be made at least thirty (30) days prior to the proposed effective date of such Additional Tranche) to Agent to activate an Additional Tranche; *provided, however*, that Agent and Lenders shall have no obligation to consent to any requested activation of an Additional Tranche and the written consent of Agent and the Required Lenders shall be required in order to activate an Additional Tranche. Upon activating an Additional Tranche, each Lender's Revolving Loan Commitment shall increase by a proportionate amount so as to maintain the same Pro Rata Share of the Revolving Loan Commitment as such Lender held immediately prior to such activation. In the event Agent and the Required Lenders do not consent to the activation of a requested Additional Tranche within thirty (30) days after receiving a written request from Borrower Representative, then the Revolving Loan Commitment shall not be increased and, within the next ninety (90) days, Borrowers may terminate this Agreement upon written notice to Agent and, if the Borrowing Base on the date of such request would have supported such increased Revolving Loan Commitment, upon repayment in full of all Obligations, no fee shall be due pursuant to Section 2.2(g) or Section 2.2(h) in connection with such termination.

Section 2.2 Interest, Interest Calculations and Certain Fees.

(a) Interest.

(i) From and following the Closing Date, except as expressly set forth in this Agreement, Loans and the other Obligations shall bear interest at the sum of the SOFR Interest Rate *plus* the Applicable Margin. Interest on the Loans shall be paid in arrears on the first (1st) day of each month and on the maturity of such Loans, whether by acceleration or otherwise. Interest on all other Obligations shall be payable upon demand. For purposes of calculating interest, all funds transferred to the Payment Account for application to any Revolving Loans during a Cash Dominion Period shall be subject to a three (3) Business Day clearance period and all interest accruing on such funds during such clearance period shall accrue for the benefit of Agent, and not for the benefit of the Lenders.

(ii) In the event one or more of the following events (other than any such event constituting a Benchmark Transition Event) occurs with respect to Term SOFR: (a) a public statement or publication of information by or on behalf of the SOFR Administrator announcing that the SOFR Administrator has ceased or will cease to provide Term SOFR for a 1-month period, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide Term SOFR for a 1-month period; (b) a public statement or publication of information by the regulatory supervisor for the SOFR Administrator, the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official or resolution authority with jurisdiction over the SOFR Administrator, or a

court or an entity with similar insolvency or resolution authority, which states that the SOFR Administrator has ceased or will cease to provide Term SOFR for a 1-month period permanently or indefinitely, provided that, at the time of such statement or publication, there is no

successor administrator that will continue to provide Term SOFR for a 1-month period; or (c) a public statement or publication of information by the regulatory supervisor for the SOFR Administrator announcing that Term SOFR for a 1-month period is no longer, or as of a specified future date will no longer be, representative and Agent has provided Borrower Representative with notice of the same, any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loan at the end of the applicable Interest Period.

(iii) In connection with Term SOFR, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Financing 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 Financing Document. Agent will promptly notify Borrower Representative and the Lenders of the effectiveness of any Conforming Changes.

(b) Unused Line Fee. From and following the Closing Date, Borrowers shall pay Agent, for the benefit of all Lenders committed to make Revolving Loans, in accordance with their respective Pro Rata Shares, a fee in an amount equal to (i) (A) the Revolving Loan Commitment *minus* (B) the average daily balance of the sum of the Revolving Loan Outstandings during the preceding month, *multiplied by* (ii) 0.50% per annum. Such fee is to be paid monthly in arrears on the first day of each month.

(c) Minimum Balance Fee. On the first Business Day of each month, commencing on September 2, 2025, the Borrowers agree to pay to Agent, for the ratable benefit of all Lenders, the sum of the Minimum Balance Fees due for the prior month. The Minimum Balance Fee shall be deemed fully earned when due and payable and, once paid, shall be non-refundable.

(d) Collateral Fee. From and following the Closing Date, Borrowers shall pay Agent, for its own account and not for the benefit of any other Lenders, a fee in an amount equal to \$7,500 per month. The collateral management fee shall be deemed fully earned when due and payable in arrears on the last day of each calendar month prior to the Termination Date and on such date and, once paid, shall be non-refundable.

(e) Origination Fee. Contemporaneous with Borrowers' execution of this Agreement, Borrowers shall pay Agent, for the benefit of all Lenders committed to make Revolving Loans on the Closing Date, in accordance with their respective Pro Rata Shares, a fee in an amount equal to (i) the Revolving Loan Commitment, *multiplied by* (ii) one percent (1.00%). All fees payable pursuant to this paragraph shall be non-refundable as of the Closing Date.

(f) Deferred Revolving Loan Origination Fee. If Lenders' funding obligations in respect of the Revolving Loan Commitment under this Agreement terminate for any reason (whether by voluntary termination by Borrowers, by reason of the occurrence of an Event of Default or otherwise) prior to the Commitment Expiry Date, Borrowers shall pay to Agent, for the benefit of all Lenders committed to make

Revolving Loans on the Closing Date, a fee as compensation for the costs of such Lenders being prepared to make funds available to Borrowers under this Agreement, equal to an amount determined by *multiplying* the Revolving Loan Commitment *by* the following applicable percentage amount: (i) two percent (2.00%) if such prepayment or termination occurs on or prior to the date that is the first anniversary of the Closing Date, (ii) one percent (1.00%) if such termination occurs after the first anniversary of the Closing Date but on or prior to the date that is the second anniversary of the Closing Date, and (iii) zero percent (0.00%) if such termination occurs after the second anniversary of the Closing Date. All fees payable pursuant to this paragraph shall be deemed fully earned and non-refundable as of the Closing Date.

(g) [Reserved].

(h) [Reserved].

(i) Audit Fees. Borrowers shall pay to Agent, for its own account and not for the benefit of any other Lenders, all reasonable fees and expenses in connection with any audits and inspections of Borrowers' books and records, audits, valuations or appraisals of the Collateral, audits of Borrowers' compliance with applicable Laws and such other matters as Agent shall deem appropriate; *provided* that Borrowers shall only be required to reimburse Agent for the costs of one (1) such audit or inspection per fiscal year (or, solely with respect to the 2026 fiscal year, two (2) such audits or inspections), unless a Specified Default has occurred and is continuing, in which case Agent may conduct and be fully reimbursed for any additional audits or inspections at its sole discretion. All such fees and expenses shall be due and payable on the first Business Day of the month following the date of issuance by Agent of a written request for payment thereof to Borrowers.

(j) Wire Fees. Borrowers shall pay to Agent, for its own account and not for the account of any other Lenders, on written demand, fees for incoming and outgoing wires made for the account of Borrowers, such fees to be based on Agent's then current wire fee schedule (available upon written request of the Borrowers).

(k) [Reserved].

(l) Computation of Interest and Related Fees. All interest and fees under each Financing Document shall be calculated on the basis of a 360-day year for the actual number of days elapsed. The date of funding of a Loan shall be included in the calculation of interest. The date of payment of a Loan shall be excluded from the calculation of interest. If a Loan is repaid on the same day that it is made, one (1) day's interest shall be charged. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid under any Financing Document is to be calculated on the basis of a 360-day or 365-day year, the yearly rate of interest to which the rate used in such calculation is

equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or 365, as applicable. The rates of interest under this Agreement are

73

nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

(m) Automated Clearing House Payments. If Agent so elects, monthly payments of principal, interest, fees, expenses or any other amounts due and owing from Borrower to Agent hereunder shall be paid to Agent by Automated Clearing House debit of immediately available funds from the financial institution account designated by Borrower Representative in the Automated Clearing House debit authorization executed by Borrowers or Borrower Representative in connection with this Agreement, and shall be effective upon receipt. Borrowers shall execute any and all forms and documentation necessary from time to time to effectuate such automatic debiting. In no event shall any such payments be refunded to Borrowers.

(n) Benchmark Replacement Setting; Conforming Changes.

(i) Upon the occurrence of a Benchmark Transition Event, Agent and Borrowers may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and Borrower so long as Agent has not received, by such time, written notice of objection thereto from Lenders comprising the Required Lenders. No such replacement will occur prior to the applicable Benchmark Transition Start Date. In connection with the implementation of a Benchmark Replacement, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Financing 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 Financing Document. Agent will promptly notify Borrower Representative and the Lenders of the implementation of any Benchmark Replacement and the effectiveness of any Conforming Changes.

(ii) Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 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 Financing Document, except, in each case, as expressly required pursuant to this Section. Notwithstanding anything to the contrary herein or in any other Financing Document, at any time, (a) if the then-current Benchmark is a term rate (including Term SOFR) and either (i) 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 Agent in its reasonable discretion or (ii) 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 or will be no longer representative, then 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 (i) is subsequently displayed on a screen or information service for a Benchmark or (ii) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark, then 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. Agent will promptly notify Borrower Representative of the removal or reinstatement of any tenor of a Benchmark pursuant to this Section.

(iii) Upon Borrower Representative’s receipt of notice of the commencement of a Benchmark Unavailability Period, any outstanding affected Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period.

(o) The following terms used in this Section 2.2(o) shall have the following meanings:

“**Available Tenor**” means, as of any date of determination with respect to the then-current Benchmark, (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 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 pursuant to this Agreement, 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” or similar term pursuant to Section 2.2(o).

“**Benchmark**” means, initially, Term SOFR; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to Term SOFR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.2(o).

“**Benchmark Replacement**” means, with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by Agent for the applicable Benchmark Replacement Date:

(1) Daily Simple SOFR; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by Agent 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 to the then-current Benchmark for Dollar-denominated syndicated

credit facilities 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

75

Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Financing Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the 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 Agent in consultation with the Borrower Representative giving due consideration to any selection or recommendation by the Relevant Governmental Body, or any evolving or then-prevailing market convention at such time, for determining a spread adjustment, or method for calculating or determining such spread adjustment, for such type of replacement for U.S. dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Date” means the earlier to occur of the following events with respect to the then-current Benchmark: (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 no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) 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 the occurrence of one or more of the following events with respect to the then-current Benchmark: (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 Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official or 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, 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 no longer, or as of a specified future date will no longer 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, 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 90th 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 the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clauses (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with Section 2.2(o) and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with Section 2.2(o).

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

Section 2.3 **Notes.** The portion of the Loans made by each Lender shall be evidenced, if so requested by such Lender, by one or more promissory notes executed by Borrowers on a joint and several basis (each, a “Note”) in an original principal amount equal to such Lender’s Revolving Loan Commitment Amount. Upon activation of an Additional Tranche in accordance with Section 2.1(b) hereof, Borrowers shall deliver to each Lender to whom Borrowers previously delivered a Note, a restated Note evidencing such Lender’s Revolving Loan Commitment Amount.

Section 2.4 [Reserved]

Section 2.5 [Reserved].

Section 2.6 **General Provisions Regarding Payment; Loan Account.**

(a) All payments to be made by each Borrower under any Financing Document, including payments of principal and interest made hereunder and pursuant to any other Financing Document, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim. If any payment hereunder becomes due and payable on a day other than a Business

Day, such payment shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension (it being understood and agreed that, solely for purposes of calculating financial covenants

77

and computations contained herein and determining compliance therewith, if payment is made, in full, on any such extended due date, such payment shall be deemed to have been paid on the original due date without giving effect to any extension thereto). Any payments received in the Payment Account before 12:00 Noon (Eastern time) on any date shall be deemed received by Agent on such date, and any payments received in the Payment Account at or after 12:00 Noon (Eastern time) on any date shall be deemed received by Agent on the next succeeding Business Day.

(b) Agent shall maintain a loan account (the “**Loan Account**”) on its books to record Loans and other extensions of credit made by the Lenders hereunder or under any other Financing Document, and all payments thereon made by each Borrower. All entries in the Loan Account shall be made in accordance with Agent’s customary accounting practices as in effect from time to time. The balance in the Loan Account, as recorded in Agent’s books and records at any time shall be conclusive and binding evidence of the amounts due and owing to Agent by each Borrower absent manifest error; *provided, however*, that any failure to so record or any error in so recording shall not limit or otherwise affect any Borrower’s duty to pay all amounts owing hereunder or under any other Financing Document. Agent shall endeavor to provide Borrowers with a monthly statement regarding the Loan Account (but neither Agent nor any Lender shall have any liability if Agent shall fail to provide any such statement). Unless any Borrower notifies Agent of any objection to any such statement (specifically describing the basis for such objection) within ninety (90) days after the date of receipt thereof, it shall be deemed final, binding and conclusive upon Borrowers in all respects as to all matters reflected therein.

Section 2.7 Maximum Interest. In no event shall the interest charged with respect to the Loans or any other Obligations of any Borrower under any Financing Document exceed the maximum amount permitted under the laws of the State of New York, the federal laws of Canada (including the Criminal Code (Canada)) or of any other applicable jurisdiction. Notwithstanding anything to the contrary herein or elsewhere, if at any time the rate of interest payable hereunder or under any Note or other Financing Document (the “Stated Rate”) would exceed the highest rate of interest permitted under any applicable law to be charged (the “Maximum Lawful Rate”), then for so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable shall be equal to the Maximum Lawful Rate; *provided, however*, that if at any time thereafter the Stated Rate is less than the Maximum Lawful Rate, each Borrower shall, to the extent permitted by law, continue to pay interest at the Maximum Lawful Rate until such time as the total interest received is equal to the total interest which would have been received had the Stated Rate been (but for the operation of this provision) the interest rate payable. Thereafter, the interest rate payable shall be the Stated Rate unless and until the Stated Rate again would exceed the Maximum Lawful Rate, in which event this provision shall again apply. In no event shall the total interest received by any Lender exceed the amount which it could lawfully have received had the interest been calculated for the full term hereof at the Maximum Lawful Rate. If, notwithstanding the prior sentence, any Lender has received interest hereunder in

excess of the Maximum Lawful Rate, such excess amount shall be applied to the reduction of the principal balance of the Loans or to other amounts (other than interest) payable hereunder, and if no such principal or other amounts are then outstanding, such excess or part thereof remaining shall be paid to Borrowers. In computing interest payable with reference to

the Maximum Lawful Rate applicable to any Lender, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate *divided by* the number of days in the year in which such calculation is made.

Section 2.8 Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality.

(a) All payments of principal and interest on the Loans and all other amounts payable hereunder shall be made free and clear of and without deduction or withholding for any present or future 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, and if any such withholding or deduction is in respect of any Indemnified Taxes, then the Borrowers shall pay such additional amount or amounts as is necessary to ensure that the net amount actually received by Agent and each Lender will equal the full amount Agent and such Lender would have received had no such withholding or deduction been required (including, without limitation, such withholdings and deductions applicable to additional amounts payable under this Section 2.8). After payment of any Tax by a Borrower to a Governmental Authority pursuant to this Section 2.8, such Borrower shall promptly forward to Agent the original or a certified copy of an official receipt, a copy of the return reporting such payment, or other documentation satisfactory to Agent evidencing such payment to such authority. In addition, Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of Agent timely reimburse it for the payment of, any Other Taxes.

(b) The Borrowers shall indemnify Agent and Lenders, within ten (10) days after demand thereof, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.8) payable or paid by Agent or any Lender or required to be withheld or deducted from a payment to Agent or any Lender and any 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 Borrowers by a Lender (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(c) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments made under any Financing Document shall deliver to Borrower Representative and Agent, at the time or times prescribed by applicable Law or reasonably requested by Borrower Representative or Agent, such properly completed and executed documentation reasonably requested by Borrower Representative or Agent 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 Borrower Representative or Agent, shall deliver such other documentation prescribed by

applicable Law or reasonably requested by Borrowers or Agent as will enable Borrowers or 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 Sections 2.8(c)(i), 2.8(c)(ii) and 2.8(e) below) shall not be required if in such 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.

(i) Each Lender that is not a "United States person" (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes and is a party hereto on the Closing Date or purports to become an assignee of an interest pursuant to Section 11.17(a) after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) (each such Lender a "**Foreign Lender**") shall, to the extent permitted by Law, execute and deliver to Borrower Representative and 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 Representative or Agent) whichever of the following is applicable: (A) 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 Financing Document, executed copies of United States Internal Revenue Service ("**IRS**") Forms W-8BEN or W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Financing Documents, executed copies of IRS Forms W-8BEN or W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "business profits" or "other income" article of such tax treaty; (B) executed copies of Form W-8ECI or W-8EXP (or successor form); (C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-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 any 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 Forms W-8BEN or W-8BEN-E (or successor form); (D) 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-8EXP, IRS Form W-8BEN or W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS

Form W-9 (or successor form), 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 F-4 on behalf of each such direct and indirect partner; or (E) other applicable forms, certificates or documents prescribed by the IRS. 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 Borrower Representative and Agent in writing of its legal inability to do so. In addition, to the extent permitted by applicable Law, such forms shall be delivered by each Foreign Lender upon the obsolescence or invalidity of any form previously delivered by such Foreign Lender. Each Foreign Lender shall promptly notify Borrower Representative at any time it determines that it is no longer in a position to provide any previously delivered certificate to Borrower Representative (or any other form of certification adopted by the U.S. taxing authorities for such purpose).

(ii) Each Lender that is a “United States person” (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes and is a party hereto on the Closing Date or purports to become an assignee of an interest pursuant to Section 11.17(a) after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) shall, to the extent permitted by Law, provide to Borrower Representative and 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 Representative or Agent), a properly completed and executed IRS Form W-9 or any successor form certifying as to such Lender’s entitlement to an exemption from U.S. backup withholding and other applicable forms, certificates or documents prescribed by the IRS or reasonably requested by Borrower Representative or Agent. Each such Lender shall promptly notify Borrowers at any time it determines that any certificate previously delivered to Borrower Representative (or any other form of certification adopted by the U.S. governmental authorities for such purposes) is no longer valid.

(iii) Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower Representative and 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 Representative or Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. Federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrowers or Agent to determine the withholding or deduction required to be made.

(iv) Agent, and any sub-agent and any successor or supplemental Agent, shall deliver to the Borrowers on or prior to the date on which such person becomes Agent, sub-agent or successor or supplemental Agent hereunder (and from time to time thereafter upon the reasonable request of a

Borrower), a properly completed and executed IRS Form W-9. Agent and any sub-agent and successor or supplemental Agent 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 Borrowers in writing of its legal inability to do so. Agent hereby represents and warrants to the Credit Parties that it is a “U.S. person” and a “financial institution” and that it will comply with its “obligation to withhold,” each within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(ii).

(d) If any Lender determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Taxes as to which it has been indemnified by any Borrower pursuant to this Section 2.8 (including by the payment of additional amounts pursuant to this Section 2.8), then it shall promptly pay an amount equal to such refund to Borrowers, net of all reasonable out-of-pocket expenses of such Lender or of Agent with respect thereto, including any Taxes; *provided, however*, that Borrowers, upon the written request of such Lender or Agent, agree to repay any amount paid over to Borrowers to such Lender or to Agent (plus any related penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Lender or Agent is required, for any reason, to disgorge or otherwise repay such refund. Notwithstanding anything to the contrary in this Section 2.8, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.8(d) the payment of which 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 Section 2.8 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.

(e) If a payment made to a Lender under any Financing Document would be subject to U.S. 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 Borrower Representative and Agent at the time or times prescribed by Law and at such time or times reasonably requested by Borrower Representative or Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower Representative or Agent as may be necessary for Borrowers and 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 (e), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(f) Each Lender shall severally indemnify 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 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 11.17 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 Agent in connection with any Financing 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 Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to set off and apply any and all amounts at any time owing to such Lender under any Financing Document or otherwise payable by Agent to such Lender from any other source against any amount due to Agent under this paragraph (f).

(g) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law regarding capital adequacy, in each instance, after the Closing Date, or any change after the Closing Date in the interpretation, administration or application thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation, administration or application thereof, or the compliance by any Lender or any Person controlling such Lender with any request, guideline or directive regarding capital adequacy (whether or not having the force of Law) of any such Governmental Authority, central bank or comparable agency adopted or otherwise taking effect after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or such controlling Person's capital as a consequence of such Lender's obligations hereunder to a level below that which such Lender or such controlling Person could have achieved but for such adoption, taking effect, change, interpretation, administration, application or compliance (taking into consideration such Lender's or such controlling Person's policies with respect to capital adequacy) then from time to time, upon demand by such Lender (which demand shall be accompanied by a certificate setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to Agent), Borrowers shall promptly pay to such Lender such additional amount as will compensate such Lender or such controlling Person for such reduction, so long as such amounts have accrued on or after the day which is two hundred seventy (270) days prior to the date on which such Lender first made demand therefor; *provided* that notwithstanding anything in this Agreement 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 applicable Law", regardless of the date enacted, adopted or issued.

(h) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law shall (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar

requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender, (ii) subject any Lender to any tax of any kind whatsoever with respect to this Agreement, or any SOFR Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes, Connection Income Taxes and Taxes covered in (b) through (d) in the definition of Excluded Taxes); or (iii) impose on any Lender any other condition, cost or expense (other than a Tax) affecting this Agreement or SOFR Loans made by such Lender, and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to Term SOFR (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrowers will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(i) If any Lender requests compensation under any of the clauses in this Section 2.8), or requires Borrowers to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8, then, upon the written request of Borrower Representative, such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder (subject to the provisions of Section 11.17) to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or materially reduce amounts payable pursuant to any such Section, as the case may be, in the future, (ii) would not subject such Lender to any unreimbursed cost or expense and (iii) would not otherwise be disadvantageous to such Lender (as determined in its sole good faith discretion). Without limitation of the provisions of Section 12.14, each Borrower hereby agrees to pay all reasonable and documented, out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(j) Subject to Section 2.2(n), if Agent determines (which determination shall be conclusive and binding absent manifest error) that Term SOFR cannot be determined pursuant to the definition thereof on or prior to the first day of any Interest Period, Agent will promptly so notify the Borrowers and each Lender. Upon notice thereof by Agent to Borrowers, any obligation of the Lenders to make SOFR Loans shall be suspended until Agent revokes such notice. Upon receipt of such notice, any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period. Upon any such conversion, Borrower shall also pay any additional amounts required pursuant to this Agreement.

(k) If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain or fund SOFR Loans, or to determine or charge interest rates based upon Term SOFR, then, upon notice thereof by such Lender to Borrowers (through Agent), any obligation of such Lender to make SOFR Loans shall be suspended, in each case until such Lender notifies Agent and Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such

notice, all SOFR Loans shall become Base Rate Loans. Upon any such conversion, Borrower shall also pay any additional amounts required pursuant to this Agreement.

(l) Each party's obligations under this Section 2.8 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of all Obligations hereunder.

Section 2.9 Appointment of Borrower Representative.

(a) Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent and attorney-in-fact to request and receive Loans in the name or on behalf of such Borrower and any other Borrowers, deliver Notices of Borrowing, and Borrowing Base Certificates, give instructions with respect to the disbursement of the proceeds of the Loans, giving and receiving all other notices and consents hereunder or under any of the other Financing Documents and taking all other actions (including in respect of compliance with covenants) in the name or on behalf of any Borrower or Borrowers pursuant to this Agreement and the other Financing Documents. Agent and Lenders may disburse the Loans to such bank account of Borrower Representative or a Borrower or otherwise make such Loans to a Borrower, in each case as Borrower Representative may designate or direct, without notice to any other Borrower. Notwithstanding anything to the contrary contained herein, Agent may at any time and from time to time require that Loans to or for the account of any Borrower be disbursed directly to an operating account of such Borrower.

(b) Borrower Representative hereby accepts the appointment by Borrowers to act as the agent and attorney-in-fact of Borrowers pursuant to this Section 2.9. Borrower Representative shall ensure that the disbursement of any Loans that are at any time requested by or to be remitted to or for the account of a Borrower shall be remitted or issued to or for the account of such Borrower.

(c) Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent to receive statements on account and all other notices from Agent and Lenders with respect to the Obligations or otherwise under or in connection with this Agreement and the other Financing Documents.

(d) Any notice, election, representation, warranty, agreement or undertaking made or delivered by or on behalf of any Borrower by Borrower Representative shall be deemed for all purposes to have been made or delivered by such Borrower, as the case may be, and shall be binding upon and enforceable against such Borrower to the same extent as if made or delivered directly by such Borrower.

(e) No resignation by or termination of the appointment of Borrower Representative as agent and attorney-in-fact as aforesaid shall be effective, except after ten (10) Business Days' prior written notice to Agent. If the Borrower Representative resigns under this Agreement, Borrowers shall be entitled to appoint a successor Borrower Representative (which shall be a Borrower and shall be reasonably acceptable to Agent as such successor). Upon the acceptance of its appointment as successor

Borrower Representative hereunder, such successor Borrower Representative shall succeed to all the rights, powers and duties of the retiring Borrower Representative and the term "Borrower Representative" shall mean such successor Borrower Representative for all purposes of this Agreement and the other Financing Documents, and the retiring or terminated Borrower Representative's appointment, powers and duties as Borrower Representative shall be thereupon terminated.

Section 2.10 Joint and Several Liability; Rights of Contribution; Subordination and Subrogation.

(a) Borrowers are defined collectively to include all Persons named as one of the Borrowers herein; *provided, however*, that any references herein to "any Borrower", "each Borrower" or similar references, shall be construed as a reference to each individual Person named as one of the Borrowers herein. Each Person so named shall be jointly and severally liable for all of the obligations of Borrowers under this Agreement. Each Borrower, individually, expressly understands, agrees and acknowledges, that the credit facilities would not be made available on the terms herein in the absence of the collective credit of all of the Persons named as the Borrowers herein, the joint and several liability of all such Persons, and the cross-collateralization of the collateral of all such Persons. Accordingly, each Borrower individually acknowledges that the benefit to each of the Persons named as one of the Borrowers as a whole constitutes reasonably equivalent value, regardless of the amount of the credit facilities actually borrowed by, advanced to, or the amount of collateral provided by, any individual Borrower. In addition, each entity named as one of the Borrowers herein hereby acknowledges and agrees that all of the representations, warranties, covenants, obligations, conditions, agreements and other terms contained in this Agreement shall be applicable to and shall be binding upon and measured and enforceable individually against each Person named as one of the Borrowers herein as well as all such Persons when taken together. By way of illustration, but without limiting the generality of the foregoing, the terms of Section 10.1 of this Agreement are to be applied to each individual Person named as one of the Borrowers herein (as well as to all such Persons taken as a whole), such that the occurrence of any of the events described in Section 10.1 of this Agreement as to any Person named as one of the Borrowers herein shall constitute an Event of Default even if such event has not occurred as to any other Persons named as the Borrowers or as to all such Persons taken as a whole.

(b) Notwithstanding any provisions of this Agreement to the contrary, it is intended that the joint and several nature of the liability of each Borrower for the Obligations and the Liens granted by Borrowers to secure the Obligations, not constitute a Fraudulent Conveyance (as defined below). Consequently, Agent, Lenders and each Borrower agree that if the liability of a Borrower for the Obligations, or any Liens granted by such Borrower securing the Obligations would, but for the application of this sentence, constitute a Fraudulent Conveyance, the liability of such Borrower and the Liens securing such liability

shall be valid and enforceable only to the maximum extent that would not cause such liability or such Lien to constitute a Fraudulent Conveyance, and the liability of such Borrower and this Agreement shall automatically be deemed to have been amended accordingly. For purposes hereof, the term “Fraudulent

Conveyance” means a fraudulent conveyance under Section 548 of Chapter 11 of Title II of the Bankruptcy Code or a fraudulent conveyance, fraudulent transfer or transfer at undervalue under the applicable provisions of any fraudulent conveyance or fraudulent transfer law or similar law of any state, province, territory, nation or other governmental unit, as in effect from time to time.

(c) Agent is hereby authorized, without notice or demand (except as otherwise specifically required under this Agreement) and without affecting the liability of any Borrower hereunder, at any time and from time to time, to (i) renew, extend or otherwise increase the time for payment of the Obligations; (ii) with the written agreement of any Borrower, change the terms relating to the Obligations or otherwise modify, amend or change the terms of any Note or other agreement, document or instrument now or hereafter executed by any Borrower and delivered to Agent for any Lender; (iii) accept partial payments of the Obligations; (iv) take and hold any Collateral for the payment of the Obligations or for the payment of any guaranties of the Obligations and exchange, enforce, waive and release any such Collateral; (v) apply any such Collateral and direct the order or manner of sale thereof as Agent, in its sole discretion, may determine; and (vi) settle, release, compromise, collect or otherwise liquidate the Obligations and any Collateral therefor in any manner, all guarantor and surety defenses being hereby waived by each Borrower. Without limitations of the foregoing, with respect to the Obligations, each Borrower hereby makes and adopts each of the agreements and waivers set forth in the Guarantee set forth under Section 12 hereof. Except as specifically provided in this Agreement or any of the other Financing Documents, Agent shall have the exclusive right to determine the time and manner of application of any payments or credits, whether received from any Borrower or any other source, and such determination shall be binding on all Borrowers. All such payments and credits may be applied, reversed and reapplied, in whole or in part, to any of the Obligations that Agent shall determine, in its sole discretion, without affecting the validity or enforceability of the Obligations of the other Borrower.

(d) Each Borrower hereby agrees that, except as hereinafter provided, its obligations hereunder shall be unconditional, irrespective of (i) the absence of any attempt to collect the Obligations from any obligor or other action to enforce the same; (ii) the waiver or consent by Agent with respect to any provision of any instrument evidencing the Obligations, or any part thereof, or any other agreement heretofore, now or hereafter executed by a Borrower and delivered to Agent; (iii) failure by Agent to take any steps to perfect and maintain its security interest in, or to preserve its rights to, any security or collateral for the Obligations; (iv) the institution of any proceeding under any Debtor Relief Law, or any similar proceeding, by or against any Credit Party or Agent’s election in any such proceeding of the application of Section 1111(b)(2) of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws); (v) any borrowing or grant of a security interest by a Borrower as debtor-in-possession, under Section 364 of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws); (vi) the

disallowance, under Section 502 of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws), of all or any portion of Agent's claim(s) for repayment of any of the Obligations; or (vii) any other circumstance other than payment

in full of the Obligations which might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety.

(e) The Borrowers hereby agree, as between themselves, that to the extent that Agent, on behalf of Lenders, shall have received from any Borrower any Recovery Amount (as defined below), then the paying Borrower shall have a right of contribution against each other Borrower in an amount equal to such other Borrower's contributive share of such Recovery Amount; provided, however, that in the event any Borrower suffers a Deficiency Amount (as defined below), then the Borrower suffering the Deficiency Amount shall be entitled to seek and receive contribution from and against the other Borrowers in an amount equal to the Deficiency Amount; and provided, further, that in no event shall the aggregate amounts so reimbursed by reason of the contribution of any Borrower equal or exceed an amount that would, if paid, constitute or result in Fraudulent Conveyance. Until all Obligations have been paid and satisfied in full, no payment made by or for the account of a Borrower including, without limitation, (i) a payment made by such Borrower on behalf of the liabilities of any other Borrower, or (ii) a payment made by any other Guarantor under any Guarantee, shall entitle such Borrower, by subrogation or otherwise, to any payment from such other Borrower or from or out of such other Borrower's property. The right of each Borrower to receive any contribution under this Section 2.10(e) or by subrogation or otherwise from any other Borrower shall be subordinate in right of payment to the Obligations and such Borrower shall not exercise any right or remedy against such other Borrower or any property of such other Borrower by reason of any performance of such Borrower of its joint and several obligations hereunder, until the Obligations have been indefeasibly paid and satisfied in full, and no Borrower shall exercise any right or remedy with respect to this Section 2.10(e) until the Obligations have been indefeasibly paid and satisfied in full. As used in this Section 2.10(e), the term "Recovery Amount" means the amount of proceeds received by or credited to Agent from the exercise of any remedy of the Lenders under this Agreement or the other Financing Documents, including, without limitation, the sale of any Collateral. As used in this Section 2.10(e), the term "Deficiency Amount" means any amount that is less than the entire amount a Borrower is entitled to receive by way of contribution or subrogation from, but that has not been paid by, the other Borrowers in respect of any Recovery Amount attributable to the Borrower entitled to contribution, until the Deficiency Amount has been reduced to \$0 through contributions and reimbursements made under the terms of this Section 2.10(e) or otherwise.

(f) Notwithstanding any other provision contained herein or in any other Financing Document, if a "secured creditor" (as that term is defined under the Bankruptcy and Insolvency Act (Canada)) is determined by a court of competent jurisdiction not to include a Person to whom obligations are owed on a joint and several basis, then such Person's Obligations (and the Obligations of each

other Canadian Credit Party or any other applicable Credit Party), to the extent such Obligations are secured, shall be several obligations and not joint and several obligations.

Section 2.11 Collections and Lockbox Account.

88

(a) Credit Parties shall maintain a lockbox ~~(or other acceptable deposit accounts used solely for the purpose of collection of receivables (individually and collectively,~~ the “**Lockbox**”) with (a) PNC Bank, ~~as of the Closing from the Closing Date through and including January 31, 2026,~~ (b) JPMorgan Chase Bank, N.A., ~~as of the Second Amendment Effective~~ Date, or ~~(b)~~ another United States depository institution (or, in the case of a Canadian Credit Party, another Canadian depository institution) designated from time to time by Agent (the “**Lockbox Bank**”), subject to the provisions of this Agreement, and shall execute with the Lockbox Bank a Control Agreement and such other agreements related to such Lockbox as Agent may require. Borrowers shall ensure that all collections of Accounts are paid directly from Account Debtors (i) into the Lockbox for deposit into the Lockbox Account and/or (ii) directly into the Lockbox Account; *provided, however*, unless Agent shall otherwise direct by written notice to Borrowers, Borrowers shall be permitted to cause Account Debtors who are individuals to pay Accounts directly to Borrowers, which Borrowers shall then administer and apply in the manner required below. During any Cash Dominion Period, all funds deposited into a Lockbox Account shall be transferred into the Payment Account by the close of each Business Day.

(b) Upon three (3) Business Days’ prior written request, Borrower Representative may request that the Agent release any funds in a Cash Collateral Account so long as (a) no Default or Event of Default has occurred and is continuing or would result therefrom, (b) such release will not result in the Revolving Loan Outstandings exceeding the Revolving Loan Limit and (c) concurrent with such written request, Borrower Representative provides to the Agent a duly completed Borrowing Base Certificate signed by a Responsible Officer as of the date of such written request giving pro forma effect to such release of funds.

(c) Notwithstanding anything in any lockbox agreement or Control Agreement to the contrary, Borrowers agree that they shall be liable for any fees and charges in effect from time to time and charged by the Lockbox Bank in connection with the Lockbox, the Lockbox Account, and that Agent shall have no liability therefor. Borrowers hereby indemnify and agree to hold Agent harmless from any and all liabilities, claims, losses and demands whatsoever, including reasonable attorneys’ fees and expenses, arising from or relating to actions of Agent or the Lockbox Bank pursuant to this Section or any lockbox agreement or Control Agreement or similar agreement, except to the extent of such losses arising solely from Agent’s gross negligence or willful misconduct.

(d) During any Cash Dominion Period, Agent shall immediately apply, on a daily basis, all funds transferred into the Payment Account pursuant to this Section to reduce the outstanding Revolving Loans in such order of application as Agent shall elect. If as the result of collections of Accounts pursuant to the terms and conditions of this Section, a credit balance exists with respect to

the Loan Account, such credit balance shall not accrue interest in favor of Borrowers, but Agent shall transfer such funds into an account designated by Borrower Representative for so long as no Event of Default exists.

Agent shall exercise its commercially reasonable efforts to rescind cash dominion promptly after the occurrence of a Cash Dominion Termination.

(e) To the extent that any collections of Accounts or proceeds of other Collateral are not sent directly to the Lockbox or Lockbox Account but are received by any Borrower, such collections shall be held in trust for the benefit of Agent pursuant to an express trust created hereby and immediately remitted, in the form received, to applicable Lockbox or Lockbox Account. No such funds received by any Borrower shall be commingled with other funds of the Borrowers.

(f) Borrowers acknowledge and agree that compliance with the terms of this Section is essential, and that Agent and Lenders will suffer immediate and irreparable injury and have no adequate remedy at law, if any Borrower, through acts or omissions, causes or permits Account Debtors to send payments other than to the Lockbox or Lockbox Accounts or if any Borrower fails to promptly deposit collections of Accounts or proceeds of other Collateral in the Lockbox Account as herein required. Accordingly, in addition to all other rights and remedies of Agent and Lenders hereunder, Agent shall have the right to seek specific performance of the Borrowers' obligations under this Section, and any other equitable relief as Agent may deem necessary or appropriate, and Borrowers waive any requirement for the posting of a bond in connection with such equitable relief.

(g) Borrowers shall not, and Borrowers shall not suffer or permit any Credit Party to, (i) withdraw any amounts from any Lockbox Account during any Cash Dominion Period, (ii) change the procedures or sweep instructions under the agreements governing any Lockbox Accounts, or (iii) send to or deposit in any Lockbox Account any funds other than payments made with respect to and proceeds of Accounts or other Collateral. Borrowers shall, and shall cause each Credit Party to, cooperate with Agent in the identification and reconciliation on a daily basis of all amounts received in or required to be deposited into the Lockbox Accounts. In addition, if any such amount cannot be identified or reconciled to the reasonable satisfaction of Agent, Agent may utilize its own staff or, if it deems necessary, engage an outside auditor, in either case at Borrowers' expense (which in the case of Agent's own staff shall be in accordance with Agent's then prevailing customary charges (*plus* expenses)), to make such examination and report as may be necessary to identify and reconcile such amount.

(h) During any Cash Dominion Period, if any Borrower breaches its obligation to direct payments of the proceeds of the Collateral to the Lockbox Account, Agent, as the irrevocably made, constituted and appointed true and lawful attorney for Borrowers, may, by the signature or other act of any of Agent's authorized representatives (without requiring any of them to do so), direct any Account Debtor to pay proceeds of the Collateral to Borrowers by directing payment to the Lockbox Account.

Section 2.12 Termination; Restriction on Termination.

90

(a) Termination by Lenders. In addition to the rights set forth in Section 10.2, Agent may, and at the direction of Required Lenders shall, terminate this Agreement without notice upon or after the occurrence and during the continuance of an Event of Default.

(b) Termination by Borrowers. Upon at least thirty (30) days' prior written notice to Agent and Lenders, Borrowers may, at its option, terminate this Agreement. Any notice of termination given by Borrowers shall be irrevocable unless all Lenders otherwise agree in writing and no Lender shall have any obligation to make any Loans on or after the termination date stated in such notice. Borrowers may elect to terminate this Agreement in its entirety only. No section of this Agreement or type of Loan available hereunder may be terminated singly.

(c) Effectiveness of Termination. All of the Obligations shall be immediately due and payable upon the Termination Date. All undertakings, agreements, covenants, warranties and representations of Borrowers contained in the Financing Documents shall survive any such termination and Agent shall retain its Liens in the Collateral and Agent and each Lender shall retain all of its rights and remedies under the Financing Documents notwithstanding such termination until all Obligations have been discharged or paid, in full, in immediately available funds, including, without limitation, all Obligations under Section 2.2(f). Notwithstanding the foregoing or the payment in full of the Obligations, Agent shall not be required to terminate its Liens in the Collateral unless, with respect to any loss or damage Agent may incur as a result of dishonored checks or other items of payment received by Agent from Borrower or any Account Debtor and applied to the Obligations, Agent shall, at its option, (i) have received a written agreement satisfactory to Agent, executed by Borrowers and by any Person whose loans or other advances to Borrowers are used in whole or in part to satisfy the Obligations, indemnifying Agent and each Lender from any such loss or damage or (ii) have retained cash Collateral or other Collateral for such period of time as Agent, in its discretion, may deem necessary to protect Agent and each Lender from any such loss or damage.

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

To induce Agent and Lenders to enter into this Agreement and to make the Loans and other credit accommodations contemplated hereby, each Credit Party hereby represents and warrants to Agent and each Lender that (after giving effect to the Transactions):

Section 3.1 Existence and Power. Each Credit Party is an entity as specified on Schedule 3.1, is duly organized, validly existing and in good standing under the laws of the jurisdiction specified on Schedule 3.1 and no other jurisdiction, has the same legal name as it appears in such Credit Party's Organizational Documents and an organizational identification number (if any), in each case as specified on Schedule 3.1, and has all powers and all Permits necessary or desirable in the operation of its business as presently conducted or as proposed to be conducted, except where the failure to have such Permits could not

reasonably be expected to have a Material Adverse Effect. Each Credit Party is qualified to do business as a foreign entity in each jurisdiction in which it is required to be so qualified, which jurisdictions as of the

Closing Date are specified on Schedule 3.1, except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.1, no Credit Party (a) has had, over the five (5) year period preceding the Closing Date, any name other than its current name, or (b) was incorporated or organized under the laws of any jurisdiction other than its current jurisdiction of incorporation or organization.

Section 3.2 Organization and Governmental Authorization; No Contravention. The execution, delivery and performance by each Credit Party of the Operative Documents to which it is a party are within its powers, have been duly authorized by all necessary action pursuant to its Organizational Documents, require no further action by or in respect of, or filing with, any Governmental Authority and do not violate, conflict with or cause a breach or a default under (a)(i) any Law applicable to any Credit Party or (ii) any of the Organizational Documents of any Credit Party, or (b) any agreement or instrument binding upon it, except for such violations, conflicts, breaches or defaults as could not, with respect to clause (a)(i) or clause (b), reasonably be expected to have a Material Adverse Effect.

Section 3.3 Binding Effect. Each of the Operative Documents to which any Credit Party is a party constitutes a valid and binding agreement or instrument of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

Section 3.4 Capitalization. The authorized equity securities of each of the Credit Parties as of the Closing Date are as set forth on Schedule 3.4. All issued and outstanding equity securities of each of the Credit Parties are duly authorized and validly issued, fully paid, nonassessable, free and clear of all Liens other than those in favor of Agent for the benefit of Agent and Lenders, and such equity securities were issued in compliance with all applicable Laws. The identity of the holders of the equity securities of each of the Credit Parties and the percentage of their fully-diluted ownership of the equity securities of each of the Credit Parties as of the Closing Date is set forth on Schedule 3.4. No shares of the capital stock or other equity securities of any Credit Party, other than those described above, are issued and outstanding as of the Closing Date. Except as set forth on Schedule 3.4, as of the Closing Date there are no preemptive or other outstanding rights, options, warrants, conversion rights or similar agreements or understandings for the purchase or acquisition from any Credit Party of any equity securities of any such entity.

Section 3.5 Financial Information. All information delivered to Agent and pertaining to the financial condition of any Credit Party fairly presents the financial position of such Credit Party as of such date in conformity with GAAP (and as to unaudited financial statements, subject to normal year-end adjustments and the absence of footnote disclosures). Since the Petition Date, there has been no material adverse change in the business, operations, properties, prospects or condition (financial or otherwise) of any Credit Party.

Section 3.6 Litigation. Except as set forth on Schedule 3.6 as of the Closing Date, and except as hereafter disclosed to Agent in writing, there is no Litigation pending against, or to such Credit Party's knowledge threatened against or affecting, any Credit Party or, to such Credit Party's knowledge, any party to any Operative Document other than a Credit Party. There is no

Litigation pending in which an adverse decision could reasonably be expected to have a Material Adverse Effect or which in any manner draws into question the validity of any of the Operative Documents.

Section 3.7 Ownership of Property. Each Credit Party and each of its Subsidiaries is the lawful owner of, has good and marketable title to and is in lawful possession of, or has valid leasehold interests in, all properties and other assets (real or personal, tangible, intangible or mixed) material to its business and purported or reported to be owned or leased (as the case may be) by such Person.

Section 3.8 No Default. No Event of Default, or to such Credit Party's knowledge, Default, has occurred and is continuing. No Credit Party is in breach or default under or with respect to any contract, agreement, lease or other instrument to which it is a party or by which its property is bound or affected, which breach or default could reasonably be expected to have a Material Adverse Effect.

Section 3.9 Labor Matters. As of the Closing Date, there are no strikes or other labor disputes pending or, to any Credit Party's knowledge, threatened against any Credit Party. Hours worked and payments made to the employees of the Credit Parties have not been in violation of the Fair Labor Standards Act or any other applicable Law dealing with such matters. All payments due from the Credit Parties, or for which any claim may be made against any of them, on account of wages and employee and retiree health and welfare insurance and other benefits have been paid or accrued as a liability on their books, as the case may be, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which it is a party or by which it is bound.

Section 3.10 Regulated Entities. No Credit Party is an "investment company" or a company "controlled" by an "investment company" or a "subsidiary" of an "investment company," all within the meaning of the Investment Company Act of 1940.

Section 3.11 Margin Regulations. None of the proceeds from the Loans have been or will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" (as defined in Regulation U of the Federal Reserve Board), for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any "margin stock" or for any other purpose which might cause any of the Loans to be considered a "purpose credit" within the meaning of Regulation T, U or X of the Federal Reserve Board.

Section 3.12 Compliance With Laws; Anti-Terrorism Laws.

(a) Each Credit Party is in compliance with the requirements of all applicable Laws, except for such noncompliance which could not reasonably be expected to have a Material Adverse Effect.

(b) None of the Credit Parties and, to the knowledge of the Credit Parties, none of their Affiliates (i) is in violation of any Anti-Terrorism Law, (ii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of

evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, (iii) is a Blocked Person, or is controlled by a Blocked Person, (iv) is acting or will act for or on behalf of a Blocked Person, (v) is associated with, or will become associated with, a Blocked Person or (vi) is providing, or will provide, material, financial or technical support or other services to or in support of acts of terrorism of a Blocked Person. No Credit Party nor, to the knowledge of any Credit Party, any of its Affiliates or agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (B) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law or any Canadian Economic Sanctions and Export Control Laws.

(c) The representations and warranties in Section 3.12 shall not apply to any Canadian Credit Party, or to any director, officer, agent or employee of such Party, to the extent that they would result in a violation of or conflict with the Foreign Extraterritorial Measures (United States) Order, 1992.

Section 3.13 Taxes. (i) All Tax returns and other reports required by applicable law to be filed by any Credit Party have been timely filed and (ii) all Taxes imposed upon any Credit Party or any property of any Credit Party which have become due and payable on or prior to the date hereof have been paid, except (A) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization and paid in accordance with the Plan of Reorganization, and (B) Taxes subject to a Permitted Contest.

Section 3.14 Compliance with ERISA.

(a) Each ERISA Plan (and the related trusts and funding agreements) complies in form and in operation with, has been administered in compliance with, and the terms of each ERISA Plan satisfy, the applicable requirements of ERISA and the Code in all material respects. Each ERISA Plan which is intended to be qualified under Section 401(a) of the Code is so qualified, and the United States Internal Revenue Service has issued a favorable determination letter with respect to each such ERISA Plan which may be relied on currently. No Credit Party has incurred liability for any material excise tax under any of Sections 4971 through 5000 of the Code.

(b) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Credit Party and each Subsidiary is in compliance with the applicable provisions of ERISA and the provision of the Code relating to ERISA Plans and the regulations and published interpretations therein. During the thirty-six (36) month period prior to the (i) no steps have been taken to terminate any Pension Plan, and (ii) no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA. No condition exists or event or transaction has occurred

with respect to any Pension Plan which could result in the incurrence by any Credit Party of any material liability, fine or penalty. No Credit Party has incurred liability to the PBGC (other than for current premiums) with respect to

any employee Pension Plan. All contributions (if any) have been made on a timely basis to any Multiemployer Plan that are required to be made by any Credit Party or any other member of the Controlled Group under the terms of the plan or of any collective bargaining agreement or by applicable Law; no Credit Party nor any member of the Controlled Group has withdrawn or partially withdrawn from any Multiemployer Plan, incurred any withdrawal liability with respect to any such plan or received notice of any claim or demand for withdrawal liability or partial withdrawal liability from any such plan, and no condition has occurred which, if continued, could result in a withdrawal or partial withdrawal from any such plan, and no Credit Party nor any member of the Controlled Group has received any notice that any Multiemployer Plan is in reorganization, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of any excise tax, that any such plan is or has been funded at a rate less than that required under Section 412 of the Code, that any such plan is or may be terminated, or that any such plan is or may become insolvent.

Section 3.15 Consummation of Operative Documents; Brokers. Except for fees payable to Agent and/or Lenders, no broker, finder or other intermediary has brought about the obtaining, making or closing of the transactions contemplated by the Operative Documents, and no Credit Party has or will have any obligation to any Person in respect of any finder's or brokerage fees, commissions or other expenses in connection herewith or therewith.

Section 3.16 Related Transactions. All transactions contemplated by the Operative Documents to be consummated on or prior to the date hereof have been so consummated (including, without limitation, the disbursement and transfer of all funds in connection therewith) in all material respects pursuant to the provisions of the applicable Operative Documents, true and complete copies of which have been delivered to Agent, and in compliance with all applicable Law, except for such Laws the noncompliance with which would not reasonably be expected to have a Material Adverse Effect.

Section 3.17 Material Contracts. Except for the agreements set forth on Schedule 3.17(a), as of the Closing Date there are no Material Contracts. Schedule 3.17(b) sets forth, with respect to each real estate lease agreement to which any Credit Party is a party (as a lessee) as of the Closing Date, the address of the subject property and the annual rental (or, where applicable, a general description of the method of computing the annual rental). The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination in favor of any party to any Material Contract (other than any Credit Party), except any such termination which would not reasonably be expected to have a Material Adverse Effect.

Section 3.18 Compliance with Environmental Requirements; No Hazardous Materials. Except in each case as set forth on Schedule 3.18:

(a) no notice, notification, demand, request for information, citation, summons, complaint or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, or to such

Credit Party's knowledge, threatened by any Governmental Authority or other Person with respect to any (i) alleged violation by any Credit Party of any Environmental Law, (ii) alleged

failure by any Credit Party to have any Permits required in connection with the conduct of its business or to comply with the terms and conditions thereof, (iii) any generation, treatment, storage, recycling, transportation or disposal of any Hazardous Materials, or (iv) release of Hazardous Materials; and

(b) no property now owned or leased by any Credit Party and, to the knowledge of each Credit Party, no such property previously owned or leased by any Credit Party, to which any Credit Party has, directly or indirectly, transported or arranged for the transportation of any Hazardous Materials, is listed or, to such Credit Party's knowledge, proposed for listing, on the National Priorities List promulgated pursuant to CERCLA, or CERCLIS (as defined in CERCLA) or any similar state list or is the subject of federal, state or local enforcement actions or, to the knowledge of such Credit Party, other investigations which may lead to claims against any Credit Party for clean-up costs, remedial work, damage to natural resources or personal injury claims, including, without limitation, claims under CERCLA.

(c) For purposes of this Section 3.18, each Credit Party shall be deemed to include any business or business entity (including a corporation) that is, in whole or in part, a predecessor of such Credit Party.

Section 3.19 Intellectual Property. Each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property that is material to the condition (financial or other), business or operations of such Credit Party. All Intellectual Property existing as of the Closing Date which is issued, registered or pending with any United States or foreign Governmental Authority (including, without limitation, any and all applications for the registration of any Intellectual Property with any such United States or foreign Governmental Authority) and all licenses under which any Credit Party is the licensee of any such registered Intellectual Property (or any such application for the registration of Intellectual Property) owned by another Person are set forth on Schedule 3.19. Such Schedule 3.19 indicates in each case whether such registered Intellectual Property (or application therefor) is owned or licensed by such Credit Party, and in the case of any such licensed registered Intellectual Property (or application therefor), lists the name and address of the licensor and the name and date of the agreement pursuant to which such item of Intellectual Property is licensed and whether or not such license is an exclusive license and indicates whether there are any purported restrictions in such license on the ability to such Credit Party to grant a security interest in and/or to transfer any of its rights as a licensee under such license. Except as indicated on Schedule 3.19, the applicable Credit Party is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each such registered Intellectual Property (or application therefor) purported to be owned by such Credit Party, free and clear of any Liens and/or licenses in favor of third parties or agreements or covenants not to sue such third parties for infringement. All registered Intellectual Property of each Credit Party is duly and properly registered, filed or issued in the appropriate office and jurisdictions for such registrations, filings or issuances, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect. No Credit Party is party to, nor bound by, any material license or other agreement

with respect to which any Credit Party is the licensee that prohibits or otherwise restricts such Credit Party from granting a security interest in such Credit Party's interest in such license or agreement or other property. To such Credit Party's knowledge, each Credit Party conducts its business

without infringement or claim of infringement of any Intellectual Property rights of others and there is no infringement or claim of infringement by others of any Intellectual Property rights of any Credit Party, which infringement or claim of infringement could reasonably be expected to have a Material Adverse Effect.

Section 3.20 Solvency. As of (a) the Closing Date, the Borrower and each other Credit Party is (on a consolidated basis), and immediately after giving effect to the Transactions to occur on the Closing Date, is Solvent and (b) the date any Accounts of a Canadian Credit Party are initially included on any Borrowing Base Certificate, such Canadian Credit Party is, on a stand-alone basis, not an “insolvent person” as defined in the Bankruptcy and Insolvency Act (Canada).

Section 3.21 Full Disclosure. None of the written information (financial or otherwise) (other than any projections, budgets, pro forma financial statements, estimates and other forward-looking information (collectively, “**Projections**”), information of a general economic nature and third party reports and memoranda) concerning the Credit Parties, their Subsidiaries and the transactions contemplated hereby furnished by or on behalf of any Credit Party to Agent or any Lender in connection with the consummation of the transactions contemplated by the Operative Documents, when furnished and taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which such statements were made (in each case, after giving effect to all supplements and updates thereto from time to time). All Projections delivered to Agent and the Lenders by Borrowers (or their agents) have been prepared on the basis of the assumptions stated therein and such assumptions are believed by such Borrower to be fair and reasonable as of the date furnished in light of current business conditions; *provided, however*, that Borrowers can give no assurance that such Projections will be attained, such Projections are subject to significant uncertainties and contingencies many of which are beyond the Borrowers’ control, and actual results may vary materially.

Section 3.22 Canadian Pension Plans. All obligations of the Credit Parties (including fiduciary, funding, investment and administration obligations) required to be performed in connection with any Canadian Pension Plan and the funding agreements relating thereto have been performed on a timely basis. All contributions or premiums required to be made or paid by the Credit Parties to any Canadian Pension Plan have been made on a timely basis in accordance with the terms of such plans and all applicable laws. No event has occurred which could cause the loss of registered status of any Canadian Pension Plan. No fact or situation that may reasonably be expected to result in a Material Adverse Effect exists in connection with any Canadian Pension Plan. No Credit Party nor any of its Subsidiaries has any withdrawal liability in connection with a Canadian Pension Plan which could reasonably be expected to have a Material Adverse Effect. No Lien has arisen, choate or inchoate, in respect of any Credit Party or its Subsidiaries or its or their property in connection with any Canadian Pension Plan (save for contribution amounts not yet due). No Credit Party contributes to, sponsors or maintains, or has contributed to, sponsored or maintained (in the last 5 years), a Canadian Defined Benefit Plan. No Canadian Pension Event has occurred or is reasonably likely to occur.



Section 3.23 Subsidiaries. Credit Parties do not own any stock, partnership interests, limited liability company interests or other equity securities except for Permitted Investments.

Section 3.24 [Reserved].

Section 3.25 Borrowing Base Collateral. As to each Account that is identified by the Credit Parties as an Eligible Account in a Borrowing Base Certificate submitted to Agent, such Account is, (i) a bona fide existing payment obligation of the applicable Account Debtor created by the sale and delivery of Inventory or the rendition of services to such Account Debtor in the Ordinary Course of Business of the applicable Credit Party, (ii) owed to the applicable Credit Party without any known defenses, disputes, offsets, counterclaims, or rights of return or cancellation, and (iii) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Billed Account, Eligible Exar Billed Account, Eligible Unbilled Account, Eligible Exar Unbilled Account, or Eligible Investment Grade Billed Account, as the case may be.

ARTICLE 4 - AFFIRMATIVE COVENANTS

Each Credit Party agrees that, so long as any Credit Exposure exists:

Section 4.1 Financial Statements and Other Reports. The Borrower Representative shall deliver to Agent, on behalf of itself and each other Credit Party:

(a) as soon as available, but no later than (i) thirty (30) days after the last day of each ~~month~~calendar month (other than the last month of any fiscal quarter) and (ii) forty-five (45) days after the last day of each of March, June, September and December, a company prepared consolidated balance sheet, cash flow and income statement (including year-to-date results), in each case covering the Borrower Representative's and its Consolidated Subsidiaries' consolidated operations during the period, prepared under GAAP, consistently applied, setting forth in comparative form the corresponding figures as at the end of the corresponding month of the previous fiscal year and the projected figures for such period based upon the projections required hereunder, all in reasonable detail, certified by a Responsible Officer and in a form acceptable to Agent; *provided* that solely for the period commencing as of the Closing Date through and including December 31, 2025, the cash flow statements may be delivered quarterly;

(b) together with the financial reporting package described in (a) above, evidence of payment and satisfaction of all payroll, withholding and similar taxes due and owing by the Credit Parties with respect to the payroll period(s) occurring during such month;

(c) (x) prior to any initial public offering with respect to Borrower's equity interests as soon as available, but no later than one hundred twenty (120) days after the last day of Borrower's fiscal year, audited consolidated

financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Agent in its reasonable discretion (except for a qualification solely related to a going concern or with respect to any Debt which matures within twelve months from the time such opinion

is delivered) or (y) following any such initial public offering, within fifteen (15) days after the time period specified in the SEC's rules and regulations for non-accelerated filers, annual reports of the Public Reporting Entity for such fiscal year containing the information that would have been required to be contained in an annual report on Form 10-K (or any successor or comparable form) if the Public Reporting Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC;

(d) within five (5) days of delivery or filing thereof, copies of all statements, reports and notices made available to the Borrower Representative's security holders or to any holders of Subordinated Debt and copies of all reports and other filings made by a Credit Party with any stock exchange on which any securities of any Credit Party are traded and/or the SEC;

(e) a prompt written notice of any legal actions pending against any Credit Party or any Subsidiaries thereof that could reasonably be expected to result in damages or costs to any Credit Party or any of Subsidiaries thereof equal to or in excess of \$10,000,000 or may be reasonably expected to result in a Material Adverse Effect;

(f) prompt written notice of an event that materially and adversely affects the value of any material Intellectual Property owned by a Credit Party;

(g) promptly after the same become available, copies of any amendments, waivers or other modifications of or relating to the Term Loan Facility;

(h) budgets, sales projections, operating plans and other financial information and information, reports or statements regarding the Credit Parties, their business and the Collateral as Agent may from time to time reasonably request;

(i) along with the monthly reports delivered pursuant to Section 4.1(a) above, evidence reasonably satisfactory to Agent of each Credit Party's compliance with any payment plan or arrangement with any taxing authority with respect to Priority Tax Claims (as defined in the Plan of Reorganization), including copies of payment confirmations, material correspondence with taxing authorities and a schedule of outstanding Priority Tax Claims;

(j) as soon as available, but no later than five (5) days after the last day of each fiscal quarter, an updated Schedule 1.1 identifying the credit ratings of Investment Grade Account Debtors used in determination of Eligible Investment Grade Billed Accounts, in form and substance reasonably satisfactory to Agent;

(k) ~~within thirty (30) days after the last day of each month;~~
together with the delivery of the monthly financial statements described in clause
(a) above, a duly completed Compliance Certificate signed by a Responsible
Officer setting forth calculations showing compliance with the financial covenants
set forth in this Agreement;

(l) promptly upon their becoming available, copies of all Swap Contracts and Material Contracts, in each case that are required to be publicly filed; and

(m) within twenty (20) days after the last day of each month, a duly completed Borrowing Base Certificate signed by a Responsible Officer, with aged listings of accounts receivable and accounts payable (by invoice date); provided that Borrower shall deliver such Borrowing Base Certificates as soon as available, but in any event no later than the second (2nd) Business Day of each week, in arrears, following the occurrence and during the continuance of a Cash Dominion Period; and provided, further, that Borrower shall deliver a new “roll-forward” Borrowing Base Certificate as required pursuant to Exhibit D (or, at Borrower’s option, a complete Borrowing Base Certificate) concurrently with any Notice of Borrowing.

At the option of the Borrowers, the Borrowers may make available to Agent and such requesting Lenders the information required to be provided pursuant to clause (c) of the immediately preceding paragraph by posting such information to its website (or the website of any of the Borrower Representative’s parent companies, including the Public Reporting Entity) on IntraLinks or any comparable online data system or website to which each Lender and Agent have access; provided, that the Borrower Representative shall notify (which may be by electronic mail) Agent of the posting of any such documents and provide to Agent by electronic mail electronic versions (i.e., soft copies) of such documents. If at any time the Borrowers or any direct or indirect parent of the Borrowers has made a good faith determination to file a registration statement with the SEC with respect to an initial public offering of such entity’s equity interests, the Borrowers will not be required to disclose any information or take any actions that, in the good faith view of the Borrowers would violate the securities laws or the SEC’s “gun jumping” rules.

Notwithstanding the foregoing, (A) neither the Credit Parties nor another Public Reporting Entity will be required to deliver any information, certificates or reports that would otherwise be required by (i) Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 or 308 of Regulation S-K or (ii) Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-generally accepted accounting principles financial measures contained therein, (B) such reports will not be required to contain financial information required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X or include any exhibits or certifications required by Form 10-K, Form 10-Q or Form 8-K (or any successor or comparable forms) or related rules under Regulation S-K and (C) such reports shall not be required to present compensation or beneficial ownership information.

The financial statements, information and other documents required to be provided as described in clause (c) of the first paragraph of this Section 4.1 may be those of (i) the Borrower Representative and its Subsidiaries (on a combined basis) or (ii) any direct or indirect parent of all of the Credit Parties (any such entity, a “**Public Reporting Entity**”); provided, that, if the financial information so delivered relates to such direct or indirect parent of the Credit Parties the same is accompanied by consolidating financial statements

(including statements of cash flows) that explain in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Borrower Representative and its Subsidiaries on a standalone basis, on the other hand, for the applicable period. Notwithstanding

~~100~~

any of the foregoing herein, to the extent any of the Credit Parties' parent companies is subject to the reporting requirements under Section 13 or 15(d) of the Exchange Act, such information described in this paragraph shall be included in the Form 10-K reports of the Public Reporting Entity described in clause (c) of the first paragraph of this Section 4.1 filed with the SEC.

Notwithstanding the foregoing, the Credit Parties will be deemed to have delivered such reports and information referred to in this Section 4.1 to the Lenders and Agent for all purposes of this Agreement if the Credit Parties or another Public Reporting Entity has filed such reports with the SEC via the EDGAR filing system (or any successor system), and such reports are publicly available. In addition, except as required by the last sentence of the immediately preceding paragraph, the requirements of this Section 4.1 shall be deemed satisfied and the Credit Parties will be deemed to have delivered such reports and information referred to this Section 4.1 to Agent, holders, prospective investors, market makers and securities analysts for all purposes of this Agreement by the posting of reports and information that would be required to be provided on the Borrower's website (or that of any of the Credit Parties' parent companies, including the Public Reporting Entity). Agent shall have no obligation to monitor whether the Credit Parties post such reports, information and documents on the Borrower's website (or that of any of the Credit Parties' parent companies, including the Public Reporting Entity) or the SEC's EDGAR service, or collect or re-post any such information from any Credit Party (or any of the Credit Parties' parent companies) website or the SEC's EDGAR service.

Section 4.2 Payment and Performance of Obligations. Each Credit Party (a) will pay and discharge, and cause each Subsidiary to pay and discharge, on a timely basis as and when due, in accordance with Applicable Law, all of their respective obligations and liabilities, except for such obligations and/or liabilities (i) that may be the subject of a Permitted Contest or (ii) the nonpayment or nondischarge of which could not reasonably be expected to have a Material Adverse Effect or result in a Lien against any Collateral, except for Permitted Liens, (b) without limiting anything contained in the foregoing clause (a), pay all amounts due and owing in respect of Taxes (including without limitation, payroll and withholdings tax liabilities) on a timely basis as and when due, and in any case prior to the date on which any material fine, penalty, interest, late charge or loss may be added thereto for nonpayment thereof, except (i) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization or otherwise satisfied in accordance with the Plan of Reorganization (provided, that, for the avoidance of doubt, the Credit Parties shall pay Taxes to the extent required under and in accordance with the Plan of Reorganization), and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP, (c) will maintain, and cause each Subsidiary to maintain, in accordance with GAAP, appropriate reserves for the accrual of all of their respective obligations and liabilities, and (d) will not breach or permit any Subsidiary to breach, or permit to exist any default under, the terms of any lease, commitment, contract, instrument or obligation to which it is a party, or by which its properties or assets are bound, except for such breaches or defaults which could not reasonably be expected to have a Material Adverse Effect.

Section 4.3 Maintenance of Existence. Each Credit Party will preserve, renew and maintain in full force and effect and in good standing under the laws of its jurisdiction of organization, and will cause each Subsidiary to preserve, renew and keep in full force and effect

~~101~~

and in good standing under the laws of its jurisdiction of organization, their respective existence and (except in the case failure to do so could not reasonably be expected to have a Material Adverse Effect except solely with respect to any jurisdiction other than the jurisdiction of organization of such Credit Party or Subsidiary) their respective rights, privileges and franchises necessary or desirable in the normal conduct of business.

Section 4.4 Maintenance of Property; Insurance.

(a) Each Credit Party will keep, and will cause each Subsidiary to keep, all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect. If all or any part of the Collateral useful or necessary in its business, or upon which any Borrowing Base is calculated, becomes damaged or destroyed, each Credit Party will, and will cause each Subsidiary to, promptly and completely repair and/or restore the affected Collateral in a good and workmanlike manner (except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect), regardless of whether Agent agrees to disburse insurance proceeds or other sums to pay costs of the work of repair or reconstruction.

(b) Upon completion of any Permitted Contest, Credit Parties shall, and will cause each Subsidiary to, promptly pay the amount due, if any, and deliver to Agent proof of the completion of the contest and payment of the amount due, if any (except in each case to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect), following which Agent shall return the security, if any, deposited with Agent pursuant to the definition of Permitted Contest.

(c) Each Credit Party will maintain (i) casualty insurance on all real and personal property on an all risks basis (including the perils of flood, windstorm and quake), covering the repair and replacement cost of all such property and coverage, business interruption and rent loss coverages with extended period of indemnity (for the period required by Agent from time to time) and indemnity for extra expense, in each case without application of coinsurance and with agreed amount endorsements, (ii) general and professional liability insurance (including products/completed operations liability coverage), and (iii) such other insurance coverage in such amounts and with respect to such risks as Agent may request from time to time, pursuant to the Insurance Requirements attached hereto as Schedule 4.4; *provided, however*, that, in no event shall such insurance be in amounts or with coverage less than, or with carriers with qualifications inferior to, any of the insurance or carriers in existence as of the Closing Date (or required to be in existence after the Closing Date under a Financing Document). All such insurance shall be provided by insurers having an A.M. Best policyholders rating reasonably acceptable to Agent.

(d) On or prior to the Closing Date (subject to Section 7.4), and at all times thereafter, each Credit Party will cause Agent to be named as an additional insured, assignee and lender loss payee (which shall include, as applicable, identification as mortgagee), as applicable, on each insurance policy required to be maintained pursuant to

~~102~~

this Section 4.4 pursuant to endorsements in form and substance acceptable to Agent. Credit Parties shall deliver to Agent and the Lenders (i) on the Closing Date (subject to Section 7.4), a certificate from Credit Parties' insurance broker dated such date showing the amount of coverage as of such date, and that if all or any part of such policy is canceled, terminated or expires, the insurer will forthwith give notice thereof to each additional insured, assignee and loss payee and that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by each additional insured, assignee and loss payee of written notice thereof, (ii) upon the request of any Lender through Agent from time to time full information as to the insurance carried, (iii) within five (5) days of receipt of notice from any insurer, a copy of any notice of cancellation, nonrenewal or material change in coverage from that existing on the date of this Agreement, (iv) forthwith, notice of any cancellation or nonrenewal of coverage by any Credit Party, and (v) at least 60 days prior to expiration of any policy of insurance, evidence of renewal of such insurance upon the terms and conditions herein required.

(e) In the event any Credit Party fails to provide Agent with evidence of the insurance coverage required by this Agreement, Agent may purchase insurance at Credit Party's expense to protect Agent's interests in the Collateral. This insurance may, but need not, protect such Credit Party's interests. The coverage purchased by Agent may not pay any claim made by such Credit Party or any claim that is made against such Credit Party in connection with the Collateral. Such Credit Party may later cancel any insurance purchased by Agent, but only after providing Agent with evidence that such Credit Party has obtained insurance as required by this Agreement. If Agent purchases insurance for the Collateral, Credit Parties will be responsible for the costs of that insurance to the fullest extent provided by law, including interest and other charges imposed by Agent in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations. The costs of the insurance may be more than the cost of insurance such Credit Party is able to obtain on its own.

Section 4.5 Compliance with Laws and Material Contracts. Each Credit Party will comply, and cause each Subsidiary to comply, with the requirements of all applicable Laws and Material Contracts, except to the extent that failure to so comply could not reasonably be expected to have a Material Adverse Effect.

Section 4.6 Inspection of Property, Books and Records. Each Credit Party will keep, and will cause each Subsidiary to keep, proper books of record substantially in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities; and will permit, and will cause each Subsidiary to permit, at the sole cost of the applicable Credit Party or any applicable Subsidiary, representatives of Agent and of any Lender to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective operations

and the Collateral, to verify the amount and age of the Accounts, the identity and credit of the respective Account Debtors, to review the billing practices of Credit Parties and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants as often

~~103~~

as may reasonably be desired. In the absence of a Specified Default, Credit Parties shall not be required to reimburse Agent pursuant to this Section 4.6 more than ~~one~~one (1) time per fiscal year (or, solely with respect to the 2026 fiscal year, two (2) times), and shall give the applicable Credit Party or any applicable Subsidiary commercially reasonable prior notice of such exercise, and subject to the aforesaid limitation absent a Specified Default, the Credit Parties shall be responsible for all documented fees, expenses and other costs pursuant to Section 2.2(i). At any time following the occurrence and during the continuance of a Specified Default, Agent may exercise its rights under this Section 4.6, without prior notice.

Section 4.7 Use of Proceeds. Credit Parties shall use the proceeds of Revolving Loans solely for (a) transaction fees incurred in connection with the Financing Documents and the refinancing on the Closing Date of Debt, (b) for working capital and general corporate needs of Borrowers and their Subsidiaries and (c) to effect the Transactions in accordance with the Plan of Reorganization, to make payments and distributions under the Plan of Reorganization, and to pay the Transaction Costs. No portion of the proceeds of the Loans will be used for family, personal, agricultural or household use.

Section 4.8 Notices of Litigation and Defaults. Credit Parties will give prompt written notice to Agent (a) of any litigation or governmental proceedings pending or threatened (in writing) against Borrowers or any other Credit Party which would reasonably be expected to have a Material Adverse Effect with respect to Borrowers or any other Credit Party or which in any manner calls into question the validity or enforceability of any Financing Document, (b) upon any Credit Party becoming aware of the existence of any Default or Event of Default, (c) if any Credit Party is in breach or default under or with respect to any Material Contract, or if any Credit Party is in breach or default under or with respect to any other contract, agreement, lease or other instrument to which it is a party or by which its property is bound or affected, which breach or default could reasonably be expected to have a Material Adverse Effect, (d) of any strikes or other labor disputes pending or, to any Credit Party's knowledge, threatened against any Credit Party, (e) if there is any infringement or claim of infringement by any other Person with respect to any Intellectual Property rights of any Credit Party, or if there is any claim by any other Person that any Credit Party in the conduct of its business is infringing on the Intellectual Property Rights of others, which in any such case could reasonably be expected to have a Material Adverse Effect, (f) the occurrence of any "default" or "event of default" under and as defined in the Term Loan Agreement, and (g) of all returns, recoveries, disputes and claims that involve more than the Threshold Amount. Each Credit Party represents and warrants that Schedule 4.9 sets forth a complete list of all matters existing as of the Closing Date for which notice could be required under this Section and all litigation or governmental proceedings pending or threatened (in writing) against any Credit Party as of the Closing Date.

Section 4.9 Hazardous Materials; Remediation.

(a) If any release or disposal of Hazardous Materials shall occur or shall have occurred on any real property or any other assets of any Borrower or any other Credit Party, such Borrower or Credit Party will cause, or direct the applicable Subsidiary to cause, the prompt containment and removal of

such Hazardous Materials and the remediation of such real property or other assets as is necessary to comply with all Environmental Laws and to preserve the value of such real property or other assets.

104

Without limiting the generality of the foregoing, each Credit Party shall, and shall cause each other Subsidiary to, comply with each Environmental Law requiring the performance at any real property by any Borrower or any other Credit Party of activities in response to the release or threatened release of a Hazardous Material.

(b) Credit Parties will provide Agent within thirty (30) days after written demand therefor with a bond, letter of credit or similar financial assurance evidencing to the reasonable satisfaction of Agent that sufficient funds are available to pay the cost of removing, treating and disposing of any Hazardous Materials or Hazardous Materials Contamination and discharging any assessment which may be established on any property as a result thereof, such demand to be made, if at all, upon Agent's reasonable business determination that the failure to remove, treat or dispose of any Hazardous Materials or Hazardous Materials Contamination, or the failure to discharge any such assessment could reasonably be expected to have a Material Adverse Effect.

Section 4.10 Further Assurances.

(a) Each Credit Party will, and will cause each Subsidiary to, at its own cost and expense, promptly and duly take, execute, acknowledge and deliver all such further acts, documents and assurances as may from time to time be necessary or as Agent or the Required Lenders may from time to time reasonably request in order to carry out the intent and purposes of the Financing Documents and the transactions contemplated thereby, including all such actions to establish, create, preserve, protect and perfect a first priority Lien (subject only to Permitted Liens and to the ABL Intercreditor Agreement) in favor of Agent for itself and for the benefit of the Lenders on the Collateral (including Collateral acquired after the date hereof). Without limiting the generality of the foregoing, (x) Credit Parties shall, at the time of the delivery of any Compliance Certificate disclosing the acquisition by an Credit Party of any registered Intellectual Property or application for the registration of Intellectual Property, deliver to Agent a duly completed and executed supplement to the applicable Credit Party's Patent Security Agreement or Trademark Security Agreement in the form of the respective Exhibit thereto, and (y) at the request of Agent, following the disclosure by Credit Parties on any Compliance Certificate of the acquisition by any Credit Party of any rights under a license as a licensee with respect to any registered Intellectual Property or application for the registration of any Intellectual Property owned by another Person, Credit Parties shall execute any documents requested by Agent to establish, create, preserve, protect and perfect a first priority lien in favor of Agent (subject only to Permitted Liens and to the ABL Intercreditor Agreement), to the extent legally possible, in such Credit Party's rights under such license.

(b) Upon receipt of an affidavit of an authorized representative of Agent or a Lender as to the loss, theft, destruction or mutilation of any Note or any other Financing Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or

other applicable Financing Document, Credit Parties will issue, in lieu thereof, a replacement Note or other applicable Financing Document, dated the date of such lost, stolen, destroyed or

105

mutilated Note or other Financing Document in the same principal amount thereof and otherwise of like tenor.

(c) Upon the formation or acquisition of a new Subsidiary (other than an Excluded Subsidiary), Credit Parties shall, within ten (10) Business Days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) Agent (in each case acting at the direction of the Required Lenders)) after such formation or acquisition, (i) pledge, have pledged or cause or have caused to be pledged to Agent (or to the Term Agent as bailee) pursuant to a pledge agreement in form and substance satisfactory to Agent, all of the outstanding shares of equity interests or other equity interests of such new Subsidiary owned directly or indirectly by any Credit Party, along with undated stock or equivalent powers for such certificates, executed in blank; (ii) unless Agent shall agree otherwise in writing, cause the new Subsidiary to take such other actions (including entering into or joining any Security Documents) as are necessary or advisable in the reasonable opinion of Agent in order to grant Agent, acting on behalf of the Lenders, a first priority Lien on all real and personal property of such Subsidiary in existence as of such date and in all after acquired property (subject only to Permitted Liens and to the ABL Intercreditor Agreement), which first priority Liens are required to be granted pursuant to this Agreement; (iii) unless Agent shall agree otherwise in writing, cause such new Subsidiary to become a Guarantor of the obligations of Credit Parties hereunder and under the other Financing Documents pursuant to a Guarantee Supplement; and (iv) cause the new Subsidiary to deliver certified copies of such Subsidiary's certificate or articles of incorporation, together with good standing certificates, by-laws (or other operating agreement or governing documents), resolutions of the Board of Directors or other governing body, approving and authorize the execution and delivery of the Security Documents, incumbency certificates and to execute and/or deliver such other documents and legal opinions or to take such other actions as may be requested by Agent, in each case, in form and substance satisfactory to Agent.

Notwithstanding the foregoing, no Excluded Subsidiary shall be required to become a Guarantor hereunder (and, as such, shall not be required to deliver the documents required by this clause (c) above); provided, however, that (I) if the equity interests of a foreign Subsidiary that is an Excluded Subsidiary are owned by a Credit Party, such Credit Party shall deliver all such documents, instruments, agreements (including, without limitation, at the reasonable request of Agent, a pledge agreement governed by the laws of the jurisdiction of the organization of such Excluded Subsidiary, in form and substance satisfactory to Agent) and certificates representing such equity interests to Agent, and take all commercially reasonable actions reasonably requested by Agent or otherwise necessary to grant and to perfect a first-priority Lien (subject to Permitted Liens) in favor of Agent, in 100% of all equity interests of such foreign Subsidiary owned by such Credit Party, and (II) promptly and in any event within 20 days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) Agent (in each case acting at the direction of the Required

Lenders)) after the effectiveness of any amendment of the Internal Revenue Code to allow for 100% of the voting equity interests of such foreign Subsidiary to be pledged to Agent without material adverse tax consequences to the Credit Parties and their Subsidiaries, 100% of such voting equity interests shall be pledged

106

pursuant to this clause (c). For purposes hereof, Subsidiaries incorporated, formed or organized under the laws of Canada or any province or territory thereof shall not be considered foreign Subsidiaries.

Section 4.11 [Reserved].

Section 4.12 Power of Attorney. After the occurrence and during the continuance of an Event of Default, each of the authorized representatives of Agent is hereby irrevocably made, constituted and appointed the true and lawful attorney for each Credit Party (without requiring any of them to act as such) with full power of substitution to do the following: (a) endorse the name of each Credit Party upon any and all checks, drafts, money orders, and other instruments for the payment of money that are payable to each Credit Party and constitute collections on such Credit Party's Accounts; (b) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower to perform the same and Borrower has failed to take such action, execute in the name of any Credit Party any schedules, assignments, instruments, documents, and statements that Credit Parties are obligated to give Agent under this Agreement; (c) take any action Credit Parties are required to take under this Agreement; (d) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower to perform the same and Borrower has failed to take such action, do such other and further acts and deeds in the name of Credit Parties that Agent may deem necessary or desirable to enforce any Account or other Collateral or perfect Agent's security interest or Lien in any Collateral; and (e) do such other and further acts and deeds in the name of Credit Parties that Agent may deem necessary or desirable to enforce its rights with regard to any Account or other Collateral. This power of attorney shall be irrevocable and coupled with an interest.

Section 4.13 Borrowing Base Collateral Administration.

(a) All data and other information relating to Accounts or other intangible Collateral shall at all times be kept by Credit Parties, at their respective principal offices and shall not be moved from such locations without (i) providing prior written notice to Agent, and (ii) obtaining the prior written consent of Agent, which consent shall not be unreasonably withheld.

(b) Credit Parties shall provide prompt written notice to each Person who either is currently an Account Debtor or becomes an Account Debtor at any time following the date of this Agreement that directs each Account Debtor to make payments into the Lockbox, and hereby authorizes Agent, upon Credit Parties' failure to send such notices within ten (10) days after the date of this Agreement (or ten (10) days after the Person becomes an Account Debtor), to send any and all similar notices to such Person. Agent reserves the right to notify Account Debtors that Agent has been granted a Lien upon all Accounts.

Section 4.14 Maintenance of Management. Borrower will cause its business to be continuously managed by its present chief executive officer and chief financial officer or such other individuals serving in such capacities as shall be reasonably satisfactory to Agent.

Borrower will notify Agent promptly in writing of any change in its board of directors or executive officers.

ARTICLE 5 - NEGATIVE COVENANTS

Each Credit Party agrees that, so long as any Credit Exposure exists:

Section 5.1 Debt; Contingent Obligations. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, incur, assume, guarantee or otherwise become or remain directly or indirectly liable with respect to, any Debt, except for Permitted Debt. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, assume, incur or suffer to exist any Contingent Obligations, except for Permitted Contingent Obligations.

Section 5.2 Liens. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except for Permitted Liens.

Section 5.3 Restricted Distributions. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, declare, order, pay, make or set apart any sum for any Restricted Distribution, except for Permitted Distributions.

The Borrowers, in their sole discretion, may classify any Permitted Distribution or Permitted Investment as being made in part under one of the clauses or subclauses of the definitions of “Permitted Distribution” and “Permitted Investments” and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section 5.3 to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (i), (k), (p) and (q) of the definition of “Permitted Investments.”

Section 5.4 Restrictive Agreements. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) enter into or assume any agreement (other than the Financing Documents, the Term Loan Documents, the Exit Notes and the B. Riley Credit Agreement (and extensions, modifications and replacements of any of the foregoing that are not materially more restrictive with respect to dividend and payment restrictions), any agreement or instrument of a Person acquired by a Credit Party or a Subsidiary in existence at the time of such acquisition (which restriction is not applicable to any Person, or the assets of any Person, other than the Person, or the assets of the Person, so acquired), any secured Permitted Debt that limits the right of the debtor to dispose of the assets securing such Debt, any agreements for purchase money debt permitted under clause (c) of the definition of Permitted Debt, and any customary restrictions and conditions contained in agreements relating to the sale or other disposition of assets pending such sale or other disposition) prohibiting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or (b) create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind (except as provided by the Financing Documents, the Term Loan Documents, the Exit Notes and the B. Riley Credit Agreement (and extensions, modifications and replacements of any of the foregoing that are

not materially more restrictive with respect to dividend and payment restrictions)), any agreement or instrument of a Person acquired by a Credit Party or a Subsidiary in existence at the time of such acquisition (which restriction is not applicable to any Person, or

108

the assets of any Person, other than the Person, or the assets of the Person, so acquired), any secured Permitted Debt that limits the right of the debtor to dispose of the assets securing such Debt, any agreements for purchase money debt permitted under clause (c) of the definition of Permitted Debt and customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business or consistent with industry norm), on the ability of any Subsidiary to: (i) pay or make Restricted Distributions to any Credit Party or any Subsidiary; (ii) pay any Debt owed to any Credit Party or any Subsidiary; (iii) make loans or advances to any Borrower or any Subsidiary; or (iv) transfer any of its property or assets to any Credit Party or any Subsidiary.

Section 5.5 Payments and Modifications of Subordinated Debt. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) declare, pay, make or set aside any amount for payment in respect of Subordinated Debt, except for payments made in full compliance with and expressly permitted under the Subordination Agreement and payments permitted by Section 5.3, (b) amend or otherwise modify the terms of any Subordinated Debt, except for amendments or modifications made in full compliance with the Subordination Agreement, (c) declare, pay, make or set aside any amount for payment in respect of any Debt hereinafter incurred that, by its terms, or by separate agreement, is payment subordinated to the Obligations, except for payments made in full compliance with and expressly permitted under the subordination provisions applicable thereto and payments permitted by Section 5.3, or (d) amend or otherwise modify the terms of any such Debt if the effect of such amendment or modification is to (i) increase the interest rate or fees on, or change the manner or timing of payment of, such Debt, (ii) accelerate or shorten the dates upon which payments of principal or interest are due on, or the principal amount of, such Debt, (iii) change in a manner adverse to any Credit Party or Agent any event of default or add or make more restrictive any covenant with respect to such Debt, (iv) change the prepayment provisions of such Debt or any of the defined terms related thereto, (v) change the subordination provisions thereof (or the subordination terms of Section 12.7 hereof or any other guarantee thereof), or (vi) change or amend any other term if such change or amendment would materially increase the obligations of the obligor or confer additional material rights on the holder of such Debt in a manner adverse to any Credit Party, any Subsidiaries, Agents or Lenders. Credit Parties shall, prior to entering into any such amendment or modification, deliver to Agent reasonably in advance of the execution thereof, any final or execution form copy thereof.

Section 5.6 Consolidations, Mergers and Sales of Assets; Change in Control. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) consolidate or merge or amalgamate with or into any other Person unless the surviving Person is such Credit Party (or if no Credit Party is a party thereto, the surviving person is a Guarantor, or if no Credit Party is a party thereto, the surviving Person is such Subsidiary), or (b) consummate any Asset Dispositions other than Permitted Asset Dispositions. No Credit Party will suffer or permit to occur any Change in Control.

Section 5.7 **Purchase of Assets, Investments.** No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) acquire or enter into any agreement to acquire any assets other than in the Ordinary Course of Business or as permitted under the definition of

109

Permitted Investments; or (b) acquire or own or enter into any agreement to acquire or own any Investment in any Person other than Permitted Investments.

The Borrowers, in their sole discretion, may classify any Permitted Investment as being made in part under one of the clauses or subclauses of the definitions of “Permitted Distribution” and “Permitted Investments” and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section 5.7 to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (i), (k), (p) and (q) of the definition of “Permitted Investments.”

Section 5.8 Transactions with Affiliates. Except as otherwise disclosed on Schedule 5.8, and except for transactions which contain terms that are no less favorable to the applicable Credit Party or any Subsidiary, as the case may be, than those which might be obtained from a third party not an Affiliate of any Credit Party or that do not involve consideration in excess of \$5,000,000, no Credit Party will, or will permit any Subsidiary to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of any Credit Party (each, an “**Affiliate Transaction**”), other than:

(a) any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25,000,000, in connection with which the Credit Parties deliver to Agent (i) a resolution adopted in good faith by a majority of disinterested directors of the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions) approving such Affiliate Transaction and set forth in an officer’s certificate certifying that such Affiliate Transaction complies with the above requirements of this Section 5.8 or (ii) if there are no directors on the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions) that are disinterested with respect to such transaction(s), a letter from an independent financial advisor stating that such transaction is fair to the applicable Credit Party or such Subsidiary from a financial point of view;

(b) the Transactions, the payment of professional fees and expenses in connection therewith (*provided* that, with respect to the payment of professional fees and expenses of Cleary Gottlieb Steen & Hamilton LLP and Ropes & Gray LLP, such payment shall be made as follows and on the following dates: (i) on the Closing Date, each legal advisor shall be paid a sum equal to (x) one third of the estimated amount of such advisor’s professional fees and expenses as set forth on the funds flow delivered by the Borrower as of the Closing Date, *plus* (y) 50% of any amount that is in excess of \$25,900,000 retained by the Borrower on the Closing Date (provided that such excess ~~amount~~ amount shall not exceed \$1,000,000), (ii) on the date that is forty-five (45) days following the Closing Date, each legal advisor shall be paid a sum equal to 50% of the outstanding amount of such advisor’s total professional fees and expenses, and (iii) on the date that is ninety (90) days following the Closing Date, each legal advisor

shall be paid a sum equal to the remaining 50% of each legal advisor's total ~~professoinal~~professional fees and expenses), the issuance of equity interests (other than disqualified stock) of the Borrowers to any Person, and any Affiliate Transaction that

110

constitutes a Permitted Distribution, a Permitted Investment or a Permitted Asset Disposition;

(c) any Affiliate Transaction the only parties thereto constitute Credit Parties;

(d) (i) sales or contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility ~~in effect as of the date hereof~~ amended and restated by that certain Exar Facility Amendment or (ii) the purchase of participation interests by any Credit Party in the B. Riley Credit Agreement;

(e) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the applicable Credit Party, any Subsidiary, or any direct or indirect parent of the Credit Parties in the ordinary course of business, provided that the payment of any such fees or reimbursements to, on behalf of, or for the account of, shareholders of Parent, Affiliates of Parent or any of their respective Affiliates (other than the Parent and its Subsidiaries) shall not be permitted other than payment or reimbursement of fees and expenses incurred by Ernst & Young in connection with Ernst & Young's determination or re-determination (if any) of the Transaction Tax Liability (as defined in the Plan of Reorganization), and provided, further, that no such payments shall be permitted under this clause (e) to any of ETI or its Affiliates (other than the Parent and its Subsidiaries) for, or in respect of, or as reimbursement for, any consultants;

(f) transactions between or among the Borrowers and/or any of their Subsidiaries (or an entity that becomes a Subsidiary as a result of such transaction) in the ordinary course of business and any merger, consolidation or amalgamation of the Borrowers and any direct parent of the Borrowers; provided, that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the capital stock of the Borrowers and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Agreement and effected for a bona fide business purpose;

(g) incurrence, transfer or assignment of loans in accordance with the terms of the Term Loan Agreement and performance of the obligations thereunder and issuance, transfer or assignment of Exit Notes in accordance with the terms of the Exit Notes Indenture and performance of the obligations thereunder;

(h) the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under the terms of, any stockholders or similar agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Closing Date and any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; provided, however, that the existence of, or the

performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction,

+++

agreement or arrangement entered into after the Closing Date shall only be permitted by this clause (h) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the Lenders in any material respect than the original transaction, agreement or arrangement as in effect on the Closing Date, as determined in good faith by the Borrowers;

(i) intercompany transactions for the purpose of improving the consolidated tax efficiency of the Borrowers and their respective Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement; and

(j) the entering into of any tax sharing agreement or arrangement that complies with clause (e) of the definition of “Permitted Distributions” and the performance under any such agreement or arrangement.

Section 5.9 Modification of Organizational Documents. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, amend or otherwise modify any Organizational Documents of such Person, except for Permitted Modifications.

Section 5.10 Modification of Certain Agreements. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, amend or otherwise modify any Material Contract, which amendment or modification in any case: (a) is contrary to the terms of this agreement or any other Financing Document; or (b) could reasonably be expected to be materially adverse to the rights, interests or privileges of Agent or the Lenders or their ability to enforce the same. Each Credit Party shall, prior to entering into any material amendment or other modification of any of the foregoing documents, deliver to Agent reasonably in advance of the execution thereof, any final or execution form copy of amendments or other modifications to such documents.

Section 5.11 Conduct of Business. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, engage in any line of business other than those businesses engaged in on the Closing Date and described on Schedule 5.11 and businesses reasonably related thereto. No Credit Party will, or will permit any Subsidiary to, other than in the Ordinary Course of Business, change its normal billing payment and reimbursement policies and procedures with respect to its Accounts (including, without limitation, the amount and timing of finance charges, fees and write-offs).

Section 5.12 Lease Payments. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, incur or assume (whether pursuant to a guarantee or otherwise) any liability for rental payments except in the Ordinary Course of Business.

Section 5.13 Limitation on Sale and Leaseback Transactions. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, enter into any arrangement with any Person whereby, in a substantially contemporaneous transaction, any Credit Party or any Subsidiaries sells or transfers all or substantially all of its right, title and interest in an asset and, in connection therewith, acquires or leases back the right to use such asset.

~~112~~

Section 5.14 Deposit Accounts and Securities Accounts; Payroll and Benefits Accounts. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, establish any new Deposit Account or Securities Account without prior written notice to Agent, and unless Agent, such Credit Party or such Subsidiary and the bank, financial institution or securities intermediary at which the account is to be opened enter into a Control Agreement prior to or concurrently with the establishment of such Deposit Account or Securities Account (except with respect to Excluded Accounts). ~~Each~~As of the date such updated schedule is delivered pursuant to Section 7.4, each Credit Party represents and warrants that Schedule 5.14 lists all of the Deposit Accounts and Securities Accounts of each Credit Party as of the ~~Closing Date~~date such updated schedule is delivered pursuant to Section 7.4. The provisions of this Section requiring Control Agreements shall not apply to Deposit Accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Credit Party's employees and identified to Agent by each Credit Party as such (such Accounts, the "Excluded Accounts"); *provided, however*, that at all times that any Obligations remain outstanding, Credit Party shall maintain one or more separate Deposit Accounts to hold any and all amounts to be used for payroll, payroll taxes and other employee wage and benefit payments, and shall not commingle any monies allocated for such purposes with funds in any other Deposit Account.

Section 5.15 Compliance with Anti-Terrorism Laws. Agent hereby notifies Credit Parties that pursuant to the requirements of Anti-Terrorism Laws, and Agent's policies and practices, Agent is required to obtain, verify and record certain information and documentation that identifies Credit Parties and its principals, which information includes the name and address of each Credit Party and its principals and such other information that will allow Agent to identify such party in accordance with Anti-Terrorism Laws. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, knowingly enter into any Material Contracts with any Blocked Person or any Person listed on the OFAC Lists. Each Credit Party shall immediately notify Agent if such Credit Party has knowledge that any Credit Party, any Subsidiaries, any additional Credit Party or any of their respective Affiliates or agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement is or becomes a Blocked Person or (a) is convicted on, (b) pleads nolo contendere to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law. The foregoing will not apply to any Person that qualifies as a corporation that is registered or incorporated under the laws of Canada or any province or territory thereof and that carries on business in whole or in part in Canada within the meaning of Section 2 of the Foreign Extraterritorial Measures (United States) Order, 1992 passed under

the Foreign Extraterritorial Measures Act (Canada) in so far as such representations would result in a violation of or conflict with the Foreign Extraterritorial Measures Act (Canada) or any similar law.

~~113~~

Section 5.16 Canadian Defined Benefit Plans. No Credit Party shall establish, sponsor, maintain, administer, contribute to or otherwise incur liability under any Canadian Defined Benefit Plan or acquire an interest in any Person that sponsors, maintains, administers, contributes to or otherwise has incurred liability under any Canadian Defined Benefit Plan.

ARTICLE 6 - FINANCIAL COVENANTS

Section 6.1 Fixed Charge Coverage Ratio. Credit Parties shall not permit the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries, as follows: (i) to be tested quarterly until and including the Defined Period ending December 31, 2025, to be less than 0.85 to 1.00, (ii) to be tested monthly until and including (a) for the Defined Period beginning January 1, 2026 until and including June 30, 2026, to be less than 0.85 to 1.00, and (b) for the Defined Period beginning July 1, 2026, until and including the Termination Date, to be less than 1.00 to 1.00.

Section 6.2 Minimum Excess Availability. During the period commencing as of the Closing Date through and including June 30, 2026, Excess Availability shall not be less than \$7,500,000 at any time for three (3) or more consecutive Business Days.

Section 6.3 Evidence of Compliance. Credit Parties shall furnish to Agent, together with the financial reporting required of Credit Parties in Section 4.1 hereof, a Compliance Certificate as evidence of Credit Parties' compliance with the covenants in this Article and evidence that no Event of Default specified in this Article has occurred. The Compliance Certificate shall include, without limitation, (a) a statement and report, on a form approved by Agent, detailing Borrower's calculations, and (b) if requested by Agent, back-up documentation (including, without limitation, invoices, receipts and other evidence of costs incurred during such quarter as Agent shall reasonably require) evidencing the propriety of the calculations.

ARTICLE 7 - CONDITIONS

Section 7.1 Conditions to Closing. The obligation of each Lender to make the initial Loans on the Closing Date shall be subject to the receipt by Agent of each agreement, document and instrument set forth on the closing checklist prepared by Agent or its counsel, each in form and substance satisfactory to Agent, and such other closing deliverables reasonably requested by Agent and Lenders, and to the satisfaction of the following conditions precedent, each to the satisfaction of Agent and Lenders and their respective counsel in their sole discretion:

(a) **Consummation of Transactions.** Evidence of the consummation of the Transactions (other than the funding of the Loan and the closing of any acquisition for which the proceeds of the Loan are purchase money) contemplated by the Operative Documents including, without limitation, the funding of any and all investments contemplated by the Operative Documents;

(b) **Secretary Certificates; Corporate Deliverables.** Agent shall have received:

(i) copies of the certificate or articles of incorporation and by-laws (or other similar governing documents serving the purposes) of each

~~114~~

Credit Party, certified as of the Closing Date as complete and correct copies thereof by a Responsible Officer or another authorized representative of each Credit Party;

(ii) a copy of the resolutions or equivalent action, in form and substance reasonably satisfactory to Agent, of each Credit Party authorizing, as applicable, the execution and delivery of this Agreement and the other Financing Documents and the performance of this Agreement and the transactions contemplated hereby and thereby, certified by a Responsible Officer or another authorized representative of each Credit Party as of the Closing Date, which certificate shall state that the resolutions or other action thereby certified have not been amended, restated, amended and restated, modified (except as any later such resolution or other action may modify any earlier such resolution or other action), revoked or rescinded and are in full force and effect as of the Closing Date;

(iii) such certificates of good standing (to the extent such concept exists) from the applicable secretary of state of the state of organization of each Credit Party, certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Credit Party as Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Financing Documents to which such Credit Party is a party or is to be a party on the Closing Date;

(c) **Financing Documents.** Agent shall have received an executed Canadian Security Agreement, each dated as of the Closing Date, together with all other applicable Financing Documents;

(d) **Closing Certificate.** Agent shall have received a certificate of Credit Parties, dated as of the Closing Date, substantially in the form of Exhibit E;

(e) **Solvency Certificate.** Agent shall have received a solvency certificate signed by the chief financial officer on behalf of the Credit Parties, substantially in the form of Exhibit G, after giving effect to the Transactions or, at the Credit Parties' option, a solvency opinion from an independent investment bank or valuation firm of nationally recognized standing;

(f) **Representations and Warranties.** Each of the representations and warranties of each Credit Party contained in or pursuant to the Financing Documents shall be true, correct and complete on and as of the Closing Date, except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date;

(g) **Legal Opinions.** Agent shall have received an executed legal opinion of (i) Latham & Watkins LLP, special New York counsel to the Credit Parties, (ii) Gowling WLG (Canada) LLP, counsel to the Credit Parties in Ontario, Canada, and (iii) legal counsel of the Credit Parties in Iowa, Minnesota, South Carolina and each of

~~115~~

the other jurisdictions of organization or formation of the Credit Parties requested by the Agent, in each case in form and substance reasonably satisfactory to Agent;

(h) **Approvals.** Borrower and the other Credit Parties shall have received all governmental, shareholder and third-party approvals, consents, licenses and permits required in connection with this Agreement, the Transactions and the related financings and transactions contemplated thereby, which such approvals, consents, licenses and permits remain in full force and effect;

(i) **No Litigation.** Other than the Chapter 11 Cases, as of the Closing Date, there shall not be any litigation, action, suit, investigation or other arbitral, administrative or judicial proceeding pending or, to the knowledge of the Credit Parties, threatened against any Credit Party or any of their Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Operative Documents, or (b) that could reasonably be expected to have a Material Adverse Effect on the Credit Parties and their Subsidiaries, taken as a whole;

(j) **No Default.** Immediately before and after the Closing Date, no Default or Event of Default shall have occurred and be continuing;

(k) **Term Loan Facility.** Agent shall have received true and correct copies of the Term Loan Documents, which shall be in full force and effect;

(l) **Closing Date Debt.** In connection with the Transactions, as of the Closing Date, the Borrower and the other Credit Parties shall not have incurred more than (i) \$200,988,002 of Exit Notes and (ii) \$60,000,000 of term loans under the Term Loan Agreement;

(m) **Payoff Documentation.** Agent shall have received true and correct copies of the pay-off letters and other evidence (together with accompanying termination statements and lien releases) confirming the termination of all obligations and release of all Liens under each of the third party Debt for borrowed money described to be paid off on the Closing Date pursuant to the Confirmation Order;

(n) **Fees; Costs and Expenses.** Agent shall have received all fees due and payable on or prior to the Closing Date, to the extent invoiced at least two (2) Business Days prior to the Closing Date (or such later date as the Borrower may reasonably agree), shall have been reimbursed for all reasonable and documented expenses (including the reasonable fees, charges and disbursements of Proskauer Rose LLP, counsel to Agent, and Norton Rose Fulbright Canada LLP, Canadian counsel to Agent) required to be reimbursed or paid by Borrowers hereunder or under any other Financing Document;

(o) **Material Adverse Change.** Since the Petition Date, there shall not have occurred any changes, events, circumstances, effects, developments, occurrences or state of facts that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect;

~~116~~

(p) **Borrowing Base Certificate.** Agent shall have received the initial Borrowing Base Certificate, prepared as of the Closing Date.

(q) **Plan of Reorganization Effective Date; Confirmation Order**

(i) All conditions precedent to the confirmation and effect, shall have been satisfied or waived in accordance with the terms thereof;

(ii) Agent shall have received a docketed copy of the Confirmation Order, and the Confirmation Order shall not have been reversed, vacated, amended, supplemented or otherwise modified in any matter that could reasonably be expected to materially adversely affect the interests of Agent or the Lenders;

(iii) the effective date under the Plan of Reorganization shall have occurred (or occur contemporaneously with the Closing Date);

(iv) there shall not be any Bankruptcy Court order or any action, suit, investigation or proceeding pending or, to the knowledge of the Credit Parties, threatened in any court or before any arbitrator or governmental authority that could reasonably be expected to have a Material Adverse Effect or to prevent or restrain the consummation of this Agreement and the transactions contemplated hereby;

(r) **Emergence.** Debtors shall have successfully consummated the Plan of Reorganization and emerged from the Chapter 11 Cases in accordance with the terms of the Plan of Reorganization;

(s) **Insurance.** Except as set forth in Section 7.4, Agent shall have received evidence of all insurance required to be maintained, and evidence that Agent shall have been named as an additional insured and loss payee, as applicable, on all insurance policies covering loss or damage to Collateral and on all liability insurance policies as to which Agent has reasonably requested to be so named or, in the case of the Term Priority Collateral, the Term Agent, as applicable, as additional insured party or loss payee;

(t) **USA Patriot Act; Proceeds of Crime Act; Beneficial Ownership Certification.** Agent shall have received from Borrower and each of the other Credit Parties, at least three (3) Business Days prior to the Closing Date, (A) all documentation and other information reasonably requested by Agent or any Lender no less than ten (10) calendar days prior to the Closing Date that such Agent or Lender reasonably determines is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations,

including the USA Patriot Act and the Proceeds of Crime Act and (B) a Beneficial Ownership Certification in relation to Credit Parties and each Subsidiary that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation;

~~117~~

(u) **Filings.** Each Uniform Commercial Code financing statement, PPSA financings statement and each intellectual property security agreement required by the Security Documents to be filed with the U.S. Patent and Trademark Office, the U.S. Copyright Office or the Canadian Intellectual Property Office, as applicable, in order to create in favor of Agent, for the benefit of Lenders, a first priority perfected Lien (or, with respect to the Term Priority Collateral, a fully perfected Lien with the priority set forth in the ABL Intercreditor Agreement) on the Collateral described therein shall have been delivered to Agent in proper form for filing;

(v) **Capital Structure.** Agent shall have received and be satisfied with the business plan and shall be satisfied with the capital structure of Credit Parties;

(w) **Minimum Availability.** Evidence that, as of the Closing Date after consummation of the Transactions and payment of all current liabilities, Credit Parties have Excess Availability *plus* unrestricted cash and Cash Equivalents (exclusive of any cash or Cash Equivalents in Cash Collateral Accounts) of at least \$25,000,000; and

(x) **Due Diligence Review.** Agent shall have completed to its satisfaction its due diligence review of each Credit Party and its management, controlling owners, systems and operations.

Each Lender, by delivering its signature page to this Agreement, shall be deemed to have acknowledged receipt of, and consented to and approved, each Financing Document, each additional Operative Document and each other document, agreement and/or instrument required to be approved by Agent, Required Lenders or Lenders, as applicable, on the Closing Date.

Section 7.2 Conditions to Each Loan. The obligation of the Lenders to make a Loan or an advance in respect of any Loan, is subject to the satisfaction of the following additional conditions:

(a) **Borrowing Notice.** In the case of a Revolving Loan Borrowing, receipt by Agent of a Notice of Borrowing (or telephonic notice if permitted by this Agreement) and an updated “roll-forward” Borrowing Base Certificate as required pursuant to Exhibit D;

(b) **Revolving Loan Limit.** Immediately after such borrowing and after application of the proceeds thereof or after such issuance, the Revolving Loan Outstandings will not exceed the Revolving Loan Limit;

(c) **No Default.** Immediately before and after such advance or issuance, no Default or Event of Default shall have occurred and be continuing; and

(d) **Representations and Warranties.** Each of the representations and warranties of each Credit Party contained in this Agreement or pursuant to the Financing Documents shall be true and correct in all material respects on and as of the date of such borrowing or issuance, except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be

true and correct as of such earlier date; provided, however, in each case, such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof.

Each giving of a Notice of Borrowing hereunder and each acceptance by any Borrower of the proceeds of any Loan made hereunder shall be deemed to be (y) a representation and warranty by each Credit Party on the date of such notice or acceptance as to the facts specified in this Section, and (z) a restatement by each Credit Party that each and every one of the representations made by it in any of the Financing Documents is true and correct as of such date (except to the extent that such representations and warranties expressly relate solely to an earlier date).

Section 7.3 Searches. Before the Closing Date, and thereafter (as and when determined by Agent in its discretion), Agent shall have the right to perform, all at Credit Parties' expense, the searches described in clauses (a), (b), and (c) below against Borrowers and any other Credit Party, the results of which are to be consistent with Credit Parties' representations and warranties under this Agreement and the satisfactory results of which shall be a condition precedent to all advances of Loan proceeds: (a) UCC searches with the Secretary of State of the jurisdiction in which the applicable Person is organized, PPSA and Bank Act searches in the jurisdiction in which each Canadian Credit Party is organized and in the jurisdiction where each Person maintains tangible Collateral; (b) judgment, pending litigation, federal tax lien, personal property tax lien, and corporate and partnership tax lien searches, in each jurisdiction searched under clause (a) above; and (c) searches of applicable corporate, limited liability company, partnership and related records to confirm the continued existence, organization and good standing of the applicable Person and the exact legal name under which such Person is organized.

Section 7.4 Post Closing Requirements. Credit Parties shall complete each of the post closing obligations and/or provide to Agent each of the documents, instruments, agreements and information listed on Schedule 7.4 attached hereto on or before the date set forth for each such item thereon, each of which shall be completed or provided in form and substance satisfactory to Agent.

ARTICLE 8 - [RESERVED]

ARTICLE 9 - SECURITY AGREEMENT

Section 9.1 Generally. As security for the payment and performance of the Obligations, and without limiting any other grant of a Lien and security interest in any Security Document, Borrowers and each other Credit Party, in their capacity as a Guarantor, hereby assign and grant to Agent, for the benefit of itself and Lenders, a continuing first priority Lien on and security interest in (or, with respect to the Term Priority Collateral, a continuing Lien on and security interest in (with the priority set forth in the ABL Intercreditor Agreement)), upon, and to the personal property set forth on Schedule 9.1 attached hereto and made a part hereof.

Section 9.2 Representations and Warranties and Covenants Relating to
Collateral.

~~119~~

(a) The security interest granted pursuant to this Agreement constitutes a valid and, to the extent such security interest is required to be perfected by this Agreement and any other Financing Document, continuing perfected security interest in favor of Agent in all Collateral subject, for the following Collateral, to the occurrence of the following: (i) in the case of all Collateral in which a security interest may be perfected by filing a financing statement under the UCC or the PPSA, as applicable, the completion of the filings and other actions specified on Schedule 9.2(b) (which, in the case of all filings and other documents referred to on such schedule, have been delivered to Agent in completed and duly authorized form), (ii) with respect to any Deposit Account domiciled in the United States, the execution of Control Agreements (except with respect to any Excluded Accounts), (iii) in the case of letter-of-credit rights that are not supporting obligations of Collateral, the execution of a contractual obligation granting control to Agent or to the Term Agent over such letter-of-credit rights, (iv) in the case of electronic chattel paper, the completion of all steps necessary to grant control to Agent or the Term Agent over such electronic chattel paper, (v) in the case of all certificated stock, debt instruments and investment property, the delivery thereof to Agent or the Term Agent of such certificated stock, debt instruments and investment property consisting of instruments and certificates, in each case properly endorsed for transfer to Agent or in blank, (vi) in the case of all investment property not in certificated form, the execution of control agreements with respect to such investment property and (vii) in the case of all other instruments and tangible chattel paper that are not certificated stock, debt instructions or investment property, the delivery thereof to Agent or the Term Agent of such instruments and tangible chattel paper. Such security interest shall be prior to all other Liens on the Collateral except for Permitted Liens and subject to the ABL Intercreditor Agreement. Except to the extent not required pursuant to the terms of this Agreement, all actions by each Credit Party necessary or desirable to protect and perfect the Lien granted hereunder on the Collateral have been duly taken.

(b) Schedule 9.2(b) sets forth (i) each chief executive office and principal place of business of each Credit Party and each of their respective Subsidiaries, and (ii) all of the addresses (including all warehouses) at which any of the Collateral is located and/or books and records of Credit Parties regarding any of the Collateral are kept, which such Schedule 9.2(b) indicates in each case which Credit Parties have Collateral and/or books and records located at such address, and, in the case of any such address not owned by one or more of the Credit Parties, indicates the nature of such location (e.g., leased business location operated by Credit Parties, third party warehouse, consignment location, processor location, etc.) and the name and address of the third party owning and/or operating such location.

(c) Without limiting the generality of Section 3.2, except as set forth in the ABL Intercreditor Agreement or as indicated on Schedule 3.19 with respect to any rights of any Credit Party as a licensee under any license of Intellectual Property owned by another Person, and except for the filing of

financing statements under the UCC or the PPSA, as applicable, no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or consent of any other Person is required for (i) the grant by each Credit Party to Agent of the security interests and Liens in the Collateral provided for under this Agreement and the other Security Documents (if any),

or (ii) the exercise by Agent of its rights and remedies with respect to the Collateral provided for under this Agreement and the other Security Documents or under any applicable Law, including the UCC and the PPSA and neither any such grant of Liens in favor of Agent or exercise of rights by Agent shall violate or cause a default under any agreement between any Credit Party and any other Person relating to any such collateral, including any license to which a Credit Party is a party, whether as licensor or licensee, with respect to any Intellectual Property, whether owned by such Credit Party or any other Person.

(d) As of the Closing Date, except as set forth on Schedule 9.2(d), no Credit Party has any ownership interest in any Chattel Paper (as defined in Article 9 of the UCC or the PPSA, as applicable), letter of credit rights, commercial tort claims, Instruments, documents or investment property (other than equity interests in any Subsidiaries of such Credit Party disclosed on Schedule 3.4) and Credit Parties shall give notice to Agent promptly (but in any event not later than fifteen (15) Business Days thereafter (or such longer period as agreed to by the Agent in writing in its reasonable discretion)) upon the acquisition by any Credit Party of any such Chattel Paper, letter of credit rights, commercial tort claims, Instruments, documents, investment property. No Person other than Agent or the Term Agent or (if applicable) any Lender has “control” (as defined in Article 9 of the UCC or the STA) over any Deposit Account, investment property (including Securities Accounts, commodities accounts and futures accounts), letter of credit rights or electronic chattel paper in which any Credit Party has any interest (except for such control arising by operation of law in favor of any bank or securities intermediary or commodities intermediary with whom any Deposit Account, Securities Account, commodities account or futures account of Credit Parties is maintained).

(e) Credit Parties shall not, and shall not permit any Credit Party to, take any of the following actions or make any of the following changes unless such Credit Parties have given at least fifteen (15) days prior written notice to Agent of Credit Parties’ intention to take any such action (which such written notice shall include an updated version of any Schedule impacted by such change) and have executed any and all documents, instruments and agreements and taken any other actions which Agent may request after receiving such written notice in order to protect and preserve the Liens, rights and remedies of Agent with respect to the Collateral: (i) change the legal name or organizational identification number of any Credit Party as it appears in official filings in the jurisdiction of its organization, (ii) change the jurisdiction of incorporation or formation of any Borrower or Credit Party or allow any Borrower or Credit Party to designate any jurisdiction as an additional jurisdiction of incorporation for such Borrower or Credit Party, or change the type of entity that it is, or (iii) change its chief executive office, principal place of business, or the location of its records concerning the Collateral or move any Collateral to or place any Collateral on any location that is not then listed on the Schedules and/or establish any business location at any location that is not then listed on the Schedules.

(f) Credit Parties shall not adjust, settle or compromise the amount or payment of any Account, or release wholly or partly any Account Debtor, or allow any credit or discount thereon (other than adjustments, settlements, compromises, credits and

~~121~~

discounts in the Ordinary Course of Business, made while no Default exists and in amounts which are not material, taking into consideration all Accounts, with respect to the Account and which, after giving effect thereto, do not cause the Borrowing Base to be less than the Revolving Loan Outstandings) without the prior written consent of Agent. Without limiting the generality of this Agreement or any other provisions of any of the Financing Documents relating to the rights of Agent after the occurrence and during the continuance of an Event of Default, Agent shall have the right at any time after the occurrence and during the continuance of an Event of Default to: (i) exercise the rights of Credit Parties with respect to the obligation of any Account Debtor to make payment or otherwise render performance to Credit Parties and with respect to any property that secures the obligations of any Account Debtor or any other Person obligated on the Collateral, and (ii) adjust, settle or compromise the amount or payment of such Accounts.

(g) Without limiting the generality of Sections 9.2(c) and 9.2(e) and in each case subject to the ABL Intercreditor Agreement:

(i) Credit Parties shall deliver to Agent or the Term Agent all tangible Chattel Paper and all Instruments and documents owned by any Credit Party and constituting part of the Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Agent. Credit Parties shall provide Agent or the Term Agent with “control” (as defined in Article 9 of the UCC or the PPSA, as applicable) of all electronic Chattel Paper owned by any Credit Party and constituting part of the Collateral by having Agent identified as the assignee on the records pertaining to the single authoritative copy thereof and otherwise complying with the applicable elements of control set forth in the UCC or the PPSA, as applicable. Credit Parties also shall deliver to Agent or the Term Agent all security agreements securing any such Chattel Paper and securing any such Instruments. Credit Parties will mark conspicuously all such Chattel Paper and all such Instruments and documents with a legend, in form and substance satisfactory to Agent or the Term Agent, indicating that such Chattel Paper and such instruments and documents are subject to the security interests and Liens in favor of Agent created pursuant to this Agreement and the Security Documents. Credit Parties shall comply with all the provisions of Section 5.14 with respect to the Deposit Accounts and Securities Accounts of Credit Parties.

(ii) Credit Parties shall deliver to Agent all letters of credit on which any Credit Party is the beneficiary and which give rise to letter of credit rights owned by such Credit Party which constitute part of the Collateral in each case duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Agent. Credit Parties shall take any and all actions as may be necessary or desirable, or that Agent may request, from time to time, to

cause Agent or the Term Agent to obtain exclusive “control” (as defined in Article 9 of the UCC) of any such letter of credit rights in a manner acceptable to Agent.

~~122~~

(iii) Credit Parties shall promptly advise Agent upon any Credit Party becoming aware that it has any interests in any commercial tort claim that constitutes part of the Collateral, which such notice shall include descriptions of the events and circumstances giving rise to such commercial tort claim and the dates such events and circumstances occurred, the potential defendants with respect such commercial tort claim and any court proceedings that have been instituted with respect to such commercial tort claims, and Credit Parties shall, with respect to any such commercial tort claim, execute and deliver to Agent or the Term Agent such documents as Agent shall request to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to any such commercial tort claim.

(iv) [reserved].

(v) [reserved].

(vi) Each Credit Party hereby authorizes Agent to file without the signature of such Credit Party one or more UCC financing statements or PPSA financing statements, or both, relating to liens on personal property relating to all or any part of the Collateral, which financing statements may list Agent as the “secured party” and such Credit Party as the “debtor” and which describe and indicate the collateral covered thereby as all or any part of the Collateral under the Financing Documents (including an indication of the collateral covered by any such financing statement as “all assets” of such Credit Party now owned or hereafter acquired), in such jurisdictions as Agent from time to time determines are appropriate, and to file without the signature of such Credit Party any continuations of or corrective amendments to any such financing statements, in any such case in order for Agent to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to the Collateral. Each Credit Party also ratifies its authorization for Agent to have filed in any jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(vii) After the Closing Date, Credit Parties shall promptly notify Agent in writing upon creation or acquisition by any Credit Party of, any Collateral which constitutes a claim against any Governmental Authority, including, without limitation, (A) the federal government of the United States or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the federal Assignment of Claims Act and any other comparable Law and (B) the federal government of Canada or any province or territory thereof, or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the Financial Administration Act (Canada)

and any other comparable Law. Upon the request of Agent (including with respect to Collateral owned as of the Closing Date which constitutes a claim against any Governmental Authority of the type described above), Credit Parties shall take

~~123~~

such steps as may be necessary or desirable, or that Agent may request, to comply with any such applicable Law.

(viii) Credit Parties shall furnish to Agent from time to time any statements and schedules further identifying or describing the Collateral and any other information, reports or evidence concerning the Collateral as Agent may reasonably request from time to time.

Section 9.3 **ULC Limitation.** Notwithstanding any provisions to the contrary contained in this Agreement or any other Financing Document, with respect to each applicable Credit Party which is a registered and beneficial owner of Pledged ULC Shares, such Credit Party owns and will remain so until such time as such Pledged ULC Shares are fully and effectively transferred into the name of Agent or any other person on the books and records of such ULC. Nothing in this Agreement or any other Financing Document is intended to or shall constitute Agent or any person other than a Credit Party to be a member or shareholder of any ULC until such time as written notice is given to the applicable Credit Party and all further steps are taken so as to register Agent or other person as holder of the Pledged ULC Shares. The granting of the pledge and security interest pursuant to Section 9.1 or in any other Financing Document does not make Agent a successor to any Credit Party as a member or shareholder of any ULC, and neither Agent nor any of its respective successors or assigns hereunder shall be deemed to become a member or shareholder of any ULC by accepting this Agreement or any other Financing Document or exercising any right granted herein unless and until such time, if any, when Agent or any successor or assign expressly becomes a registered member or shareholder of any ULC. Each applicable Credit Party shall be entitled to receive and retain for its own account any dividends or other distributions if any, in respect of the Collateral, and shall have the right to vote such Pledged ULC Shares and to control the direction, management and policies of the ULC issuing such Pledged ULC Shares to the same extent as such Credit Party would if such Pledged ULC Shares were not pledged to Agent or to any other person pursuant hereto. To the extent any provision herein or in any other Financing Document would have the effect of constituting Agent to be a member or shareholder of any ULC prior to such time, such provision shall be severed herefrom and therefrom and ineffective with respect to the relevant Pledged ULC Shares without otherwise invalidating or rendering unenforceable this Agreement or any other Financing Document or invalidating or rendering unenforceable such provision insofar as it relates to Collateral other than Pledged ULC Shares. Notwithstanding anything herein or in any other Financing Document to the contrary (except to the extent, if any, that Agent or any of its successors or assigns hereafter expressly becomes a registered member or shareholder of any ULC), neither Agent nor any of its respective successors or assigns shall be deemed to have assumed or otherwise become liable for any debts or obligations of any ULC. Except upon the exercise by Agent or other persons of rights to sell or otherwise dispose of Pledged ULC Shares or other remedies following the occurrence and during the continuance of an Event of Default, each applicable Credit Party shall not cause or permit, or enable any ULC in which it holds Pledged ULC Shares to cause or permit, Agent to: (a) be registered as member or shareholder of such ULC; (b) have any notation entered in its favor in the share register of such ULC; (c) be held out as member or shareholder of such ULC; (d) receive,

directly or indirectly, any dividends, property or other distributions from such ULC by reason of Agent or other person holding a security interest in the Pledged ULC Shares; or (e) act as a member or shareholder of

~~124~~

such ULC, or exercise any rights of a member or shareholder of such ULC, including the right to attend a meeting of such ULC or vote the shares of such ULC.

ARTICLE 10 - EVENTS OF DEFAULT

Section 10.1 Events of Default. For purposes of the Financing Documents, the occurrence of any of the following conditions and/or events, whether voluntary or involuntary, by operation of law or otherwise, shall constitute an “Event of Default”:

(a) (i) any Credit Party shall fail to pay when due any principal, interest, premium or fee under any Financing Document or any other amount payable under any Financing Document (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such default (other than with respect to failure to pay principal when due) shall continue uncured for three (3) Business Days, (ii) there shall occur any default in the performance of or compliance with Section 2.11, Section 4.2(b), Section 4.3, Section 4.4(c) or (d), Section 4.6, Article 5, Section 6.1 or Section 6.3, (iii) there shall occur any default in the performance of or compliance with Section 4.1 and such default shall continue uncured for five (5) Business Days after the earlier of notice from Agent or Required Lenders or knowledge by any Credit Party of such default, or (iv) there shall occur any default in the performance of or compliance with Section 6.2 and such default shall continue uncured for fifteen (15) calendar days after the earlier of notice from Agent or Required Lenders or knowledge by any Credit Party of such default;

(b) any Credit Party defaults in the performance of or compliance with any term contained in this Agreement or in any other Financing Document (other than occurrences described in other provisions of this Section 10.1 for which a different grace or cure period is specified or for which no grace or cure period is specified and thereby constitute immediate Events of Default) and such default is not remedied by the Credit Party or waived by Agent within fifteen (15) days after the earlier of (i) receipt by Borrower Representative of notice from Agent or Required Lenders of such default, or (ii) actual knowledge of any Borrower or any other Credit Party of such default;

(c) any representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to any Financing Document is incorrect in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality) when made (or deemed made);

(d) (i) failure of the Borrowers or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any principal, interest or other amount on the Exit Notes, the Term Loan Agreement, the B. Riley Credit Agreement, the Debt in

respect of the Unsecured Cash Pool, or any other Debt (excluding Debt evidenced by this Agreement) having an aggregate principal amount in excess of \$25,000,000, and such failure shall continue after

~~125~~

the applicable grace period, if any, specified in the applicable agreement or instrument relating to such Debt, or any other default, condition, or event under any agreement or instrument relating to any such Debt, or any other event shall occur and shall continue after the applicable grace period, if any, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such Debt; or any such Debt shall be declared due and payable, or required to be prepaid, redeemed, purchased or defeased or an offer to prepay, redeem, purchase or defease such Debt shall be required to be made (other than by a regularly scheduled required prepayment), in each case, prior to the state maturity thereof;

(e) any Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, monitor, receiver, interim receiver, receiver and manager, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

(f) an involuntary case or other proceeding shall be commenced against any Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, monitor, receiver, interim receiver, receiver and manager, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of thirty (30) days; or an order for relief shall be entered against any Credit Party or any other Significant Subsidiary under applicable federal bankruptcy, insolvency or other similar law in respect of (i) bankruptcy, liquidation, winding-up, dissolution or suspension of general operations, (ii) composition, rescheduling, reorganization, arrangement or readjustment of, or other relief from, or stay of proceedings to enforce, some or all of the debts or obligations, or (iii) possession, foreclosure, seizure or retention, sale or other disposition of, or other proceedings to enforce security over, all or any substantial part of the assets of such Borrower or such Significant Subsidiary;

(g) (i) institution of any steps by any Person to terminate a Pension Plan or Canadian Pension Plan if as a result of such termination any Credit Party or any member of the Controlled Group could be required to make a contribution to such Pension Plan or Canadian Pension Plan, or could incur a liability or obligation to such Pension Plan or Canadian Pension Plan, in excess of

\$25,000,000, (ii) a contribution failure occurs with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA, (iii) there shall occur any withdrawal or partial withdrawal from a Multiemployer Plan and the withdrawal liability (without unaccrued interest) to

Multiemployer Plans as a result of such withdrawal (including any outstanding withdrawal liability that any Credit Party or any member of the Controlled Group have incurred on the date of such withdrawal) exceeds \$25,000,000, or (iv) a Canadian Pension Event shall occur which individually or in the aggregate results in or would reasonably be expected to result in liability in excess of the Threshold Amount;

(h) one or more judgments or orders for the payment of money (not paid or fully covered by insurance maintained in accordance with the requirements of this Agreement and as to which the relevant insurance company has acknowledged coverage) aggregating in excess of \$25,000,000 shall be rendered against any of the Parent, the Borrowers or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) and either (i) enforcement proceedings shall have been commenced by any creditor upon any such judgments or orders, or (ii) there shall be any period of ten (10) consecutive days during which a stay of enforcement of any such judgments or orders, by reason of a pending appeal, bond or otherwise, shall not be in effect;

(i) any Lien created by any of the Security Documents shall at any time fail to constitute a valid and perfected Lien on all of the Collateral purported to be encumbered thereby, subject to no prior or equal Lien except Permitted Liens, or any Credit Party shall so assert;

(j) [reserved];

(k) a default or event of default occurs under any Guarantee of any portion of the Obligations;

(l) any Credit Party makes any payment on account of any Debt that has been subordinated to any of the Obligations, other than payments specifically permitted by the terms of such subordination;

(m) if any Credit Party is or becomes an entity whose equity is registered with the SEC, and/or is publicly traded on and/or registered with a public securities exchange, such Credit Party's equity fails to remain registered with the SEC in good standing, and/or such equity fails to remain publicly traded on and registered with a public securities exchange;

(n) an event or development occurs which could reasonably be expected to have a Material Adverse Effect, which default shall have continued unremedied for a period of ten (10) days after written notice from Agent;

(o) any Borrower or any Significant Subsidiary is enjoined, restrained or in any way prevented by the order of any court or any Governmental Authority from conducting, or otherwise ceases to conduct for any reason whatsoever, all or any material part of its business for more than fifteen (15) days;

(p) the loss, suspension or revocation of, or failure to renew,
any license or permit now held or hereafter acquired by any Borrower or any
Significant

~~127~~

Subsidiary, if such loss, suspension, revocation or failure to renew could reasonably be expected to have a Material Adverse Effect;

(q) any material damage to, or loss, theft or destruction of, any Collateral, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of any Borrower, or any Significant Subsidiary, if any such event or circumstance could reasonably be expected to have a Material Adverse Effect;

(r) the indictment, or the threatened indictment of the Parent, any Borrower, or any Significant Subsidiary under any criminal statute, or commencement or threatened commencement of criminal or civil proceedings against the Parent, any Borrower or any Significant Subsidiary, pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture to any Governmental Authority of any material portion of the property of such Person;

(s) Any Credit Party fails to make timely and full payments of any and all Taxes required by, under or in connection with the Plan of Reorganization except (i) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization or otherwise satisfied in accordance with the Plan of Reorganization (provided, that, for the avoidance of doubt, the Credit Parties shall pay Taxes to the extent required under and in accordance with the Plan of Reorganization) and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP; or

(t) the ABL Intercreditor Agreement ceases to be in full force and effect (other than because all other Debt subject thereto is no longer outstanding).

All cure periods provided for in this Section 10.1 shall run concurrently with any cure period provided for in any applicable Financing Documents under which the default occurred.

Section 10.2 Acceleration and Suspension or Termination of Revolving Loan Commitment. Upon the occurrence and during the continuance of an Event of Default, Agent may, and shall if requested by Required Lenders, (a) by notice to Borrower Representative suspend or terminate the Revolving Loan Commitment and the obligations of Agent and the Lenders with respect thereto, in whole or in part (and, if in part, each Lender's Revolving Loan Commitment shall be reduced in accordance with its Pro Rata Share), and/or (b) by notice to Borrower Representative declare all or any portion of the Obligations to be, and the Obligations shall thereupon become, immediately due and payable, with accrued interest thereon, without presentment, demand, protest or other notice of any kind, all of

which are hereby waived by each Credit Party and Credit Parties will pay the same; *provided, however*, that in the case of any of the Events of Default specified in Section 10.1(e) or 10.1(f) above, without any notice to any Credit Party or any other act by Agent or the Lenders, the Revolving Loan Commitment and the obligations of Agent and the Lenders with respect thereto shall thereupon immediately and

automatically terminate and all of the Obligations shall become immediately and automatically due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Credit Party and Credit Parties will pay the same.

Section 10.3 UCC and PPSA Remedies.

(a) Upon the occurrence of and during the continuance of an Event of Default under this Agreement or the other Financing Documents, Agent, in addition to all other rights, options, and remedies granted to Agent under this Agreement or at law or in equity, may exercise, either directly or through one or more assignees or designees, all rights and remedies granted to it under all Financing Documents and under the UCC and PPSA in effect in the applicable jurisdiction(s) and under any other applicable law; including, without limitation:

(i) the right to take possession of, send notices regarding, and collect directly the Collateral, with or without judicial process;

(ii) the right to (by its own means or with judicial assistance) enter any of Credit Parties' premises and take possession of the Collateral, or render it unusable, or to render it usable or saleable, or dispose of the Collateral on such premises in compliance with subsection (iii) below and to take possession of any Credit Party's original books and records, to obtain access to such Credit Party's data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner Agent deems appropriate, without any liability for rent, storage, utilities, or other sums, and Credit Parties shall not resist or interfere with such action (if Credit Parties' books and records are prepared or maintained by an accounting service, contractor or other third party agent, Credit Parties hereby irrevocably authorize such service, contractor or other agent, upon notice by Agent to such Person that an Event of Default has occurred and is continuing, to deliver to Agent or its designees such books and records, and to follow Agent's instructions with respect to further services to be rendered);

(iii) the right to require any Credit Party at the Credit Parties' expense to assemble all or any part of the Collateral and make it available to Agent at any place designated by Lender;

(iv) the right to notify postal authorities to change the address for delivery of any Credit Party's mail to an address designated by Agent and to receive, open and dispose of all mail addressed to any Credit Party; and/or

(v) the right to enforce any Credit Party's rights against Account Debtors and other obligors, including, without limitation, (i) the right to collect Accounts directly in Agent's own name (as agent for Lenders) and to charge the collection costs and expenses, including attorneys' fees, to a Credit Party, and (ii) the right, in the name of Agent or any designee of Agent or Credit Parties, to verify the validity, amount or any other matter relating to any Accounts

by mail, telephone, telegraph or otherwise, including, without limitation, verification of Credit Parties' compliance with applicable Laws. Credit Parties shall cooperate fully with Agent in an effort to facilitate and promptly conclude such verification process. Such verification may include contacts between Agent and applicable federal, state and local regulatory authorities having jurisdiction over the Credit Parties' affairs, all of which contacts Credit Parties hereby irrevocably authorize.

(b) Each Credit Party agrees that a notice received by it at least ten (10) days before the time of any intended public sale, or the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. If permitted by applicable law, any perishable Collateral which threatens to speedily decline in value or which is sold on a recognized market may be sold immediately by Agent without prior notice to Credit Parties. At any sale or disposition of Collateral, Agent may (to the extent permitted by applicable law) purchase all or any part of the Collateral, free from any right of redemption by Credit Parties, which right is hereby waived and released. Each Credit Party covenants and agrees not to interfere with or impose any obstacle to Agent's exercise of its rights and remedies with respect to the Collateral. Agent shall have no obligation to clean-up or otherwise prepare the Collateral for sale. Agent may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. Agent may sell the Collateral without giving any warranties as to the Collateral. Agent may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If Agent sells any of the Collateral upon credit, Credit Parties will be credited only with payments actually made by the purchaser, received by Agent and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Agent may resell the Collateral and Credit Parties shall be credited with the proceeds of the sale. Credit Parties shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Obligations.

(c) Without restricting the generality of the foregoing and for the purposes aforesaid, each Credit Party hereby appoints and constitutes Agent its lawful attorney-in-fact with full power of substitution in the Collateral, upon the occurrence and during the continuance of an Event of Default, to (i) use unadvanced funds remaining under this Agreement or which may be reserved, escrowed or set aside for any purposes hereunder at any time, or to advance funds in excess of the face amount of the Notes, (ii) pay, settle or compromise all existing bills and claims, which may be Liens or security interests, or to avoid such bills and claims becoming Liens against the Collateral, (iii) execute all applications and certificates in the name of such Credit Party and to prosecute and defend all actions or proceedings in connection with the Collateral, and (iv) do any and every act

which such Credit Party might do in its own behalf; it being understood and agreed that this power of attorney in this subsection (c) shall be a power coupled with an interest and cannot be revoked.

130

(d) Agent and each Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Credit Parties' labels, mask works, rights of use of any name, any other Intellectual Property and advertising matter, and any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Agent's exercise of its rights under this Article, Credit Parties' rights under all licenses (whether as licensor or licensee) and all franchise agreements inure to Agent's and each Lender's benefit.

Section 10.4 [Reserved].

Section 10.5 Default Rate of Interest. At the election of Agent or Required Lenders, after the occurrence of an Event of Default and for so long as it continues, the Loans and other Obligations shall bear interest at rates that are two percent (2.0%) per annum in excess of the rates otherwise payable under this Agreement; *provided, however*, that in the case of any Event of Default specified in Section 10.1(e) or 10.1(f) above, such default rates shall apply immediately and automatically without the need for any election or action of any kind on the part of Agent or any Lender.

Section 10.6 Setoff Rights. During the continuance of any Event of Default, each Lender is hereby authorized by each Credit Party at any time or from time to time, with reasonably prompt subsequent notice to such Credit Party (any prior or contemporaneous notice being hereby expressly waived) to set off and to appropriate and to apply any and all (a) balances held by such Lender or any of such Lender's Affiliates at any of its offices for the account of such Credit Party or any of its Subsidiaries (regardless of whether such balances are then due to such Credit Party or its Subsidiaries), and (b) other property at any time held or owing by such Lender to or for the credit or for the account of such Credit Party or any of its Subsidiaries, against and on account of any of the Obligations; except that no Lender shall exercise any such right without the prior written consent of Agent. Any Lender exercising a right to set off shall purchase for cash (and the other Lenders shall sell) interests in each of such other Lender's Pro Rata Share of the Obligations as would be necessary to cause all Lenders to share the amount so set off with each other Lender in accordance with their respective Pro Rata Share of the Obligations. Each Credit Party agrees, to the fullest extent permitted by law, that any Lender and any of such Lender's Affiliates may exercise its right to set off with respect to the Obligations as provided in this Section 10.6.

Section 10.7 Application of Proceeds.

(a) Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, each Credit Party irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Agent from or on behalf of such Credit Party or any Guarantor of all or any part of the Obligations, and, as between Credit Parties on the one hand and Agent and Lenders on the other, Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the

Obligations in such manner as Agent may deem advisable notwithstanding any previous application by Agent.

(b) Following the occurrence and continuance of an Event of Default, but absent the occurrence and continuance of an Acceleration Event, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in such order as Agent may from time to time elect.

(c) Notwithstanding anything to the contrary contained in this Agreement, if an Acceleration Event shall have occurred, and so long as it continues, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in the following order: first, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to Agent with respect to this Agreement, the other Financing Documents or the Collateral; second, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to any Lender with respect to this Agreement, the other Financing Documents or the Collateral; third, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of any applicable Debtor Relief Law, would have accrued on such amounts); fourth, to the principal amount of the Obligations outstanding; fifth to any other indebtedness or obligations of Credit Parties owing to Agent or any Lender under the Financing Documents; and sixth, to the Obligations owing to any Eligible Swap Counterparty in respect of any Swap Contracts. Any balance remaining shall be delivered to Borrowers or to whomever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. In carrying out the foregoing, (y) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (z) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its Pro Rata Share of amounts available to be applied pursuant thereto for such category.

Section 10.8 Waivers.

(a) Except as otherwise provided for in this Agreement and to the fullest extent permitted by applicable law, each Credit Party waives: (i) presentment, demand and protest, and notice of presentment, dishonor, intent to accelerate, acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all Financing Documents, the Notes or any other notes, commercial paper, accounts, contracts, documents, Instruments, Chattel Paper and guarantees at any time held by Lenders on which any Credit Party may in any way be liable, and hereby ratifies and confirms whatever Lenders may do in this regard; (ii) all rights to notice and a hearing prior to Agent's or any Lender's taking possession or control of, or to Agent's or any Lender's replevy, attachment or levy upon, any Collateral or any bond or security

which might be required by any court prior to allowing Agent or any Lender to exercise any of its remedies; and (iii) the benefit of all valuation, appraisal and exemption Laws. Each Credit Party acknowledges that it has been advised by

~~132~~

counsel of its choices and decisions with respect to this Agreement, the other Financing Documents and the transactions evidenced hereby and thereby.

(b) Each Credit Party for itself and all its successors and assigns, (i) agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; (ii) consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Agent or any Lender with respect to the payment or other provisions of the Financing Documents, and to any substitution, exchange or release of the Collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any Credit Party, endorsers, guarantors, or sureties, or whether primarily or secondarily liable, without notice to any other Credit Party and without affecting its liability hereunder; (iii) agrees that its liability shall be unconditional and without regard to the liability of any other Credit Party, Agent or any Lender for any tax on the indebtedness; and (iv) to the fullest extent permitted by law, expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

(c) To the extent that Agent or any Lender may have acquiesced in any noncompliance with any requirements or conditions precedent to the closing of the Loans or to any subsequent disbursement of Loan proceeds, such acquiescence shall not be deemed to constitute a waiver by Agent or any Lender of such requirements with respect to any future disbursements of Loan proceeds and Agent may at any time after such acquiescence require Credit Parties to comply with all such requirements. Any forbearance by Agent or Lender in exercising any right or remedy under any of the Financing Documents, or otherwise afforded by applicable law, including any failure to accelerate the maturity date of the Loans, shall not be a waiver of or preclude the exercise of any right or remedy nor shall it serve as a novation of the Notes or as a reinstatement of the Loans or a waiver of such right of acceleration or the right to insist upon strict compliance of the terms of the Financing Documents. Agent's or any Lender's acceptance of payment of any sum secured by any of the Financing Documents after the due date of such payment shall not be a waiver of Agent's and such Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other Liens or charges by Agent as the result of an Event of Default shall not be a waiver of Agent's right to accelerate the maturity of the Loans, nor shall Agent's receipt of any condemnation awards, insurance proceeds, or damages under this Agreement operate to cure or waive any Credit Party's default in payment of sums secured by any of the Financing Documents.

(d) Without limiting the generality of anything contained in this Agreement or the other Financing Documents, each Credit Party agrees that if an Event of Default is continuing (i) Agent and Lenders shall not be subject to any

“one action” or “election of remedies” law or rule, and (ii) all Liens and other rights, remedies or privileges provided to Agent or Lenders shall remain in full force and effect until Agent or Lenders have exhausted all remedies against the Collateral and any other properties owned by Credit Parties and the Financing Documents and other security instruments or

agreements securing the Loans have been foreclosed, sold and/or otherwise realized upon in satisfaction of Credit Parties' obligations under the Financing Documents.

(e) Nothing contained herein or in any other Financing Document shall be construed as requiring Agent or any Lender to resort to any part of the Collateral for the satisfaction of any of Credit Parties' obligations under the Financing Documents in preference or priority to any other Collateral, and Agent may seek satisfaction out of all of the Collateral or any part thereof, in its absolute discretion in respect of Credit Parties' obligations under the Financing Documents. In addition, Agent shall have the right from time to time to partially foreclose upon any Collateral in any manner and for any amounts secured by the Financing Documents then due and payable as determined by Agent in its sole discretion, including, without limitation, the following circumstances: (i) in the event any Credit Party defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and/or interest, Agent may foreclose upon all or any part of the Collateral to recover such delinquent payments, or (ii) in the event Agent elects to accelerate less than the entire outstanding principal balance of the Loans, Agent may foreclose all or any part of the Collateral to recover so much of the principal balance of the Loans as Lender may accelerate and such other sums secured by one or more of the Financing Documents as Agent may elect. Notwithstanding one or more partial foreclosures, any unforeclosed Collateral shall remain subject to the Financing Documents to secure payment of sums secured by the Financing Documents and not previously recovered.

(f) To the fullest extent permitted by law, each Credit Party, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Collateral any equitable right otherwise available to any Credit Party which would require the separate sale of any of the Collateral or require Agent or Lenders to exhaust their remedies against any part of the Collateral before proceeding against any other part of the Collateral; and further in the event of such foreclosure each Credit Party does hereby expressly consent to and authorize, at the option of Agent, the foreclosure and sale either separately or together of each part of the Collateral.

Section 10.9 Injunctive Relief. The parties acknowledge and agree that, in the event of a breach or threatened breach of any Credit Party's obligations under any Financing Documents, Agent and Lenders may have no adequate remedy in money damages and, accordingly, shall be entitled to an injunction (including, without limitation, a temporary restraining order, preliminary injunction, writ of attachment, or order compelling an audit) against such breach or threatened breach, including, without limitation, maintaining any cash management and collection procedure described herein. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach or threatened breach of any provision of this Agreement. Each Credit Party waives, to the fullest extent permitted by law, the requirement of the posting of any bond in connection

with such injunctive relief. By joining in the Financing Documents as a Credit Party, each Credit Party specifically joins in this Section as if this Section were a part of each Financing Document executed by such Credit Party.

134

Section 10.10 Marshalling; Payments Set Aside. Neither Agent nor any Lender shall be under any obligation to marshal any assets in payment of any or all of the Obligations. To the extent that a Credit Party makes any payment or Agent enforces its Liens or Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such enforcement or set-off is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid by anyone, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set-off had not occurred.

ARTICLE 11 - AGENT

Section 11.1 **Appointment and Authorization.** Each Lender hereby irrevocably appoints and authorizes Agent to enter into each of the Financing Documents to which it is a party (other than this Agreement) on its behalf and to take such actions as Agent on its behalf and to exercise such powers under the Financing Documents as are delegated to Agent by the terms thereof, together with all such powers as are reasonably incidental thereto, including the authority to enter into any intercreditor agreement. Subject to the terms of Section 11.16 and Article 12 and to the terms of the other Financing Documents, Agent is authorized and empowered to enter into (or acknowledge and consent to) or amend, restate, amend and restate, extend, replace, supplement, modify, or waive any provisions of this Agreement or the other Financing Documents on behalf of Lenders and any intercreditor agreement with the collateral agent or other representatives of the holders of Debt that is permitted to be secured by a Lien on the Collateral that is not prohibited (including with respect to priority) under this Agreement and, to the extent applicable, the ABL Intercreditor Agreement, and to subject the Liens on the Collateral securing the Obligations to the provisions thereof. The provisions of this Article 11 and Article 12 are solely for the benefit of Agent and Lenders and neither any Borrower nor any other Credit Party shall have any rights as a third-party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement, Agent shall act solely as agent of Lenders and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Borrower or any other Credit Party. Agent may perform any of its duties hereunder, or under the Financing Documents, by or through its agents, servicers, trustees, investment managers or employees. The Lenders irrevocably agree that (x) Agents may rely exclusively on a certificate of a Responsible Officer of the Credit Parties as to whether any such other Liens are permitted and (y) the ABL Intercreditor Agreement and any junior intercreditor agreement entered into by Agent shall be binding on the Lenders, and each Lender hereby agrees that it will take no actions contrary to the provisions of any intercreditor agreement.

Section 11.2 **Agent and Affiliates.** Agent shall have the same rights and powers under the Financing Documents as any other Lender and may exercise or refrain from exercising the same as though it were not Agent, and Agent and its Affiliates may lend money to, invest in and generally engage in any kind of business with each Credit Party or Affiliate of any Credit Party as if it were not Agent hereunder.

Section 11.3 Action by Agent. The duties of Agent shall be mechanical and administrative in nature. Agent shall not have by reason of this Agreement a fiduciary

~~135~~

relationship in respect of any Lender. Nothing in this Agreement or any of the Financing Documents is intended to or shall be construed to impose upon Agent any obligations in respect of this Agreement or any of the Financing Documents except as expressly set forth herein or therein.

Section 11.4 Consultation with Experts. Agent may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 11.5 Liability of Agent. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be liable to any Lender for any action taken or not taken by it in connection with the Financing Documents, except that Agent shall be liable with respect to its specific duties set forth hereunder but only to the extent of its own gross negligence or willful misconduct in the discharge thereof as determined by a final non-appealable judgment of a court of competent jurisdiction. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be responsible for or have any duty to ascertain, inquire into or verify (a) any statement, warranty or representation made in connection with any Financing Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements specified in any Financing Document; (c) the satisfaction of any condition specified in any Financing Document; (d) the validity, effectiveness, sufficiency or genuineness of any Financing Document, any Lien purported to be created or perfected thereby or any other instrument or writing furnished in connection therewith; (e) the existence or non-existence of any Default or Event of Default; or (f) the financial condition of any Credit Party. Agent shall not incur any liability by acting in reliance upon any notice, consent, certificate, statement, or other writing (which may be a bank wire, facsimile or electronic transmission or similar writing) believed by it to be genuine or to be signed by the proper party or parties. Agent shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error the sole recourse of any Lender to whom payment was due but not made, shall be to recover from other Lenders any payment in excess of the amount to which they are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them).

Section 11.6 Indemnification. Each Lender shall, in accordance with its Pro Rata Share, indemnify Agent (to the extent not reimbursed by Credit Parties) upon demand against any cost, expense (including counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction) that Agent may suffer or incur in connection with the Financing Documents or any action taken or omitted by Agent hereunder or thereunder. If any indemnity furnished to Agent for any purpose shall, in the opinion of Agent, be insufficient or become impaired, Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against even if so directed by Required Lenders until such additional indemnity is furnished.

Section 11.7 Right to Request and Act on Instructions. Agent may at any time request instructions from Lenders with respect to any actions or approvals which by the terms of

136

this Agreement or of any of the Financing Documents, Agent is permitted or desires to take or to grant, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from any action or withholding any approval under any of the Financing Documents until it shall have received such instructions from Required Lenders or all or such other portion of the Lenders as shall be prescribed by this Agreement. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement or any of the other Financing Documents in accordance with the instructions of Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) and, notwithstanding the instructions of Required Lenders (or such other applicable portion of the Lenders), Agent shall have no obligation to take any action if it believes, in good faith, that such action would violate applicable Law or exposes Agent to any liability for which it has not received satisfactory indemnification in accordance with the provisions of Section 11.6.

Section 11.8 Credit Decision. Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking any action under the Financing Documents.

Section 11.9 Collateral Matters. Lenders irrevocably authorize Agent, at its option and in its discretion, to (a) release any Lien granted to or held by Agent under any Security Document (i) upon termination of the Revolving Loan Commitment and payment in full of all Obligations, and, to the extent required by Agent in its sole discretion, the expiration, termination or cash collateralization (to the satisfaction of Agent) of all Swap Contracts secured, in whole or in part, by any Collateral; or (ii) constituting property sold or disposed of as part of or in connection with any disposition permitted under any Financing Document (it being understood and agreed that Agent may conclusively rely without further inquiry on a certificate of a Responsible Officer as to the sale or other disposition of property being made in full compliance with the provisions of the Financing Documents); and (b) subordinate any Lien granted to or held by Agent under any Security Document to a Permitted Lien that is allowed to have priority over the Liens granted to or held by Agent pursuant to the definition of “Permitted Liens”. Upon request by Agent at any time, Lenders will confirm Agent’s authority to release and/or subordinate particular types or items of Collateral pursuant to this Section 11.9.

Section 11.10 Agency for Perfection. Agent and each Lender hereby appoint each other Lender as agent for the purpose of perfecting Agent’s security interest in assets which, in accordance with the Uniform Commercial Code in any applicable jurisdiction, can be perfected by possession or control. Should any Lender (other than Agent) obtain possession or control of any such assets, such Lender shall notify Agent thereof, and, promptly upon Agent’s request therefor, shall deliver such assets to Agent or in accordance

with Agent's instructions or transfer control to Agent in accordance with Agent's instructions. Each Lender agrees that it will not have any right individually to enforce or seek to enforce any Security Document or to realize

~~137~~

upon any Collateral for the Loan unless instructed to do so by Agent (or consented to by Agent), it being understood and agreed that such rights and remedies may be exercised only by Agent.

Section 11.11 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default except with respect to defaults in the payment of principal, interest and fees required to be paid to Agent for the account of Lenders, unless Agent shall have received written notice from a Lender or a Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default”. Agent will notify each Lender of its receipt of any such notice. Agent shall take such action with respect to such Default or Event of Default as may be requested by Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) in accordance with the terms hereof. Unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interests of Lenders.

Section 11.12 Assignment by Agent; Resignation of Agent; Successor Agent.

(a) Agent may at any time assign its rights, powers, privileges and duties hereunder to (i) another Lender, or (ii) any Person to whom Agent, in its capacity as a Lender, has assigned (or will assign, in conjunction with such assignment of agency rights hereunder) 50% or more of its Loan, in each case without the consent of the Lenders or Borrowers. Following any such assignment, Agent shall give notice to the Lenders and Borrowers. An assignment by Agent pursuant to this subsection (a) shall not be deemed a resignation by Agent for purposes of subsection (b) below.

(b) Without limiting the rights of Agent to designate an assignee pursuant to subsection (a) above, Agent may at any time give notice of its resignation to the Lenders and Borrowers. Upon receipt of any such notice of resignation, Required Lenders shall have the right to appoint a successor Agent. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within ten (10) Business Days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent; *provided, however*, that if Agent shall notify Borrowers and the Lenders that no Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice from Agent that no Person has accepted such appointment and, from and following delivery of such notice, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Financing Documents, and (ii) all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time as Required Lenders appoint a successor Agent as provided for above in this paragraph.

(c) Upon (i) an assignment permitted by subsection (a) above, or (ii) the acceptance of a successor's appointment as Agent pursuant to subsection (b) above, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder and under the other Financing

Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by Credit Parties to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrowers and such successor. After the retiring Agent's resignation hereunder and under the other Financing Documents, the provisions of this Article and Section 11.12 shall continue in effect for the benefit of such retiring Agent and its sub-agents in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting or was continuing to act as Agent.

Section 11.13 Payment and Sharing of Payment.

(a) Revolving Loan Advances, Payments and Settlements; Interest and Fee Payments.

(i) Agent shall have the right, on behalf of Revolving Lenders to disburse funds to Borrowers for all Revolving Loans requested or deemed requested by Borrowers pursuant to the terms of this Agreement. Agent shall be conclusively entitled to assume, for purposes of the preceding sentence, that each Revolving Lender, other than any Non-Funding Lenders, will fund its Pro Rata Share of all Revolving Loans requested by Borrowers. Each Revolving Lender shall reimburse Agent on demand, in accordance with the provisions of the immediately following paragraph, for all funds disbursed on its behalf by Agent pursuant to the first sentence of this clause (i), or if Agent so requests, each Revolving Lender will remit to Agent its Pro Rata Share of any Revolving Loan before Agent disburses the same to a Borrower. If Agent elects to require that each Revolving Lender make funds available to Agent, prior to a disbursement by Agent to a Borrower, Agent shall advise each Revolving Lender by telephone, facsimile or e-mail of the amount of such Revolving Lender's Pro Rata Share of the Revolving Loan requested by such Borrower no later than noon (Eastern time) on the date of funding of such Revolving Loan, and each such Revolving Lender shall pay Agent on such date such Revolving Lender's Pro Rata Share of such requested Revolving Loan, in same day funds, by wire transfer to the Payment Account, or such other account as may be identified by Agent to Revolving Lenders from time to time. If any Lender fails to pay the amount of its Pro Rata Share of any funds advanced by Agent pursuant to the first sentence of this clause (i) within one (1) Business Day after Agent's demand, Agent shall promptly notify Borrower Representative, and Borrowers shall immediately repay such amount to Agent. Any repayment required by Borrowers pursuant to this Section 11.13 shall be accompanied by accrued interest thereon from and including the date such amount is made available to a Borrower to but excluding the date of payment at the rate of interest then applicable to Revolving Loans. Nothing in this Section 11.13 or elsewhere in this Agreement or the other Financing Documents shall be deemed to require Agent to advance funds on behalf of any Lender or to

relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that Agent or any Borrower may have against any Lender as a result of any default by such Lender hereunder.

139

(ii) On a Business Day of each week as selected from time to time by Agent, or more frequently (including daily), if Agent so elects (each such day being a “**Settlement Date**”), Agent will advise each Revolving Lender by telephone, facsimile or e-mail of the amount of each such Revolving Lender’s percentage interest of the Revolving Loan balance as of the close of business of the Business Day immediately preceding the Settlement Date. In the event that payments are necessary to adjust the amount of such Revolving Lender’s actual percentage interest of the Revolving Loans to such Lender’s required percentage interest of the Revolving Loan balance as of any Settlement Date, the Revolving Lender from which such payment is due shall pay Agent, without setoff or discount, to the Payment Account before 1:00 p.m. (Eastern time) on the Business Day following the Settlement Date the full amount necessary to make such adjustment. Any obligation arising pursuant to the immediately preceding sentence shall be absolute and unconditional and shall not be affected by any circumstance whatsoever. In the event settlement shall not have occurred by the date and time specified in the second preceding sentence, interest shall accrue on the unsettled amount at the rate of interest then applicable to Revolving Loans.

(iii) On each Settlement Date, Agent shall advise each Revolving Lender by telephone, facsimile or e-mail of the amount of such Revolving Lender’s percentage interest of principal, interest and fees paid for the benefit of Revolving Lenders with respect to each applicable Revolving Loan, to the extent of such Revolving Lender’s Revolving Loan Exposure with respect thereto, and shall make payment to such Revolving Lender before 1:00 p.m. (Eastern time) on the Business Day following the Settlement Date of such amounts in accordance with wire instructions delivered by such Revolving Lender to Agent, as the same may be modified from time to time by written notice to Agent; *provided, however*, that, in the case such Revolving Lender is a Defaulted Lender, Agent shall be entitled to set off the funding short-fall against that Defaulted Lender’s respective share of all payments received from any Borrower.

(iv) On the Closing Date, Agent, on behalf of Lenders, may elect to advance to Borrowers the full amount of the initial Loans to be made on the Closing Date prior to receiving funds from Lenders, in reliance upon each Lender’s commitment to make its Pro Rata Share of such Loans to Borrowers in a timely manner on such date. If Agent elects to advance the initial Loans to Borrower in such manner, Agent shall be entitled to receive all interest that accrues on the Closing Date on each Lender’s Pro Rata Share of such Loans unless Agent receives such Lender’s Pro Rata Share of such Loans before 3:00 p.m. (Eastern time) on the Closing Date.

(v) It is understood that for purposes of advances to Borrowers made pursuant to this Section 11.13, Agent will be using the funds of Agent, and pending settlement, (A) all funds transferred from the Payment Account to the outstanding Revolving Loans shall be applied first to advances made by Agent to

Borrowers pursuant to this Section 11.13, and (B) all interest accruing on such advances shall be payable to Agent.

(vi) The provisions of this Section 11.13(a) shall be deemed to be binding upon Agent and Lenders notwithstanding the occurrence of any Default or Event of Default, or any insolvency or bankruptcy proceeding pertaining to any Borrower or any other Credit Party.

(b) [reserved].

(c) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from a Borrower and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind, together with interest accruing on a daily basis at the Federal Funds Rate.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to any Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to any Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

(d) Defaulted Lenders. The failure of any Defaulted Lender to make any payment required by it hereunder shall not relieve any other Lender of its obligations to make payment, but neither any other Lender nor Agent shall be responsible for the failure of any Defaulted Lender to make any payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Defaulted Lender shall not have any voting or consent rights under or with respect to any Financing Document or constitute a “Lender” (or be included in the calculation of “Required Lenders” hereunder) for any voting or consent rights under or with respect to any Financing Document.

(e) Sharing of Payments. If any Lender shall obtain any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Loan (other than pursuant to the terms of Section 2.8(d)) in excess of its Pro Rata Share of payments entitled pursuant to the other provisions of this Section 11.13, such Lender shall purchase from the other Lenders

such participations in extensions of credit made by such other Lenders (without recourse, representation or warranty) as shall be necessary to cause such purchasing Lender to share the excess payment or other recovery ratably with each of them; *provided, however,* that if all or any portion of the excess payment or other recovery is thereafter required to be returned or

~~141~~

otherwise recovered from such purchasing Lender, such portion of such purchase shall be rescinded and each Lender which has sold a participation to the purchasing Lender shall repay to the purchasing Lender the purchase price to the ratable extent of such return or recovery, without interest. Each Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this clause (e) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 10.6) with respect to such participation as fully as if such Lender were the direct creditor of Borrowers in the amount of such participation. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this clause (e) applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this clause (e) to share in the benefits of any recovery on such secured claim.

Section 11.14 Right to Perform, Preserve and Protect. If any Credit Party fails to perform any obligation hereunder or under any other Financing Document, Agent itself may, but shall not be obligated to, cause such obligation to be performed at Credit Parties' expense. Agent is further authorized by Credit Parties and the Lenders to make expenditures from time to time which Agent, in its reasonable business judgment, deems necessary or desirable to (a) preserve or protect the business conducted by Credit Parties, the Collateral, or any portion thereof, and/or (b) enhance the likelihood of, or maximize the amount of, repayment of the Loan and other Obligations. Each Borrower hereby agrees to reimburse Agent on demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14. Each Lender hereby agrees to indemnify Agent upon demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14, in accordance with the provisions of Section 11.6.

Section 11.15 Additional Titled Agents. Except for rights and powers, if any, expressly reserved under this Agreement to any bookrunner, arranger or to any titled agent named on the cover page of this Agreement, other than Agent (collectively, the "Additional Titled Agents"), and except for obligations, liabilities, duties and responsibilities, if any, expressly assumed under this Agreement by any Additional Titled Agent, no Additional Titled Agent, in such capacity, has any rights, powers, liabilities, duties or responsibilities hereunder or under any of the other Financing Documents. Without limiting the foregoing, no Additional Titled Agent shall have nor be deemed to have a fiduciary relationship with any Lender. At any time that any Lender serving as an Additional Titled Agent shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loan, such Lender shall be deemed to have concurrently resigned as such Additional Titled Agent.

Section 11.16 Amendments and Waivers.

(a) No provision of this Agreement or any other Financing Document may be materially amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise

approved by Borrowers, the Required Lenders and any other Lender to the extent required under Section 11.16(b); *provided, however*, that Agent shall be entitled, in its sole and absolute

~~142~~

discretion, to provide its written consent to a proposed Swap Contract, in each case without the consent of any other Lender.

(b) In addition to the required signatures under Section 11.16(a), no provision of this Agreement or any other Financing Document may be amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by the following Persons:

(i) if any amendment, waiver or other modification would increase a Lender's funding obligations in respect of any Loan, by such Lender; and/or

(ii) if the rights or duties of Agent are affected thereby, by Agent;

provided, however, that, in each of (i) and (ii) above, no such amendment, waiver or other modification shall, unless signed or otherwise approved in writing by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Loan; (B) postpone the date fixed for, or waive, any payment (other than any mandatory prepayment pursuant to Section 2.1(b)(ii)) of principal of any Loan, or of interest on any Loan (other than default interest) or any fees provided for hereunder (other than late charges) or postpone the date of termination of any commitment of any Lender hereunder; (C) change the definition of the term Required Lenders or Supermajority Lenders or the percentage of Lenders which shall be required for Lenders to take any action hereunder; (D) release all or substantially all of the Collateral, authorize any Borrower to sell or otherwise dispose of all or substantially all of the Collateral or release any Guarantor of all or any portion of the Obligations or its Guarantee obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be provided in this Agreement or the other Financing Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 11.16(b) or the definitions of the terms used in this Section 11.16(b) insofar as the definitions affect the substance of this Section 11.16(b); (F) consent to the assignment, delegation or other transfer by any Credit Party of any of its rights and obligations under any Financing Document or release any Borrower of its payment obligations under any Financing Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; or (G) amend any of the provisions of Section 10.7 or amend any of the definitions Pro Rata Share, Revolving Loan Commitment, Revolving Loan Commitment Amount, Revolving Loan Commitment Percentage, or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder; and *provided, further*, that no such amendment, waiver or other modification shall, unless signed or otherwise approved in writing by the Supermajority Lenders, amend, supplement or otherwise modify or waive any of the terms and provisions (and related definitions) related to the Borrowing Base, any provisions (including advance rates) relating to eligibility, including, without limitation,

Eligible Accounts, Eligible Billed Accounts, Eligible Exar Billed Accounts, Eligible Unbilled Accounts, Eligible Exar Unbilled Accounts, Eligible Investment Grade Billed Accounts and Eligible Cash, if the effect of such amendment, supplement, modification or waiver would be to increase the amount available to be borrowed by

143

the Borrowers hereunder. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F) and (G) of the preceding sentence.

(c) Without limitation of the provisions of the preceding clause (a) and (b), no waiver, amendment or other modification to this Agreement shall, unless signed by each Eligible Swap Counterparty then in existence, modify the provisions of Section 10.7 in any manner adverse to the interests of each such Eligible Swap Counterparty.

Section 11.17 Assignments and Participations.

(a) Assignments.

(i) Any Lender may at any time assign to one or more Eligible Assignees all or any portion of such Lender's Loan together with all related obligations of such Lender hereunder. Except as Agent may otherwise agree, the amount of any such assignment (determined as of the date of the applicable Assignment Agreement or, if a "Trade Date" is specified in such Assignment Agreement, as of such Trade Date) shall be in a minimum aggregate amount equal to the Threshold Amount or, if less, the assignor's entire interests in the outstanding Loan; *provided, however,* that, in connection with simultaneous assignments to two or more related Approved Funds, such Approved Funds shall be treated as one assignee for purposes of determining compliance with the minimum assignment size referred to above. Borrowers and Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned to an Eligible Assignee until Agent shall have received and accepted an effective Assignment Agreement executed, delivered and fully completed by the applicable parties thereto and a processing fee of \$3,500 to be paid by the assigning Lender; *provided, however,* that only one processing fee shall be payable in connection with simultaneous assignments to two or more related Approved Funds.

(ii) From and after the date on which the conditions described above have been met, (A) such Eligible Assignee shall be deemed automatically to have become a party hereto and, to the extent of the interests assigned to such Eligible Assignee pursuant to such Assignment Agreement, shall have the rights and obligations of a Lender hereunder, and (B) the assigning Lender, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, shall be released from its rights and obligations hereunder (other than those that survive termination pursuant to Section 13.1). Upon the request of the Eligible Assignee (and, as applicable, the assigning Lender) pursuant to an effective Assignment Agreement, each Borrower shall execute and deliver to Agent for delivery to the Eligible Assignee (and, as applicable, the assigning Lender) Notes in the aggregate

principal amount of the Eligible Assignee's Loan (and, as applicable, Notes in the principal amount of that portion of the principal amount of the Loan retained by the assigning Lender).

~~144~~

Upon receipt by the assigning Lender of such Note, the assigning Lender shall return to Borrower Representative any prior Note held by it.

(iii) Agent, acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain at the office of its servicer located in Bethesda, Maryland a copy of each Assignment Agreement delivered to it and a register (the “**Register**”) for the recordation of the names and addresses of each Lender, and the commitments of, and principal amount and stated interest of the Loan owing to, such Lender pursuant to the terms hereof. The entries in such register shall be conclusive, and Borrower, Agent and Lenders may treat each Person whose name is recorded therein pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. Such register shall be available for inspection by Borrower and any Lender, at any reasonable time upon reasonable prior notice to Agent. Each Lender that sells a participation shall, acting solely for this purpose as an agent of Borrowers maintain a register on which it enters the name and address of each participant and the principal amounts (and stated interest) of each participant’s interest in the Obligations (each, a “**Participant Register**”). The entries in the Participant Registers shall be conclusive, absent manifest error. Each Participant Register shall be available for inspection by Borrowers and Agent at any reasonable time upon reasonable prior notice to the applicable Lender; *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 Financing Document) to any Person (including Borrowers) 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) and proposed Section 1.163-5(b) of the United States Treasury Regulations (and any amended or successor versions). For the avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a participant register. This Section 11.17(a)(iii) shall be construed so that all Obligations are at all times maintained in “registered form” within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related U.S. Treasury Regulations (or any other relevant or successor provisions of the Code or of such U.S. Treasury Regulations).

(iv) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal

Reserve Bank; *provided, however,* 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.

(v) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, Agent has the right,

~~145~~

but not the obligation, to effectuate assignments of Loan via an electronic settlement system acceptable to Agent as designated in writing from time to time to the Lenders by Agent (the “**Settlement Service**”). At any time when Agent elects, in its sole discretion, to implement such Settlement Service, each such assignment shall be effected by the assigning Lender and proposed assignee pursuant to the procedures then in effect under the Settlement Service, which procedures shall be consistent with the other provisions of this Section 11.17(a). Each assigning Lender and proposed Eligible Assignee shall comply with the requirements of the Settlement Service in connection with effecting any assignment of Loan pursuant to the Settlement Service. With the prior written approval of Agent, Agent’s approval of such Eligible Assignee shall be deemed to have been automatically granted with respect to any transfer effected through the Settlement Service. Assignments and assumptions of the Loan shall be effected by the provisions otherwise set forth herein until Agent notifies Lenders of the Settlement Service as set forth herein.

(b) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower or Agent, sell to one or more Persons (other than any Borrower or any Borrower’s Affiliates) participating interests in its Loan, commitments or other interests hereunder (any such Person, a “Participant”). In the event of a sale by a Lender of a participating interest to a Participant, (i) such Lender’s obligations hereunder shall remain unchanged for all purposes, (ii) Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations hereunder, and (iii) all amounts payable by each Borrower shall be determined as if such Lender had not sold such participation and shall be paid directly to such Lender. Each Borrower agrees that if amounts outstanding under this Agreement are due and payable (as a result of acceleration or otherwise), each Participant shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; *provided, however*, that such right of set-off shall be subject to the obligation of each Participant to share with Lenders, and Lenders agree to share with each Participant, as provided in Section 11.5.

(c) Replacement of Lenders. Within thirty (30) days after: (i) receipt by Agent of notice and demand from any Lender for payment of additional costs as provided in Section 2.8(d), which demand shall not have been revoked, (ii) any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8(a) through (h), (iii) any Lender is a Defaulted Lender, and the circumstances causing such status shall not have been cured or waived; or (iv) any failure by any Lender to consent to a requested amendment, waiver or modification to any Financing Document in which Required Lenders have already consented to such amendment, waiver or modification but the consent of each Lender, or each Lender

affected thereby, is required with respect thereto (each relevant Lender in the foregoing clauses (i) through (iv) being an “Affected Lender”) each of Borrower Representative and Agent may, at its option, notify such Affected Lender and, in the case of Borrowers’ election, Agent, of such Person’s intention to obtain, at Borrowers’

expense, a replacement Lender (“Replacement Lender”) for such Lender, which Replacement Lender shall be an Eligible Assignee and, in the event the Replacement Lender is to replace an Affected Lender described in the preceding clause (iv), such Replacement Lender consents to the requested amendment, waiver or modification making the replaced Lender an Affected Lender. In the event Borrowers or Agent, as applicable, obtains a Replacement Lender within ninety (90) days following notice of its intention to do so, the Affected Lender shall sell, at par, and assign all of its Loan and funding commitments hereunder to such Replacement Lender in accordance with the procedures set forth in Section 11.17(a); *provided, however*, that (A) Borrowers shall have reimbursed such Lender for its increased costs and additional payments for which it is entitled to reimbursement under Section 2.8(a) through (h), as applicable, of this Agreement through the date of such sale and assignment, and (B) Borrowers shall pay to Agent the \$3,500 processing fee in respect of such assignment. In the event that a replaced Lender does not execute an Assignment Agreement pursuant to Section 11.17(a) within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 11.17(c) and presentation to such replaced Lender of an Assignment Agreement evidencing an assignment pursuant to this Section 11.17(c), such replaced Lender shall be deemed to have consented to the terms of such Assignment Agreement, and any such Assignment Agreement executed by Agent, the Replacement Lender and, to the extent required pursuant to Section 11.17(a), Borrowers, shall be effective for purposes of this Section 11.17(c) and Section 11.17(a). Upon any such assignment and payment, such replaced Lender shall no longer constitute a “Lender” for purposes hereof, other than with respect to such rights and obligations that survive termination as set forth in Section 13.1.

(d) Credit Party Assignments. No Credit Party may assign, delegate or otherwise transfer any of its rights or other obligations hereunder or under any other Financing Document without the prior written consent of Agent and each Lender.

Section 11.18 Funding and Settlement Provisions Applicable When Non-Funding Lenders Exist.

So long as Agent has not waived the conditions to the funding of Revolving Loans set forth in Section 7.2, any Lender may deliver a notice to Agent stating that such Lender shall cease making Revolving Loans due to the non-satisfaction of one or more conditions to funding Loans set forth in Section 7.2, and specifying any such non-satisfied conditions. Any Lender delivering any such notice shall become a non-funding Lender (a “**Non-Funding Lender**”) for purposes of this Agreement commencing on the Business Day following receipt by Agent of such notice, and shall cease to be a Non-Funding Lender on the date on which such Lender has either revoked the effectiveness of such notice or acknowledged in writing to each of Agent the satisfaction of the condition(s) specified in such notice, or Required Lenders waive the conditions to the funding of such Loans giving rise to such notice by Non-Funding Lender. Each Non-Funding Lender shall remain a

Lender for purposes of this Agreement to the extent that such Non-Funding Lender has Revolving Loan Outstandings in excess of \$0; *provided, however*; that during any period of time that any Non-Funding Lender exists, and notwithstanding any provision to the contrary set forth herein, the following provisions shall apply:

~~147~~

(a) For purposes of determining the Pro Rata Share of each Revolving Lender under clause (c) of the definition of such term, each Non-Funding Lender shall be deemed to have a Revolving Loan Commitment Amount as in effect immediately before such Lender became a Non-Funding Lender.

(b) Except as provided in clause (a) above, the Revolving Loan Commitment Amount of each Non-Funding Lender shall be deemed to be \$0.

(c) The Revolving Loan Commitment at any date of determination during such period shall be deemed to be equal to the sum of (i) the aggregate Revolving Loan Commitment Amounts of all Lenders, other than the Non-Funding Lenders as of such date plus (ii) the aggregate Revolving Loan Outstandings of all Non-Funding Lenders as of such date.

(d) [reserved].

(e) Agent shall have no right to make or disburse Revolving Loans for the account of any Non-Funding Lender pursuant to Section 2.1(b)(i) to pay interest, fees, expenses and other charges of any Credit Party.

(f) To the extent that Agent applies proceeds of Collateral or other payments received by Agent to repayment of Revolving Loans pursuant to Section 10.7, such payments and proceeds shall be applied first in respect of Revolving Loans made at the time any Non-Funding Lenders exist, and second in respect of all other outstanding Revolving Loans.

Section 11.19 Buy-Out Upon Refinancing. MidCap Financial Trust shall have the right to purchase from the other Lenders all of their respective interests in the Loan at par in connection with any refinancing of the Loan upon one or more new economic terms, but which refinancing is structured as an amendment and restatement of the Loan rather than a payoff of the Loan.

Section 11.20 Erroneous Payments.

(a) Each Lender and any other party hereto hereby severally agrees that if (i) Agent notifies (which such notice shall be conclusive absent manifest error) such Lender (or the Lender which is an Affiliate of a Lender) or any other Person that has received funds from Agent or any of its Affiliates, either for its own account or on behalf of a Lender (each such recipient, but in any event excluding the Credit Parties and their Affiliates, a “**Payment Recipient**”) that 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 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 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 Agent (or any of its Affiliates) with respect to

148

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 11.20(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 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 Agent for the return of any Erroneous Payments, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(b) Without limiting the immediately preceding clause (a), each Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly notify Agent in writing of such occurrence.

(c) In the case of either clause (a)(i) or (a)(ii) above, such Erroneous Payment shall at all times remain the property of Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of Agent, and upon demand from 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 one Business Day thereafter, return to 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 Agent at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by Agent for any reason, after demand therefor by 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 Agent and upon 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 Revolving Loan Commitment Amount) with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Loans**”) to Agent or, at the option of Agent, Agent’s applicable lending affiliate (such assignee, the “**Agent Assignee**”) in an amount that is equal to the Erroneous Payment Return Deficiency (or such lesser amount as Agent may

specify) (such assignment of the Loans (but not its Revolving Loan Commitment Amount) of the Erroneous Payment Impacted Loans, 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 Agent Assignee as the assignee of such Erroneous Payment Deficiency Assignment. Without limitation of its rights hereunder, following the effectiveness of the Erroneous Payment Deficiency Assignment, Agent may make a cashless reassignment to the applicable assigning Lender of any Erroneous Payment Deficiency Assignment at any time by written notice to the applicable assigning Lender and upon such reassignment all of the Loans assigned pursuant to such Erroneous Payment Deficiency Assignment shall be reassigned to such Lender without any requirement for payment or other consideration. 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 11.17 and (3) Agent may reflect such assignments in the Register without further consent or action by any other Person.

(e) 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, Agent (1) shall be subrogated to all the rights of such Payment Recipient and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Financing Document, or otherwise payable or distributable by Agent to such Payment Recipient from any source, against any amount due to Agent under this Section 11.20 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 Agent from the Borrower or any other Credit Party for the purpose of making for 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.

(f) Each party's obligations under this Section 11.20 shall survive the resignation or replacement of Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Revolving Loan Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Financing Document.

(g) The provisions of this Section 11.20 to the contrary notwithstanding, (i) nothing in this Section 11.20 will constitute a waiver or release of any claim of any party hereunder arising from any Payment Recipient's receipt of an Erroneous Payment and (ii) there will only be deemed to be a recovery of the

Erroneous Payment to the extent that Agent has received payment from the Payment Recipient in immediately available funds the Erroneous Payment Return Deficiency, whether directly from the Payment Recipient, as a result of the exercise by Agent of its rights of

~~150~~

subrogation or set off as set forth above in clause (e) or as a result of the receipt by Agent Assignee of a payment of the outstanding principal balance of the Loans assigned to Agent Assignee pursuant to an Erroneous Payment Deficiency Assignment, but excluding any other amounts in respect thereof (it being agreed that any payments of interest, fees, expenses or other amounts (other than principal) received by Agent Assignee in respect of the Loans assigned to Agent Assignee pursuant to an Erroneous Payment Deficiency Assignment shall be the sole property of Agent Assignee and shall not constitute a recovery of the Erroneous Payment).

Section 11.21 Definitions. As used in this Article 11, the following terms have the following meanings:

“Approved Fund” means any (a) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the Ordinary Course of Business, or (b) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (a) and that, with respect to each of the preceding clauses (a) and (b), is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

“Assignment Agreement” means an assignment agreement in form and substance acceptable to Agent substantially in the form of Exhibit A hereto.

“Defaulted Lender” means, so long as such failure shall remain in existence and uncured, any Lender which shall have failed to make any Loan or other credit accommodation, disbursement, settlement or reimbursement required pursuant to the terms of any Financing Document.

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by Agent and (other than in the case of any assignment by Midcap Financial Trust and its Affiliates), so long as no Event of Default has occurred and is continuing, the Borrower Representative (such consent not to be unreasonably withheld or delayed); *provided, however*, that notwithstanding the foregoing, (x) **“Eligible Assignee”** shall not include any Borrower or any of a Borrower’s Affiliates, and (y) no proposed assignee intending to assume **all or any portion of the Revolving Loan Commitment** shall be an Eligible Assignee unless such proposed assignee either already holds a portion of such Revolving Loan Commitment, or has been approved as an Eligible Assignee by Agent.

“Federal Funds Rate” means, for any day, the rate of interest per annum (rounded upwards, if necessary, to the nearest whole multiple of 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, *provided*,

however, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day, and (b) if no such rate is so published

~~151~~

on such next preceding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to Agent on such day on such transactions as determined by Agent.

Section 11.22 Appointment as Hypothecary Representative. Without limiting the powers of Agent, for the purposes of holding any hypothec granted to the Attorney (as defined below) pursuant to the laws of the Province of Quebec to secure the prompt payment and performance of any and all Obligations by any Credit Party, each of the Lenders hereby irrevocably appoints and authorizes Agent and, to the extent necessary, ratifies the appointment and authorization of Agent, to act as the hypothecary representative of the creditors as contemplated under Article 2692 of the Civil Code of Quebec (in such capacity, the “Attorney”), and to enter into, to take and to hold on their behalf, and for their benefit, any hypothec, and to exercise such powers and duties that are conferred upon the Attorney under any related deed of hypothec. The Attorney shall: (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Attorney pursuant to any such deed of hypothec and applicable law, and (b) benefit from and be subject to all provisions hereof with respect to Agent mutatis mutandis, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Lenders and Credit Parties. Any person who becomes a Lender shall, by its execution of an Assignment Agreement, be deemed to have consented to and confirmed the Attorney as the person acting as hypothecary representative holding the aforesaid hypothecs as aforesaid and to have ratified, as of the date it becomes a Lender, all actions taken by the Attorney in such capacity. The substitution of Agent pursuant to the provisions of this Section 11 also constitutes the substitution of the Attorney.

ARTICLE 12 - GUARANTEE

Section 12.1 [Reserved].

Section 12.2 Guarantee; Limitation of Liability.

(a) Each Guarantor, jointly and severally, hereby absolutely, unconditionally and irrevocably guarantees the punctual payment when due, whether at scheduled maturity or on any date of a required prepayment or by acceleration, demand or otherwise, of all Obligations of each other Credit Party now or hereafter existing under or in respect of the Financing Documents (including, without limitation, any extensions, modifications, substitutions, amendments or renewals of any or all of the foregoing Obligations), whether for principal, interest, premiums, fees, indemnities, or reasonable and documented out-of-pocket expenses (such Obligations being the “**Guaranteed Obligations**”), including, without limitation, reasonable and documented out- of-pocket fees and expenses of counsel incurred by Agent in enforcing any rights under the Guarantee under this Section 12 or under any other Financing Document. Without limiting the generality of the foregoing, each Guarantor’s liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by any other Credit Party to Agent or any Lender under or in respect of the Financing

Documents but for the fact that they are unenforceable or not allowed due to the existence of a bankruptcy, reorganization or similar proceeding involving such other Credit Party.

~~152~~

(b) [Reserved].

Section 12.3 Guarantee Absolute. Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Financing Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of Agent or any Lender with respect thereto. The liability of each Guarantor under the Guarantee under this Section 12 shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses (other than payment of the Obligations to the extent of such payment) it may now have or hereafter acquire in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any Financing Documents or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other Obligations of any other Credit Party under or in respect of the Financing Documents, or any other amendment or waiver of or any consent to departure from any Financing Document, including, without limitation, any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Credit Party;

(c) any taking, exchange, release or non-perfection of any Collateral or any other collateral, or any taking, release or amendment or waiver of, or consent to departure from, any other guarantee, for all or any of the Guaranteed Obligations;

(d) any manner of application of Collateral or any other collateral, or proceeds thereof, to all or any of the Guaranteed Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Guaranteed Obligations or any other Obligations of any Credit Party under the Financing Documents or any other assets of any Credit Party;

(e) any change, restructuring or termination of the corporate structure or existence of any Credit Party;

(f) any failure of Agent or any Lender to disclose to any Credit Party any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Credit Party now or hereafter known to Agent or such Lender (each Guarantor waiving any duty on the part of Agent or Lenders to disclose such information) provided that each Guarantor shall have any contractual defenses that the applicable Credit Party has under any Financing Document including payment in full of the Obligations;

(g) the failure of any other Person to execute or deliver any Guarantee Supplement or any other guarantee or agreement or the release or reduction of liability of any Guarantor or other guarantor or surety with respect to the Guaranteed Obligations; or

(h) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by Agent or any

~~153~~

Lender that might otherwise constitute a defense available to, or a discharge of, any Credit Party or any other guarantor or surety other than payment in full of the Guaranteed Obligations; provided that each Guarantor shall have any contractual defenses that the applicable Credit Party has under any Financing Document.

The Guarantee under this Section 12 shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by any Lender or any other Person upon the insolvency, bankruptcy or reorganization of Borrowers or any other Credit Party or otherwise, all as though such payment had not been made.

Section 12.4 Waivers and Acknowledgments.

(a) To the extent allowed under applicable Law, each Guarantor hereby unconditionally and irrevocably waives promptness, diligence, notice of acceptance, presentment, demand for performance, notice of non-performance, default, acceleration, protest or dishonor and any other notice with respect to any of the Guaranteed Obligations and the Guarantee under this Section 12 and any requirement that Agent or any Lender protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any Credit Party or any other Person or any Collateral.

(b) Each Guarantor hereby unconditionally and irrevocably waives any right to revoke the Guarantee under this Section 12 and acknowledges that the Guarantee under this Section 12 is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

(c) Each Guarantor hereby unconditionally and irrevocably waives (i) any defense arising by reason of any claim or defense based upon an election of remedies by Agent or any Lender that in any manner impairs, reduces, releases or otherwise adversely affects the subrogation, reimbursement, exoneration, contribution or indemnification rights of such Guarantor or other rights of such Guarantor to proceed against any of the other Credit Parties, any other guarantor or any other Person or any Collateral and (ii) any defense based on any right of set-off or counterclaim against or in respect of the Guaranteed Obligations of such Guarantor hereunder.

(d) Each Guarantor acknowledges that Agent may, without notice to or demand upon such Guarantor and without affecting the liability of such Guarantor under the Guarantee under this Section 12, foreclose under any mortgage by nonjudicial sale, and each Guarantor hereby waives any defense to the recovery by Agent and the other Lenders against such Guarantor of any deficiency after such nonjudicial sale and any defense or benefits that may be afforded by applicable Law.

(e) Each Guarantor hereby unconditionally and irrevocably waives any duty on the part of Agent or any Lender to disclose to such Guarantor any matter, fact or thing relating to the business, condition (financial or otherwise), operations, performance,

~~154~~

properties or prospects of any other Credit Party now or hereafter known by Agent or such Lender.

(f) Each Guarantor acknowledges that it will receive substantial direct and indirect benefits from the financing arrangements contemplated by the Financing Documents and that the waivers set forth in Section 12.3 and this Section 12.4 are knowingly made in contemplation of such benefits.

Section 12.5 Subrogation. Each Guarantor hereby unconditionally and irrevocably agrees not to exercise any rights that it may now have or hereafter acquire against the Borrowers, any other Credit Party or any other insider guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's Obligations under or in respect of the Guarantee under this Section 12 or any other Financing Document, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent or any Lender against the Borrowers, any other Credit Party or any other insider guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from the Borrowers, any other Credit Party or any other insider guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 shall have been paid in full in cash. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the payment in full in cash of the Guaranteed Obligations (other than unasserted contingent indemnification obligations) and all other amounts payable under the Guarantee under this Section 12, such amount shall be received and held in trust for the benefit of Agent and the Lenders, shall be segregated from other property and funds of such Guarantor and shall forthwith be paid or delivered to Agent in the same form as so received (with any necessary endorsement or assignment) to be credited and applied to the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12, whether matured or unmatured, in accordance with the terms of the Financing Documents, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under the Guarantee under this Section 12 thereafter arising. If (a) any Guarantor shall make payment to Agent or any Lender of all or any part of the Guaranteed Obligations, (b) all of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 shall have been paid in full in cash and (c) the Termination Date shall have occurred, Agent or the Lenders will, at such Guarantor's request and expense, execute and deliver to such Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment made by such Guarantor pursuant to the Guarantee under this Section 12.

Section 12.6 [Reserved].

Section 12.7 Subordination. Each Guarantor hereby subordinates any and all debts, liabilities and other Obligations owed to such Guarantor by each other Credit Party, except for any Obligations otherwise set forth hereunder (the “**Subordinated Obligations**”) to the Guaranteed Obligations to the extent and in the manner hereinafter set forth in this Section 12.7:

~~155~~

(a) **Prohibited Payments, Etc.** Unless Agent otherwise agrees, upon a Default or the occurrence and during the continuance of an Event of Default, no Guarantor shall demand, accept or take any action to collect any payment on account of the Subordinated Obligations.

(b) **Prior Payment of Guaranteed Obligations.** In any proceeding under Debtor Relief Laws relating to any other Credit Party, each Guarantor agrees that Agent and the Lenders shall be entitled to receive payment in full in cash of all Guaranteed Obligations before such Guarantor receives payment of any Subordinated Obligations.

(c) **Turn-Over.** After the occurrence and during the continuance of any Event of Default, each Guarantor shall, if Agent so requests, collect, enforce and receive payments on account of the Subordinated Obligations as trustee for Agent and the Lenders and deliver such payments to Agent on account of the Guaranteed Obligations, together with any necessary endorsements or other instruments of transfer.

(d) **Agent Authorization.** After the occurrence and during the continuance of any Event of Default, Agent is authorized and empowered (but without any obligation to so do), in its discretion, (i) in the name of each Guarantor, to collect and enforce, and to submit claims in respect of, the Subordinated Obligations and to apply any amounts received thereon to the Guaranteed Obligations, and (ii) to require each Guarantor (A) to collect and enforce, and to submit claims in respect of, the Subordinated Obligations, and (B) to pay any amounts received on such obligations to Agent for application to the Guaranteed Obligations.

Section 12.8 Continuing Guarantee; Assignments. The Guarantee under this Section 12 is a continuing guarantee and shall (a) remain in full force and effect until the payment in full in cash of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 and termination of all other Obligations hereunder, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by Agent, the Lenders and their respective successors, transferees and assigns. No Guarantor shall have the right to assign its rights hereunder or any interest herein without the prior written consent of Agent.

ARTICLE 13 - MISCELLANEOUS

Section 13.1 Survival. All agreements, representations and warranties made herein and in every other Financing Document shall survive the execution and delivery of this Agreement and the other Financing Documents and the other Operative Documents. The provisions of Section 2.9 and Articles 11 and 12 shall survive the payment of the Obligations (both with respect to any Lender and all Lenders collectively) and any termination of this Agreement and any judgment with respect to any Obligations, including any final foreclosure judgment with respect to any Security Document, and no unpaid or unperformed, current or future, Obligations will merge into any such judgment.

Section 13.2 No Waivers. No failure or delay by Agent or any Lender in exercising any right, power or privilege under any Financing Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein and therein provided shall be cumulative and not exclusive of any rights or remedies provided by law. Any reference in any Financing Document to the “continuing” nature of any Event of Default shall not be construed as establishing or otherwise indicating that any Borrower or any other Credit Party has the independent right to cure any such Event of Default, but is rather presented merely for convenience should such Event of Default be waived in accordance with the terms of the applicable Financing Documents.

Section 13.3 Notices.

(a) All notices, requests and other communications to any party hereunder shall be in writing (including prepaid overnight courier, e-mail or similar writing) and shall be given to such party at its address or e-mail address set forth on the signature pages hereof (or, in the case of any such Lender who becomes a Lender after the date hereof, in an assignment agreement or in a notice delivered to Borrower Representative and Agent by the assignee Lender forthwith upon such assignment) or at such other address or e-mail address as such party may hereafter specify for the purpose by notice to Agent and Borrower Representative; *provided*, however, that notices, requests or other communications shall be permitted by electronic means only in accordance with the provisions of Section 13.3(b) and (c). Each such notice, request or other communication shall be effective (i) if given by electronic means, in accordance with the provisions of Section 13.3(b) and (c), or (ii) if given by mail, prepaid overnight courier or any other means, when received or when receipt is refused at the applicable address specified by this Section 13.3(a).

(b) Notices and other communications to the parties hereto may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved from time to time by Agent, *provided*, however, that the foregoing shall not apply to notices sent directly to any Lender if such Lender has notified Agent that it is incapable of receiving notices by electronic communication. Agent or Borrower Representative may, in their discretion, agree to accept notices and other communications to them hereunder by electronic communications pursuant to procedures approved by it, *provided, however*, that approval of such procedures may be limited to particular notices or communications.

(c) Unless 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 acknowledgment from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgment), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended

recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor, provided, however, that if any such notice or other communication is not sent or posted during normal business hours, such

~~157~~

notice or communication shall be deemed to have been sent at the opening of business on the next Business Day.

Section 13.4 Severability. In case any provision of or obligation under this Agreement or any other Financing Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 13.5 **Headings.** Headings and captions used in the Financing Documents (including the Exhibits, Schedules and Annexes hereto and thereto) are included for convenience of reference only and shall not be given any substantive effect.

Section 13.6 **Confidentiality.**

(a) Each Credit Party agrees (i) not to transmit or disclose provisions of any Financing Document to any Person (other than to Borrowers' advisors and officers on a need-to-know basis or as otherwise may be required by Law) without Agent's prior written consent, (ii) to inform all Persons of the confidential nature of the Financing Documents and to direct them not to disclose the same to any other Person and to require each of them to be bound by these provisions.

(b) Agent and each Lender shall hold all non-public information regarding the Credit Parties and their respective businesses identified as such by Borrowers and obtained by Agent or any Lender pursuant to the requirements hereof in accordance with such Person's customary procedures for handling information of such nature, except that disclosure of such information may be made (i) to their respective agents, employees, Subsidiaries, Affiliates, attorneys, auditors, professional consultants, rating agencies, insurance industry associations and portfolio management services, (ii) to prospective transferees or purchasers of any interest in the Loans, Agent or a Lender, and to prospective contractual counterparties (or the professional advisors thereto) in Swap Contracts permitted hereby, *provided, however*, that any such Persons are bound by obligations of confidentiality, (iii) as required by Law, subpoena, judicial order or similar order and in connection with any litigation, (iv) as may be required in connection with the examination, audit or similar investigation of such Person, and (v) as Agent or any Lender considers appropriate in exercising remedies under the Financing Documents or at any time an Event of Default exists hereunder, and (vi) to a Person that is a trustee, investment advisor or investment manager, collateral manager, servicer, noteholder or secured party in a Securitization (as hereinafter defined) in connection with the administration, servicing and reporting on the assets serving as collateral for such Securitization. For the purposes of this Section, "Securitization" shall mean (A) the pledge of the Loans as collateral security for loans to a Lender, or (B) a public or private offering by a Lender or any of its Affiliates or their respective successors and assigns, of securities which represent an interest in, or which are collateralized, in whole or in part, by the Loans. Confidential information

shall include only such information identified as such at the time provided to Agent and shall not include information that either: (y) is in the public domain, or becomes part of the public domain after disclosure to such Person

158

through no fault of such Person, or (z) is disclosed to such Person by a Person other than a Credit Party, *provided, however*, Agent does not have actual knowledge that such Person is prohibited from disclosing such information. The obligations of Agent and Lenders under this Section 13.6 shall supersede and replace the obligations of Agent and Lenders under any confidentiality agreement in respect of this financing executed and delivered by Agent or any Lender prior to the date hereof.

Section 13.7 Waiver of Consequential and Other Damages. To the fullest extent permitted by applicable law, no Borrower shall assert, and each Borrower hereby waives, any claim against any Indemnitee (as defined below), 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 Financing Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Financing Documents or the transactions contemplated hereby or thereby, except for any such damages resulting from the gross negligence or willful misconduct of such Indemnitee or any of such Indemnitee's related parties, as determined by a final non-appealable court of competent jurisdiction.

Section 13.8 GOVERNING LAW; SUBMISSION TO JURISDICTION.

(a) THIS AGREEMENT, EACH NOTE AND EACH OTHER FINANCING DOCUMENT, AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR THERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), OR THE PERFORMANCE BY AGENT OR ANY OF ITS AFFILIATE'S OF THE SERVICES CONTEMPLATED THEREBY, SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

(b) ~~EACH CREDIT PARTY HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE COURT LOCATED WITHIN THE COUNTY OF MONTGOMERY, NEW YORK OR FEDERAL COURT LOCATED WITHIN THE STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER FINANCING DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS~~ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING HERETO MAY BE BROUGHT IN THE FEDERAL COURTS SITTING IN THE SOUTHERN DISTRICT OF NEW YORK IN THE STATE OF NEW YORK, OR IF SUCH FEDERAL COURTS DO NOT HAVE

JURISDICTION, THEN TO THE COMMERCIAL DIVISION OF THE STATE
COURTS RESIDING IN THE COUNTY OF NEW YORK IN THE STATE OF
NEW YORK, OR, TO THE EXTENT THAT ANY ACTION IS NOT ELIGIBLE
FOR FILING IN THE COMMERCIAL DIVISION,

159

THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY. EACH CREDIT PARTY EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF ~~THE AFORESAID~~SUCH COURTS AND WAIVES ANY DEFENSE OF OR OBJECTION TO THE LAYING OF VENUE IN SUCH COURTS, INCLUDING ANY DEFENSE BASED ON FORUM NON CONVENIENS. EACH CREDIT PARTY HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON SUCH CREDIT PARTY BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH CREDIT PARTY AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

(c) Each Borrower, Agent and each Lender agree that each Loan (including those made on the Closing Date) shall be deemed to be made in, and the transactions contemplated hereunder and in any other Financing Document shall be deemed to have been performed in, the State of New York.

Section 13.9 **WAIVER OF JURY TRIAL.** EACH CREDIT PARTY, AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE FINANCING DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH CREDIT PARTY, AGENT AND EACH LENDER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH CREDIT PARTY, AGENT AND EACH LENDER WARRANTS AND REPRESENTS THAT IT HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

Section 13.10 **Publication; Advertisement.**

(a) Publication. No Credit Party will directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of MCF or any of its Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except (i) as required by Law, subpoena or judicial or similar order, in which case the applicable Credit Party shall give Agent prior written notice of such publication or other disclosure, or (ii) with MCF's prior written consent.

(b) Advertisement. Each Lender and each Credit Party hereby authorizes MCF to publish the name of such Lender and Credit Party, the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing

160

evidenced hereby in any “tombstone”, comparable advertisement or press release which MCF elects to submit for publication. In addition, each Lender and each Credit Party agrees that MCF may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect to any of the foregoing, MCF shall provide Credit Parties with an opportunity to review and confer with MCF regarding the contents of any such tombstone, advertisement or information, as applicable, prior to its submission for publication and, following such review period, MCF may, from time to time, publish such information in any media form desired by MCF, until such time that Credit Parties shall have requested MCF cease any such further publication.

Section 13.11 Counterparts; Integration. This Agreement and the other Financing Documents may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. As used herein, “**Electronic Signature**” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Agreement and the other Financing Documents constitute the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

Section 13.12 **No Strict Construction.** The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

Section 13.13 **Lender Approvals.** Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Agent or Lenders with respect to any matter that is the subject of this Agreement, the other Financing Documents may be granted or withheld by Agent and Lenders in their sole and absolute discretion and credit judgment.

Section 13.14 **Expenses; Indemnity.**

(a) Credit Parties hereby agree to promptly pay (i) all costs and expenses of Agent (including, without limitation, the fees, costs and expenses of counsel to, and independent appraisers and consultants retained by Agent) in connection with the

~~161~~

examination, review, due diligence investigation, documentation, negotiation, closing and syndication of the transactions contemplated by the Financing Documents, in connection with the performance by Agent of its rights and remedies under the Financing Documents and in connection with the continued administration of the Financing Documents including (A) any amendments, modifications, consents and waivers to and/or under any and all Financing Documents, and (B) any periodic public record searches conducted by or at the request of Agent (including, without limitation, title investigations, UCC searches, PPSA searches, searches under the Bank Act (Canada), fixture filing searches, judgment, pending litigation and tax lien searches and searches of applicable corporate, limited liability, partnership and related records concerning the continued existence, organization and good standing of certain Persons); (ii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with the creation, perfection and maintenance of Liens pursuant to the Financing Documents; (iii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with (A) protecting, storing, insuring, handling, maintaining or selling any Collateral, (B) any litigation, dispute, suit or proceeding relating to any Financing Document, and (C) any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Financing Documents; (iv) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with Agent's reservation of funds in anticipation of the funding of the initial Loans to be made hereunder; and (v) all costs and expenses incurred by Lenders in connection with any litigation, dispute, suit or proceeding relating to any Financing Document and in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all Financing Documents, whether or not Agent or Lenders are a party thereto. If Agent or any Lender uses in-house counsel for any of these purposes, Credit Parties further agree that the Obligations include reasonable charges for such work commensurate with the fees that would otherwise be charged by outside legal counsel selected by Agent or such Lender for the work performed.

(b) Each Credit Party hereby agrees to indemnify, pay and hold harmless Agent and Lenders and the officers, directors, employees, trustees, agents, investment advisors and investment managers, collateral managers, servicers, and counsel of Agent and Lenders (collectively called the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnatee) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnatee shall be designated a party thereto and including any such proceeding initiated by or on behalf of a Credit Party, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Agent or Lenders) asserting any right to payment for the transactions contemplated hereby, which may be imposed on, incurred by or asserted against

such Indemnatee as a result of or in connection with the transactions contemplated hereby or by the other Operative Documents (including (i)(A) as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from, any property now or previously owned, leased or operated by each Credit Party, any

162

Subsidiary or any other Person of any Hazardous Materials, (B) arising out of or relating to the offsite disposal of any materials generated or present on any such property, or (C) arising out of or resulting from the environmental condition of any such property or the applicability of any governmental requirements relating to Hazardous Materials, whether or not occasioned wholly or in part by any condition, accident or event caused by any act or omission of Credit Party or any Subsidiary, and (ii) proposed and actual extensions of credit under this Agreement) and the use or intended use of the proceeds of the Loans, except that Credit Party shall have no obligation hereunder to an Indemnitee with respect to any liability resulting from the gross negligence or willful misconduct of such Indemnitee or any of such Indemnitee's related parties, as determined by a final non-appealable judgment of a court of competent jurisdiction. To the extent that the undertaking set forth in the immediately preceding sentence may be unenforceable, Credit Parties shall contribute the maximum portion which it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all such indemnified liabilities incurred by the Indemnitees or any of them. This Section 13.14 shall not apply with respect to Taxes other than any Taxes that represent losses, damages, liabilities, actions, suits, judgments, obligations, penalties, fees, claims or reasonable costs and expenses arising from any non-Tax claim.

(c) Notwithstanding any contrary provision in this Agreement, the obligations of Credit Parties under this Section 13.14 shall survive the payment in full of the Obligations and the termination of this Agreement. NO INDEMNITEE SHALL BE RESPONSIBLE OR LIABLE TO THE CREDIT PARTIES OR TO ANY OTHER PARTY TO ANY FINANCING DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

Section 13.15 Confession of Judgment. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, EACH CREDIT PARTY AUTHORIZES ANY ATTORNEY ADMITTED TO PRACTICE BEFORE ANY COURT OF RECORD IN THE UNITED STATES OR THE CLERK OF SUCH COURT TO APPEAR ON BEHALF OF SUCH CREDIT PARTY IN ANY COURT IN ONE OR MORE PROCEEDINGS, OR BEFORE ANY CLERK THEREOF OR PROTHONOTARY OR OTHER COURT OFFICIAL, AND TO CONFESS JUDGMENT AGAINST CREDIT PARTY IN FAVOR OF AGENT (FOR THE BENEFIT OF ALL LENDERS) IN THE FULL AMOUNT DUE ON THIS AGREEMENT (INCLUDING PRINCIPAL, ACCRUED INTEREST AND ANY AND ALL CHARGES, FEES AND COSTS) PLUS ATTORNEYS' FEES EQUAL TO FIFTEEN PERCENT (15%) OF THE AMOUNT DUE (EXCEPT THAT AGENT SHALL NOT SEEK TO COLLECT AN AMOUNT IN EXCESS OF ITS ACTUAL ATTORNEYS' FEES), PLUS

COURT COSTS, ALL WITHOUT PRIOR NOTICE OR OPPORTUNITY OF SUCH CREDIT PARTY FOR PRIOR HEARING. EACH CREDIT PARTY AGREES AND CONSENTS THAT VENUE AND JURISDICTION SHALL BE PROPER IN THE ~~CIRCUIT COURT~~SOUTHERN DISTRICT OF

163

~~MONTGOMERY COUNTY OF NEW YORK IN~~ THE STATE OF NEW YORK, OR IN THE ~~UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW~~COMMERCIAL DIVISION OF THE STATE COURTS RESIDING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK. THE AUTHORITY AND POWER TO APPEAR FOR AND ENTER JUDGMENT AGAINST A CREDIT PARTY SHALL NOT BE EXHAUSTED BY ONE OR MORE EXERCISES THEREOF, OR BY ANY IMPERFECT EXERCISE THEREOF, AND SHALL NOT BE EXTINGUISHED BY ANY JUDGMENT ENTERED PURSUANT THERETO; SUCH AUTHORITY AND POWER MAY BE EXERCISED ON ONE OR MORE OCCASIONS FROM TIME TO TIME, IN THE SAME OR DIFFERENT JURISDICTIONS, AS OFTEN AS AGENT SHALL DEEM NECESSARY, CONVENIENT, OR PROPER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THIS SECTION 13.15 SHALL APPLY ONLY TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.

Section 13.16 Reinstatement. This Agreement shall remain in full force and effect and continue to be effective should any petition or other proceeding be filed by or against any Credit Party for liquidation or reorganization, should any Credit Party become insolvent or make an assignment for the benefit of any creditor or creditors or should an interim receiver, receiver, receiver and manager, monitor or trustee be appointed for all or any significant part of any Credit Party's assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a fraudulent preference reviewable transaction or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

Section 13.17 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Credit Parties and Agent and each Lender and their respective successors and permitted assigns.

Section 13.18 USA PATRIOT Act Notification. Agent (for itself and not on behalf of any Lender) and each Lender hereby notifies Credit Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record certain information and documentation that identifies Credit Parties, which information includes the name and address of Credit Parties and such other information that will allow Agent or such Lender, as applicable, to identify any Credit Party in accordance with the USA PATRIOT Act.

Section 13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Financing Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures 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 each Credit Party in respect of any such sum due from

it to Agent or any Lender hereunder or under the other Financing 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 Agent or such

Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, 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 Agent or any Lender from any Credit Party in the Agreement Currency, such Credit Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify Agent or such 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 Agent or any Lender in such currency, Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Credit Party (or to any other Person who may be entitled thereto under applicable Law).

Section 13.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Financing 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 Financing 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:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing 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 13.21 Canadian Anti-Money Laundering Legislation.

(a) Each Credit Party acknowledges that, pursuant to Anti-Terrorism Laws and other applicable anti-money laundering, anti-terrorist financing, government sanction and “know your client” Laws (collectively,

including any guidelines or orders thereunder, “**AML Legislation**”), the Lenders may be required to obtain, verify and record information regarding the Credit Parties and their respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Credit

~~165~~

Parties, and the transactions contemplated hereby. Each Credit Party shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or any prospective assignee or participant of a Lender or Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If Agent has ascertained the identity of any Credit Party or any authorized signatories of the Credit Parties for the purposes of applicable AML Legislation, then Agent:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a “written agreement” in such regard between each Lender and Agent within the meaning of the applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that neither Agent nor any other agent has any obligation to ascertain the identity of the Credit Parties or any authorized signatories of the Credit Parties on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from any Credit Party or any such authorized signatory in doing so.

Section 13.22 Parent. The parties hereto acknowledge and agree that the Parent is not a party to this Agreement or any other Financing Document and shall not be deemed a Borrower, Guarantor or other obligor with respect to the Obligations.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

**LIMITED WAIVER AND THIRD AMENDMENT TO
CREDIT AND SECURITY AGREEMENT**

This **LIMITED WAIVER AND THIRD AMENDMENT TO CREDIT AND SECURITY AGREEMENT** (this “*Amendment*”), dated as of March 6, 2026, is entered into by and among XBP Americas, LLC (formerly known as Exela Technologies BPA, LLC) a Delaware limited liability company, (the “*Borrower*”), the guarantors party thereto (the “*Guarantors*”), **MIDCAP FUNDING IV TRUST**, a Delaware statutory trust, as administrative agent (the “*Agent*”), and the financial institutions or other entities from time to time parties hereto, each as a Lender.

RECITALS

WHEREAS, reference is made to that certain Credit And Security Agreement, dated as of July 29, 2025 (the “*Original Credit Agreement*”), by and among the Borrower, the Guarantors, the Lenders, and the Agent (as amended by that certain First Amendment to Credit Agreement, dated as of December 19, 2025, as further amended by that certain Second Amendment to Credit Agreement, dated as of January 21, 2026 the “*Existing Credit Agreement*”, and as such Existing Credit Agreement is amended hereby or as may be amended, restated, amended and restated, supplemented or modified from time to time thereafter, the “*Credit Agreement*”);

WHEREAS, the Borrower has requested that the Agent consent to certain amendments to the Existing Credit Agreement, and pursuant to Section 11.16 of the Credit Agreement, the Agent and the Lenders (including the Required Lenders) have agreed to the requested modification on the terms and conditions set forth herein; and

WHEREAS, certain Specified Events of Default (as defined below) have occurred and are continuing and the Lenders under the Existing Credit Agreement are willing to waive the Specified Events of Default (as defined below) and make such amendments on the terms and subject to the conditions set forth in this Amendment;

NOW, THEREFORE, in consideration of the promises, covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

Section 2. Acknowledgements; Reaffirmation.

2.1. Acknowledgment of Obligations. All Obligations are unconditionally owing by the Credit Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

2.2. Acknowledgment of Liens. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Agent on behalf of the Lenders has and shall continue to have valid, enforceable and perfected first-priority Liens (subject to certain Permitted Liens) upon and security

interests in the Collateral heretofore granted by the Credit Parties to the Agent on behalf of the Lenders pursuant to the Financing Documents.

2.3. Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Credit Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Credit Parties grant Liens or security interests in their properties, in each case under the Financing Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Financing Document to which it is a party, and (B) to the extent such Credit Party granted Liens on or security interests in any of its property pursuant to any such Financing Document (including, but not limited to, the Security Documents), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

Section 3. Limited Waiver.

(a) Subject to the satisfaction of the conditions precedent set forth in Section 5 hereof, and in reliance upon the representations and warranties made by the Credit Parties set forth in Section 8 hereof, the Lenders hereby waive any Default or Event of Default arising under:

(i) Section 10.1(b) of the Existing Credit Agreement resulting from the Borrower's failure to comply with the covenants set forth in (A) Schedule 7.4(1) of the Existing Credit Agreement as a result of the Borrower failing to timely deliver an amended and restated Schedule 5.14, (B) Schedule 7.4(2)(ii) of the Existing Credit Agreement as a result of the Borrower failing to timely deliver a Deposit Account Control Agreement for certain Deposit Accounts and Securities Accounts the Credit Parties maintain at JPMorgan Chase Bank, N.A. (the "**Bank**") no later than five (5) Business Days following the Second Amendment Effective Date, and (C) Schedule 7.4(3) of the Existing Credit Agreement as a result of the Borrower failing to timely deliver written confirmation evidencing that PNC Bank, National Association established a standing wire instruction in favor of JPMorgan Chase Bank, N.A. with respect to the applicable Lockbox Accounts;

(ii) Section 10.1(a)(ii) and Section 10.1(b) of the Existing Credit Agreement resulting from the Borrower's failure to obtain consent or provide notice of the change to the name of XBP Enterprise Solutions, Inc.;

(iii) Section 10.1(b) of the Existing Credit Agreement resulting from the applicable Credit Parties' failure to timely complete the Post Closing Requirement in paragraph 2 of Schedule 7.4 of the Original Credit Agreement;

(iv) Section 10.1(c) of the Existing Credit Agreement resulting from any incorrect or materially incorrect representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to the Finance Documents, in any such case solely with respect to the Defaults or Events of Default set forth in this Section 3 prior to the Effective Date; and

(v) Section 10.1(d) of the Existing Credit Agreement, solely to the extent arising from any default, condition or event under the Term Loan Agreement or the B. Riley Credit Agreement resulting from the Defaults or Events of Default described in this Section 3 prior to the Effective Date (the Defaults and Events of Default described in the foregoing clauses (i) through (v), collectively, the “Specified Events of Default”).

(b) The waiver provided in this Section 3 is limited and (i) shall only be relied upon and used for the express purposes set forth herein and shall be limited precisely as written, (ii) shall not constitute nor be deemed to be a consent, waiver, amendment or other modification of any other term or condition of the Existing Credit Agreement, the Credit Agreement or any other Financing Document, and shall not prejudice any right or remedy which the Agent or any Lender may now have or may have in the future under or in connection with the Credit Agreement or any other Financing Document (except as expressly set forth herein with respect to the Specified Events of Default), (iii) shall not constitute nor be deemed to constitute a waiver by the Agent or any Lender of anything other than for the specific purposes set forth herein, (iv) shall not constitute a custom or course of dealing among the parties hereto and (v) does not allow for any other or further departure from the terms and conditions of the Credit Agreement or any other Financing Document, which terms and conditions shall continue in full force and effect. The Agent and the Lenders hereby reserve all of their respective rights and remedies available under the Credit Agreement, the other Financing Documents and applicable law as a result of any Defaults or Events of Default (other than the Specified Events of Default) occurring at any time. Nothing contained herein, and no delay on the part of the Agent or any Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

Section 4. Amendment to Credit Agreement. As of the Effective Date (as defined below), subject to the satisfaction of the conditions precedent set forth in Section 5 of this Amendment,

4.1. the Existing Credit Agreement (excluding the Annexes, Schedule and Exhibits attached thereto) is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text), each as set forth in the pages of a conformed copy of the amended Existing Credit Agreement attached hereto as Annex I;

4.2. Exhibit B of the Existing Credit Agreement is hereby amended and restated in its entirety as set forth in Annex II attached hereto;

4.3. Schedule 5.14 of the Existing Credit Agreement is hereby amended and restated in its entirety as set forth in Annex III attached hereto; and

4.4. Schedule 7.4 of the Existing Credit Agreement is hereby amended and restated in its entirety as set forth in Annex IV attached hereto.

Section 5. Conditions Precedent. The effectiveness of this Amendment, including the waiver provided in Section 3 above and amendments provided in Section 4 above, shall become

effective on the date (the “**Effective Date**”) upon which each of the following conditions precedent have been satisfied:

(a) receipt by the Agent and the Lenders of this Amendment, duly executed and delivered by the Credit Parties, the Lenders and the Agent, in form and substance satisfactory to the Agent;

(b) receipt by the Agent and the Lenders of a waiver to each of the Term Loan Agreement and B. Riley Credit Agreement, each duly executed and delivered by the relevant Credit Parties, in form and substance satisfactory to the Agent;

(c) receipt by the Agent of a Solvency Certificate in respect of each Canadian Credit Party that is an Excluded Exar Originator, in form and substance satisfactory to the Agent;

(d) the Agent shall have received, for the ratable benefit of the Lenders, an amendment fee of \$75,000 from the Borrower, and such fee shall be fully earned, payable and non-refundable as of the date hereof; and

(e) payment of all fees and other amounts due and payable on or prior to the date hereof pursuant to the Financing Documents, and the fees and disbursements invoiced at least one (1) Business Day prior to the Effective Date of the Agent’s counsel, Proskauer Rose LLP.

Section 6. [Reserved].

Section 7. Release; Waiver.

7.1. Release. Each Credit Party (on behalf of itself and its Affiliates) for itself and for its successors in title, legal representatives and assignees and, to the extent the same is claimed by right of, through or under any of the Credit Parties, for its past and present employees, agents, representatives, officers, directors, shareholders, and trustees (each, a “**Releasing Party**” and collectively, the “**Releasing Parties**”), does hereby remise, release and discharge the Agent and each Lender in their respective capacities as such under the Financing Documents, and the Agent’s and each Lender’s respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals and all other persons and entities to whom the Agent and each Lender or any of their respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals would be liable if such persons or entities were found to be liable to any Releasing Party or any of them (collectively, hereinafter the “**Releasees**”), from any and all manner of action and actions, cause and causes of action, claims, charges, demands, counterclaims, crossclaims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, rights of setoff and recoupment, controversies, damages, judgments, expenses, executions, liens, claims of liens, claims of costs, penalties, attorneys’ fees, or any other compensation, recovery or relief on account of any liability, obligation, demand or cause of action of whatever nature, whether in law, equity or otherwise (including, without limitation, any claims relating to (i) the making or administration of the Loans,



including, without limitation, any such claims and defenses based on mistake, duress, usury or misrepresentation, or any other claim based on so-called “lender liability” theories, (ii) any covenants, agreements, duties or obligations set forth in the Existing Credit Agreement, (iii) increased financing costs, interest or other carrying costs, (iv) penalties, (v) lost profits or loss of business opportunity, (vi) legal, accounting and other administrative or professional fees and expenses and incidental, consequential and punitive damages payable to third parties, (vii) damages to business reputation or (viii) to the extent allowed by applicable Law, any claims arising under 11 U.S.C. Sections 541 to 550 or any claims for avoidance or recovery under any other federal, state or foreign law equivalent), whether known or unknown, fixed or contingent, joint and/or several, secured or unsecured, due or not due, primary or secondary, liquidated or unliquidated, contractual or tortious, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen, suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against any of the Releasees, whether held in a personal or representative capacity, and which are, in each case, based on any act, fact, event or omission or other matter, cause or thing occurring at any time prior to or on the date hereof in any way, directly or indirectly arising out of, connected with or relating to the Existing Credit Agreement or any other Financing Document and the transactions contemplated thereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing (each, a “**Claim**” and collectively, the “**Claims**”). Each Releasing Party further represents that it has not sold or assigned any Claim and stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable Law, any and all provisions, rights, and benefits conferred by any Applicable Law, any applicable foreign Law or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 7.

The Borrower and each other Credit Party understands, acknowledges and agrees that its release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. The Borrower and each other Credit Party agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered, except as set forth above in this Section 7.1, shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

7.2. Waiver. Each Credit Party, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by the Borrower or any other Credit Party pursuant to this Section 7. If a Credit Party or any of its successors, assigns or other legal representatives violates the foregoing covenant, each Credit Party, each for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

7.3. Representation by Counsel. In entering into this Amendment, each Credit Party has consulted with and been represented by counsel and expressly disclaims any reliance on any representations, acts or omissions by the Agent, the Lenders or any of the Agent’s or the Lenders’ Affiliates and hereby agrees and acknowledges that the validity and effectiveness of the releases



set forth above do not depend in any way on any such representations, acts and/or omissions or the accuracy, completeness or validity thereof. The provisions of this Section 7 shall survive the termination of this Amendment and the Credit Agreement and payment in full of all amounts owing thereunder.

Section 8. Miscellaneous.

8.1. **Incorporations by Reference.** The provisions of Sections 11.16 (*Amendments and Waivers*), 13.1 (*Survival*), 13.2 (*No Waivers*), 13.3 (*Notices*), 13.4 (*Severability*), 13.6 (*Confidentiality*), 13.8 (*Governing Law; Submission To Jurisdiction*), 13.9 (*Waiver of Jury Trial*), 13.14 (*Expenses and Indemnity*) and 13.17 (*Successors and Assigns*) of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

8.2. **Counterparts; Integration.** This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. As used herein, “Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Amendment constitutes the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

8.3. **Amendment is a “Financing Document”.** This Amendment is a Financing Document and all references to a “Financing Document” in the Credit Agreement and the Financing Documents (including, without limitation, all such references in the representations and warranties in the Credit Agreement and the other Financing Documents) shall be deemed to include this Amendment.

8.4. **References to the Credit Agreement.** Upon the effectiveness of this Amendment, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference to the Credit Agreement in any other document, instrument or agreement executed and/or delivered in connection with the Credit Agreement shall mean and be a reference to the Credit Agreement as amended hereby.

8.5. **Representations and Warranties.** The Borrower hereby represents and warrants that (a) this Amendment is the legal, valid and binding obligation of the Borrower, enforceable

against the Borrower in accordance with its terms, (b) no Default, Event of Default or, to the Borrower's knowledge, a potential Default shall have occurred and be continuing (aside from the Specified Defaults) and (c) the representations and warranties set forth in the Credit Agreement and in the other Financing Documents are true and correct in all respects on and as of the Effective Date with the same force and effect as if made on and as of the Effective Date (except to the extent that any such representation or warranty expressly relates to an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date).

8.6. **Reaffirmation of Obligations.** The Borrower and each other Credit Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the Financing Documents, and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge the Borrower's or such Credit Party's obligations under the Financing Documents.

8.7. **Reaffirmation of Security Interests.** The Borrower and each other Credit Party

(a) affirms that each of the Liens granted in or pursuant to the Financing Documents is valid and subsisting, and (b) agrees that this Amendment and all documents executed in connection herewith shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Financing Documents.

8.8. **No Other Changes.** Except as specifically amended by this Amendment, the Credit Agreement, the other Financing Agreements and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

BORROWER:

XBP AMERICAS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

GUARANTORS:

EXELA INTERMEDIATE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized signatory

EXELA FINANCE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

CORPSOURCE HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP, INCORPORATED

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP BPS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DELIVEREX, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

UNITED INFORMATION SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

ECONOMIC RESEARCH SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCECORP LEGAL INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RUST CONSULTING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV HEALTHCARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

KINSELLA MEDIA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

HOV SERVICES, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV ENTERPRISE SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

MERIDIAN CONSULTING GROUP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RUSTIC CANYON III, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOV SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

CHARTER LASON, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

LASON INTERNATIONAL, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

SOURCECORP MANAGEMENT, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

PANGAEA ACQUISITIONS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC (PUERTO RICO), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DOCUDATA SOLUTIONS, L.C.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BTC VENTURES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RECOGNITION MEXICO HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC INTERMEDIATE HOLDING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RC4 CAPITAL, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DFG2 HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

DFG2, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

PLEXUS GLOBAL FINANCE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

HOVG, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

TRAC HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

MANAGED CARE PROFESSIONALS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

FTS PARENT INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

TRANSCENTRA, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

J & B SOFTWARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

REGULUS GROUP II LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS AMERICA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**REGULUS INTERGRATED SOLUTIONS
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA RE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

REGULUS WEST LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NOVITEX HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NOVITEX INTERMEDIATE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**NOVITEX GOVERNMENT SOLUTIONS,
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA XBP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

BANCTEC (CANADA), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SOURCEHOV CANADA COMPANY

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA RECEIVABLES 3 HOLDCO, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

EXELA RECEIVABLES 3, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

AFFILIATED GUARANTORS:

XCV-EMEA, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

NEON ACQUISITION, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**NOVITEX ENTERPRISE SOLUTIONS
CANADA, INC.**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

XBP ENTERPRISE SOLUTIONS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

SERVICES INTEGRATION GROUP, L.P.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

**SIG - GP L.L.C., A LIMITED LIABILITY
COMPANY**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

AGENT:

MIDCAP FUNDING IV TRUST

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem
Name: Maurice Amsellem
Title: Authorized Signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

LENDERS:

MIDCAP FINANCIAL TRUST,
as Lender

By: Apollo Capital Management, L.P.,
its investment manager

By: Apollo Capital Management GP, LLC,
its general partner

By: /s/ Maurice Amsellem

Name: Maurice Amsellem
Title: Authorized Signatory

[Signature Page to Limited Waiver and Third Amendment to Credit and Security Agreement]

ANNEX I

Conformed Credit Agreement

CREDIT AND SECURITY AGREEMENT

dated as of July 29, 2025 by

and among

XBP AMERICAS, LLC,

as Borrower,

and

MIDCAP FUNDING IV TRUST,

as Agent,

and

THE LENDERS

FROM TIME-TO-TIME PARTY HERETO



TABLE OF CONTENTS

	Page
ARTICLE 1 – DEFINITIONS	1
Section	
1.1 Certain Defined Terms	1
Section	
1.2 Accounting Terms and Determinations	65
Section	
1.3 Other Definitional and Interpretive Provisions	65
Section	
1.4 Time is of the Essence	66
Section	
1.5 Exchange Rates	66
Section	
1.6 Quebec Interpretation	66
ARTICLE 2 - LOANS	67
Section	
2.1 Loans	67
Section	
2.2 Interest, Interest Calculations and Certain Fees	68
Section	
2.3 Notes	75
Section	
2.4 [Reserved]	75
Section	
2.5 [Reserved]	75
Section	
2.6 General Provisions Regarding Payment; Loan Account	75
Section	
2.7 Maximum Interest	75
Section	
2.8 Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality	76
Section	
2.9 Appointment of Borrower Representative	82
Section	
2.10 Joint and Several Liability; Rights of Contribution; Subordination and Subrogation	83
Section	
2.11 Collections and Lockbox Account	86
Section	
2.12 Termination; Restriction on Termination	87
ARTICLE 3 - REPRESENTATIONS AND WARRANTIES	88
Section	
3.1 Existence and Power	88

Section		
3.2	Organization and Governmental Authorization; No Contravention	89
Section		
3.3	Binding Effect	89
Section		
3.4	Capitalization	89
Section		
3.5	Financial Information	89
Section		
3.6	Litigation	89
Section		
3.7	Ownership of Property	90

Section		
3.8	No Default	90
Section		
3.9	Labor Matters	90
Section		
3.10	Regulated Entities	90
Section		
3.11	Margin Regulations	90
Section		
3.12	Compliance With Laws; Anti-Terrorism Laws	90
Section		
3.13	Taxes	91
Section		
3.14	Compliance with ERISA	91
Section		
3.15	Consummation of Operative Documents; Brokers	92
Section		
3.16	Related Transactions	92
Section		
3.17	Material Contracts	92
Section		
3.18	Compliance with Environmental Requirements; No Hazardous Materials	92
Section		
3.19	Intellectual Property	93
Section		
3.20	Solvency	94
Section		
3.21	Full Disclosure	94
Section		
3.22	Canadian Pension Plans	94
Section		
3.23	Subsidiaries	94
Section		
3.24	[Reserved]	94
Section		
3.25	Borrowing Base Collateral	95
ARTICLE 4 – AFFIRMATIVE COVENANTS		95
Section		
4.1	Financial Statements and Other Reports	95
Section		
4.2	Payment and Performance of Obligations	98
Section		
4.3	Maintenance of Existence	98

Section		
4.4	Maintenance of Property; Insurance	98
Section		
4.5	Compliance with Laws and Material Contracts	100
Section		
4.6	Inspection of Property, Books and Records	100
Section		
4.7	Use of Proceeds	100
Section		
4.8	Notices of Litigation and Defaults	101
Section		
4.9	Hazardous Materials; Remediation	101
Section		
4.10	Further Assurances	102
Section		
4.11	[Reserved]	103
Section		
4.12	Power of Attorney	103
Section		
4.13	Borrowing Base Collateral Administration	104

Section		
4.14	Maintenance of Management	104
ARTICLE 5 – NEGATIVE COVENANTS		104
Section		
5.1	Debt; Contingent Obligations	104
Section		
5.2	Liens	104
Section		
5.3	Restricted Distributions	104
Section		
5.4	Restrictive Agreements	105
Section		
5.5	Payments and Modifications of Subordinated Debt	105
Section		
5.6	Consolidations, Mergers and Sales of Assets; Change in Control	106
Section		
5.7	Purchase of Assets, Investments	106
Section		
5.8	Transactions with Affiliates	106
Section		
5.9	Modification of Organizational Documents	108
Section		
5.10	Modification of Certain Agreements	108
Section		
5.11	Conduct of Business	109
Section		
5.12	Lease Payments	109
Section		
5.13	Limitation on Sale and Leaseback Transactions	109
Section		
5.14	Deposit Accounts and Securities Accounts; Payroll and Benefits Accounts	109
Section		
5.15	Compliance with Anti-Terrorism Laws	109
Section		
5.16	Canadian Defined Benefit Plans	110
ARTICLE 6 - FINANCIAL COVENANTS		110
Section		
6.1	Fixed Charge Coverage Ratio	110
Section		
6.2	Minimum Excess Availability	110
Section		
6.3	Evidence of Compliance	110
ARTICLE 7 - CONDITIONS		111

Section		
7.1	Conditions to Closing	111
Section		
7.2	Conditions to Each Loan	114
Section		
7.3	Searches	115
Section		
7.4	Post Closing Requirements	115
ARTICLE 8 - [RESERVED]		116
ARTICLE 9 - SECURITY AGREEMENT		116
Section		
9.1	Generally	116

Section		
9.2	Representations and Warranties and Covenants Relating to Collateral	116
Section		
9.3	ULC Limitation	120
ARTICLE 10 - EVENTS OF DEFAULT		121
Section		
10.1	Events of Default	121
Section		
10.2	Acceleration and Suspension or Termination of Revolving Loan Commitment	124
Section		
10.3	UCC and PPSA Remedies	125
Section		
10.4	[Reserved]	127
Section		
10.5	Default Rate of Interest	127
Section		
10.6	Setoff Rights	127
Section		
10.7	Application of Proceeds	127
Section		
10.8	Waivers	128
Section		
10.9	Injunctive Relief	130
Section		
10.10	Marshalling; Payments Set Aside	130
ARTICLE 11 - AGENT		131
Section		
11.1	Appointment and Authorization	131
Section		
11.2	Agent and Affiliates	131
Section		
11.3	Action by Agent	131
Section		
11.4	Consultation with Experts	132
Section		
11.5	Liability of Agent	132
Section		
11.6	Indemnification	132
Section		
11.7	Right to Request and Act on Instructions	132
Section		
11.8	Credit Decision	133

Section		
11.9	Collateral Matters	133
Section		
11.10	Agency for Perfection	133
Section		
11.11	Notice of Default	133
Section		
11.12	Assignment by Agent; Resignation of Agent; Successor Agent	134
Section		
11.13	Payment and Sharing of Payment	135
Section		
11.14	Right to Perform, Preserve and Protect	138
Section		
11.15	Additional Titled Agents	138
Section		
11.16	Amendments and Waivers	138
Section		
11.17	Assignments and Participations	139

Section	Funding and Settlement Provisions Applicable When Non-Funding Lenders	
11.18	Exist	143
Section		
11.19	Buy-Out Upon Refinancing	144
Section		
11.20	Erroneous Payments	144
Section		
11.21	Definitions	146
Section		
11.22	Appointment as Hypothecary Representative	147
ARTICLE 12 – GUARANTEE		148
Section		
12.1	[Reserved]	148
Section		
12.2	Guarantee; Limitation of Liability	148
Section		
12.3	Guarantee Absolute	148
Section		
12.4	Waivers and Acknowledgments	149
Section		
12.5	Subrogation	150
Section		
12.6	[Reserved]	151
Section		
12.7	Subordination	151
Section		
12.8	Continuing Guarantee; Assignments	151
ARTICLE 13 - MISCELLANEOUS		152
Section		
13.1	Survival	152
Section		
13.2	No Waivers	152
Section		
13.3	Notices	152
Section		
13.4	Severability	153
Section		
13.5	Headings	153
Section		
13.6	Confidentiality	153
Section		
13.7	Waiver of Consequential and Other Damages	154

Section		
13.8	GOVERNING LAW; SUBMISSION TO JURISDICTION	154
Section		
13.9	WAIVER OF JURY TRIAL	155
Section		
13.10	Publication; Advertisement	155
Section		
13.11	Counterparts; Integration	156
Section		
13.12	No Strict Construction	156
Section		
13.13	Lender Approvals	156
Section		
13.14	Expenses; Indemnity	157
Section		
13.15	Confession of Judgment	158
Section		
13.16	Reinstatement	159
Section		
13.17	Successors and Assigns	159

Section		
13.18	USA PATRIOT Act Notification	159
Section		
13.19	Judgment Currency	159
Section		
13.20	Acknowledgement and Consent to Bail-In of Affected Financial Institutions	160
Section		
13.21	Canadian Anti-Money Laundering Legislation	160
Section		
13.22	Parent	161

CREDIT AND SECURITY AGREEMENT

THIS CREDIT AND SECURITY AGREEMENT (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Agreement**”) is dated as of July 29, 2025 by and among XBP Americas, LLC, a Delaware limited liability company, and any additional borrower that may hereafter be added to this Agreement (each individually as a “**Borrower**”, and collectively as “**Borrowers**”), **MIDCAP FUNDING IV TRUST**, a Delaware statutory trust, as Agent (as defined below), and the financial institutions or other entities from time to time parties hereto, each as a Lender (as defined below).

RECITALS

WHEREAS, on March 3, 2025 (the “**Petition Date**”), Docudata Solutions, L.C., the Borrower and certain other Affiliates (each, a “**Debtor**” and collectively, the “**Debtors**”) filed voluntary petitions with the Bankruptcy Court initiating their respective cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (such court, the “**Bankruptcy Court**”; and each such case of the Debtors, a “**Chapter 11 Case**” and collectively, the “**Chapter 11 Cases**”) and continued in the possession of their assets and the management of their business pursuant to Section 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 23, 2025, the Bankruptcy Court entered the Confirmation Order (as defined herein) approving the Plan of Reorganization of the Debtors, and concurrently with the making of the Loans hereunder, the effective date with respect to the Plan of Reorganization has occurred;

WHEREAS, Borrowers have requested that Lenders make available to Borrowers the financing facilities as described herein, and Lenders are willing to extend such credit to Borrowers under the terms and conditions herein set forth;

WHEREAS, by execution and delivery of this Agreement and the other Financing Documents and entry of the Confirmation Order in respect of the Chapter 11 Cases, as applicable, agree to guarantee the Obligations, and the Borrower and each Guarantor agrees to secure all of the Obligations by granting to Agent, for the benefit of the Lenders, a lien and security interest in respect of, and on, the Collateral, on and subject to the terms and priorities set forth in the other Financing Documents.

AGREEMENT

NOW, ~~THEREFORE~~THEREFOR, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto hereby agree as follows:

ARTICLE 1 - DEFINITIONS

Section 1.1 **Certain Defined Terms**. The following terms have the following meanings:

“ABL Intercreditor Agreement” means that certain Intercreditor Agreement, dated as of the Closing Date, among the Borrowers, the Subsidiary Guarantors, Agent, the administrative agent and collateral agent under the Term Loan Documents, the Trustee, the Exit Notes Collateral Agent, BRF Finance Co., LLC, and the other parties from time-to-time party thereto, as the same may be amended, restated, amended and restated, supplemented, waived or otherwise modified from time to time.

“ABL Priority Collateral” has the meaning specified therefor in the ABL Intercreditor Agreement.

“Acceleration Event” means the occurrence of an Event of Default (a) in respect of which Agent has declared all or any portion of the Obligations to be immediately due and payable pursuant to Section 10.2, (b) the date that is ninety (90) days prior to the earliest stated maturity date of the term loans incurred pursuant to the Term Loan Agreement, (c) pursuant to Section 10.1(a), and in respect of which Agent has suspended or terminated the Revolving Loan Commitment pursuant to Section 10.2, and/or (d) pursuant to either Section 10.1(e) and/or Section 10.1(f).

“Account Debtor” means “account debtor”, as defined in Article 9 of the UCC or in the PPSA, as applicable, and any other obligor in respect of an Account.

“Accounts” means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any “account” (as defined in the UCC or the PPSA, as applicable), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any “health-care-insurance receivables” (as defined in the UCC), any “payment intangibles” (as defined in the UCC), “intangibles” (as defined in the PPSA) and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, “general intangibles” (as defined in the UCC), “intangibles” (as defined in the PPSA), Intellectual Property, rights, remedies, guarantees, “supporting obligations” (as defined in the UCC), “letter-of-credit rights” (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under the Financing Documents in respect of the foregoing, (d) all information and data compiled or derived by any Borrower or to which any Borrower is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

“Accurate Applicable Margin” has the meaning specified therefor in the definition of “Applicable Margin”.

“Additional Notes” means the notes issued under the terms of the Exit Notes Indenture subsequent to the Closing Date.

“Additional Tranche” means an additional amount of Revolving Loan Commitment equal to \$25,000,000 (it being acknowledged that multiple Additional Tranches are permitted pursuant to Section 2.1(b) in minimum amounts of \$1,000,000 each, for a total of up to \$25,000,000).

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

“Affiliate” means, with respect to any Person, (a) any Person that directly or indirectly controls such Person, (b) any Person which is controlled by or is under common control with such controlling Person, and (c) each of such Person’s (other than, with respect to any Lender, any Lender’s) officers or directors (or Persons functioning in substantially similar roles) and the spouses, parents, descendants and siblings of such officers, directors or other Persons. As used in this definition, the term “control” of a Person means the possession, directly or indirectly, of the power to vote ten percent (10%) or more of any class of voting securities of such Person or to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Agent” means MCF, in its capacity as administrative agent for itself and for Lenders hereunder, as such capacity is established in, and subject to the provisions of, Article 11, and the successors and assigns of MCF in such capacity.

“Agent Assignee” has the meaning specified therefor in Section 11.20(d).

“Anti-Terrorism Laws” means any Laws relating to terrorism or money laundering, including, without limitation, Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the Laws comprising or implementing the Bank Secrecy Act, the Laws administered by OFAC and the Canadian Anti-Money Laundering & Anti-Terrorism Legislation.

“Applicable Law” means, with respect to any Person, any Law (x) that is applicable to such Person or any of its property, (y) to which such Person is a party or (z) by which any of such Person’s property is bound. For the avoidance of doubt, FATCA shall constitute an “Applicable Law” for all purposes of this Agreement.

“Applicable Margin” means, for any day, with respect to Revolving Loans and all other Obligations, the applicable rate per annum based on Borrowers’ EBITDA, calculated on a trailing 12-month period basis, as of the last day of the most recently ended calendar month for which financial statements have been delivered pursuant to Section 4.1, as set forth under the relevant column heading below:

Pricing Level	EBITDA (\$M)	Applicable Margin
I	EBITDA > \$70,000,000	3.75%
II	EBITDA > \$45,000,000 but < \$70,000,000	4.00%
III	EBITDA < \$45,000,000	4.25%

provided that, if at any time the Borrower shall have failed to deliver such financial statements and such Compliance Certificate when so required, the Applicable Margin shall be set at Level II as set forth in the table above until such time as such financial statements and



Compliance Certificate are delivered, at which time the Applicable Margin shall be determined as provided in the table above. Notwithstanding the foregoing, the Applicable Margin from the Closing Date until the date by which the financial statements and Compliance Certificate for the month ended September 30, 2025, are required to be delivered shall be at Level 1 as set forth in the table above. In the event that any financial statement or Compliance Certificate delivered hereunder is shown to be inaccurate (regardless of whether this Agreement or the Revolving Loan Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin based upon the pricing grid set forth herein (the “**Accurate Applicable Margin**”) for any period that such financial statement or Compliance Certificate covered, then (i) the Borrower shall immediately deliver to Agent a correct financial statement or Compliance Certificate, as the case may be, for such period, (ii) the Applicable Margin shall be adjusted such that after giving effect to the corrected financial statement or Compliance Certificate, as the case may be, the Applicable Margin shall be reset to the Accurate Applicable Margin based upon the pricing grid set forth herein for such period and (iii) Borrower shall immediately pay to Agent, for the account of Lenders, the accrued additional interest and fees owing as a result of such Accurate Applicable Margin for such period. The provisions of this definition shall not limit the rights of Agent and the Lenders with respect to Section 4.1 or Article 10.

“**Approved Goods and Services**” means goods sold and/or services rendered by Borrowers in the Ordinary Course of Business, in compliance with all Laws, and consistent with the type of goods sold and/or services rendered by Borrowers throughout all or substantially all of its business operations as of the Closing Date.

“**Asset Disposition**” means any sale, lease, license, transfer, assignment or other consensual disposition (including by merger, allocation of assets (including allocation of assets to any series of a limited liability company), division, consolidation or amalgamation) by any Credit Party of any asset.

“**Availability Block**” means, as of any date of determination during the Availability Block Period, (a) if the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries for the most recently ended Defined Period (as set forth in the most recent Compliance Certificate delivered to Agent) is less than 1.00 to 1.00, an amount equal to the greater of (i) \$3,750,000 and (ii) five percent (5.0%) of the Borrowing Base as of such date; *provided* that if no Compliance Certificate has been delivered for a Defined Period for which a Compliance Certificate is required to have been delivered hereunder, the Fixed Charge Coverage Ratio shall be deemed to be less than 1.00 to 1.00 for purposes of this definition until such Compliance Certificate is delivered, and (b) if the Fixed Charge Coverage Ratio is equal to or greater than 1.00 to 1.00, the Availability Block shall be \$0.

“**Availability Block Period**” means the period commencing on the Third Amendment Effective Date and ending on June 30, 2026.

“**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 Title 11 of the United States Code entitled “Bankruptcy”, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto.

“Base Rate” means the per annum rate of interest announced, from time to time, within Wells Fargo at its principal office in San Francisco as its “prime rate,” with the understanding that the “prime rate” is one of Wells Fargo’s base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate; *provided, however*, that Agent may, upon prior written notice to Borrower, choose a reasonably comparable index or source to use as the basis for the Base Rate.

“Blocked Person” means any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224, or (e) that is named a “specially designated national” or “blocked person” on the most current list published by OFAC, any Person that is a “designated person”, “politically exposed foreign person” or “terrorist group” as described in any Canadian Economic Sanctions and Export Control Laws, or other similar list or is named as a “listed person” or “listed entity” on other lists made under any Anti-Terrorism Law.

“Borrower” and **“Borrowers”** mean the entity(ies) described in the first paragraph of this Agreement and each of their successors and permitted assigns.

“Borrower Representative” means XBP Americas, LLC, in its capacity as Borrower Representative pursuant to the provisions of Section 2.9, or any successor Borrower Representative selected by Borrowers and approved by Agent.

“Borrowing Base” means, the sum of:

(a) the product of (i) the applicable IG Advance Rate *multiplied by* (ii) the aggregate net amount at such time of the Eligible Investment Grade Billed Accounts; *plus*

(b) the product of (i) ninety percent (90%) *multiplied by* (ii) the aggregate net amount at such time of the Eligible Billed Accounts; *plus*

(c) the lesser of (i) the product of (A) ninety percent (90%) *multiplied by* (B) the aggregate net amount at such time of the Eligible Unbilled Accounts and (ii) twenty percent (20%) of the total Borrowing Base (prior to giving effect to this clause (c)); *plus*

(d) [reserved]; plus

(e) [reserved]; plus

~~(d) -the lesser of (i) the product of (A) the applicable Exar Billed Advance Rate multiplied by (B) the aggregate net amount at such time of the Eligible Exar Billed Accounts and (ii) \$5,000,000; plus~~

~~(e) -the lesser of (i) the product of (A) the applicable Exar Unbilled Advance Rate multiplied by (B) the aggregate net amount at such time of the Eligible Exar Unbilled Accounts and (ii) \$5,000,000; plus~~

(f) one hundred percent (100%) multiplied by the aggregate amount of Eligible Cash; *minus*

(g) the amount of the Dilution Reserve, and any other Eligibility Reserves established from time to time by Agent in its Permitted Discretion; *minus*

(h) a currency reserve equal to three percent (3%) of the United States Dollar equivalent of the aggregate net amount of Eligible Accounts payable in Canadian Dollars, as determined by Agent in its Permitted Discretion.

Any determination by Agent in respect of the Borrowing Base shall be based on Agent's Permitted Discretion. The parties understand that the exclusionary criteria in the definitions of Eligible Investment Grade Billed Accounts, Eligible Billed Accounts, ~~Eligible Unbilled Accounts, Eligible Exar Billed Accounts,~~ and Eligible ~~Exar~~ Unbilled Accounts, any Eligibility Reserves that may be imposed as provided herein, and any deductions or other adjustments to determine the value of Eligible Accounts have the effect of reducing the Borrowing Base, and, accordingly, whether or not any provisions hereof so state, all of the foregoing shall be determined without duplication so as not to result in multiple reductions of the Borrowing Base for the same facts or circumstances.

"Borrowing Base Certificate" means a certificate, duly executed by a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit C hereto.

"B. Riley Credit Agreement" means that certain Amended and Restated Credit Agreement, dated July 29, 2025, among BRF Finance Co. LLC, as agent (the **"B. Riley Agent"**), the lenders party thereto from time to time, XBP Americas, LLC and other entities party thereto,

as borrowers, and the guarantors party thereto from time to time, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Business Day” means any day except a Saturday, Sunday or other day on which either the New York Stock Exchange is closed, or on which commercial banks in Washington, DC and New York City are authorized by law to close; provided, however, that when used in the context of a SOFR Loan, the term “Business Day” shall also exclude any day that is not also a SOFR Business Day.

“Canadian Anti-Money Laundering & Anti-Terrorism Legislation” means, collectively, the Criminal Code, R.S.C. 1985, c. C-46, the Proceeds of Crime Act and the United Nations Act, R.S.C. 1985, c. U-2 or any similar Canadian legislation, together with all rules, regulations and interpretations thereunder or related thereto including, without limitation, the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism and the United Nations Al Qaida and Taliban Regulations promulgated under the United Nations Act.

“Canadian Credit Party” means each Credit Party which is incorporated, formed or organized under the laws of Canada or any province or territory thereof.

“Canadian Defined Benefit Plan” means a Canadian Pension Plan which contains a “defined benefit provision,” as defined in subsection 147.1(1) of the Canadian ITA.

“Canadian Dollars” means the lawful currency of Canada.

“Canadian Economic Sanctions and Export Control Laws” means any Canadian Laws, regulations or orders governing transactions in restricted goods or technologies or dealings with countries, entities, organizations, or individuals subject to economic sanctions and similar measures, including the Special Economic Measures Act (Canada), the United Nations Act (Canada), the Freezing Assets of Corrupt Foreign Officials Act (Canada), the Corruption of Foreign Public Officials Act (Canada), Part II.1 of the Criminal Code (Canada), and the Export and Import Permits Act (Canada), and the Foreign Extraterritorial Measures Act (Canada), and any related regulations.

“Canadian ITA” means the Income Tax Act (Canada), as amended.

“Canadian Pension Event” means the earlier of (a) the whole or partial withdrawal of a Credit Party from a Canadian Pension Plan during a plan year; (b) the filing of a notice of intent to terminate in whole or in part a Canadian Pension Plan or the treatment of a Canadian Pension Plan amendment as a termination or partial termination; (c) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee appointed to administer a Canadian Pension Plan; (d) any statutory deemed trust or Lien, other than a Permitted Lien, arises in connection with a Canadian Pension Plan; or (e) any other event or condition which might constitute grounds for the termination of, winding up or partial termination of winding up or the appointment of trustee to administer, any Canadian Pension Plan.

“Canadian Pension Plan” means a pension plan that is covered by the applicable pension standards laws of any jurisdiction in Canada including the Pension Benefits Act (Ontario) and the Canadian ITA and that is maintained or sponsored by a Credit Party for employees or former employees.

“Canadian Priority Payables” means, at any time, with respect to the Borrowing Base, the amount due and owing by any Credit Party, or the accrued amount for which such Credit Party has an obligation to remit, on or prior to the date as of which the Borrowing Base is to be determined and remaining unpaid at the time of determination of the Borrowing Base, to a Canadian Governmental Authority or other Canadian Person pursuant to any applicable Law, rule or regulation, in respect of (a) employment insurance, all contributions under the Canada Pension Plan or the Quebec Pension Plan, employee source deductions, employee income tax; (b) goods and services taxes, sales taxes, excise tax, harmonized sales tax and other taxes payable or to be remitted or withheld; (c) workers’ compensation; (d) wages, salaries, commission or compensation and vacation pay (including amounts protected by section 81.3 of the Bankruptcy and Insolvency Act (Canada) and as provided for under the Wage Earner Protection Program Act (Canada)); (e) any amounts deemed to be held in trust, or held in trust, pursuant to applicable law; and (f) unpaid or unremitted contributions, normal cost contributions or special payments to a Canadian Pension Plan and any unfunded liability, solvency deficiency or wind-up deficiency, in each case whether or not due, with respect to a Canadian Pension Plan, in each case to the extent any Canadian Governmental Authority or other Canadian Person may claim a security interest, hypothecation, prior claim, trust, deemed trust or other claim or Lien ranking in priority to or *pari passu* with one or more of the Liens granted pursuant to this Agreement and the Security Documents.

“Canadian Priority Payables Reserves” means on any date of determination for the Borrowing Base, reserves established from time to time by Agent in its Permitted Discretion in such amount as Agent may reasonably determine in respect of Canadian Priority Payables of the Credit Parties; *provided* that without otherwise limiting Agent’s Permitted Discretion, the Canadian Priority Payables Reserves shall include a reserve for Canadian Priority Payables in an amount up to the amount of Canadian Priority Payables set forth on the most recent applicable Borrowing Base Certificate (as the same may be reduced or increased by the next succeeding applicable Borrowing Base Certificate) delivered to Agent.

“Canadian Security Agreement” means, collectively, (i) the Canadian Security Agreement dated as of the Closing Date by and between Agent and each Credit Party party thereto, and (ii) any other security agreement, pledge agreement or deed of hypothec dated on or after the Closing Date granted by any Credit Party in favor of Agent, in each case as amended, restated, amended and restated, supplemented, replaced or otherwise modified from time to time.

“Capital Expenditures” means any expenditure that would be classified as a capital expenditure on a statement of cash flow of Borrowers prepared in accordance with GAAP.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Subsidiaries during such period in respect of licensed or purchased software or internally developed software

and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of such Person and such Subsidiaries.

“Cash Collateral Account” means a segregated Deposit Account or Securities Account of a Credit Party (a) that is maintained with a bank or securities dealer, as applicable, located in the United States and having as of any date of determination combined capital and surplus of not less than \$1,000,000,000, (b) the funds in which consist solely of unrestricted Eligible Cash of such Credit Party, (c) that is subject to a Deposit Account Control Agreement or Securities Account Control Agreement, as applicable, in favor of Agent, which (subject to Section 2.11(b)) provides Agent the sole ability to withdraw or direct funds from such accounts, (d) that is not subject to any Lien (other than the Lien in favor of Agent), and (e) the funds on deposit in which are not funds held for the payment of any drawn or committed, but unpaid draft, ACH or EFT transaction or specified for any other purposes.

~~**“Cash Dominion Period”** means any period commencing (a) (i) on or prior December 31, 2025, any date on which Excess Availability is less than (A) \$10,000,000 for three (3) consecutive Business Days or (B) \$7,500,000 on any calendar day and (ii) at any time after December 31, 2025, any date on which Excess Availability is less than the lesser of (A) 10% of the Revolving Loan Commitment for three (3) consecutive Business Days or (B) \$7,500,000 on any calendar day or (b) following the occurrence and during the continuance of an Event of Default, and, in each case, continuing until the date on which Excess Availability has been greater than (x) on or prior to December 31, 2025, \$10,000,000, and (y) after December 31, 2025, ten percent (10%) of the Revolving Loan Commitment, in either such case for forty (40) consecutive calendar days and no Event of Default is continuing (each such date, a **“Cash Dominion Termination Date”**).~~

“Cash Equivalents” means, as of any date of determination, any of the following: (a) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States government, or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one (1) year after such date; (b) marketable direct obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s; (c) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally; (d) certificates of deposit or bankers’ acceptances maturing within one (1) year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States or any state thereof or the District of Columbia that (i) is at least “adequately capitalized” (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; and (e) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (a) and (b) above,

(ii) has net assets of not less than \$500,000,000, and (iii) has the highest rating obtainable from either S&P or Moody's.

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

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. § 9601 *et seq.*, as the same may be amended from time to time.

"Change in Control" means the occurrence of either of the following:

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Borrowers and their respective Subsidiaries, taken as a whole, to a Person;

(2) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the direct or indirect acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than the holders of such interests as of the Closing Date, in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the voting equity interests of the Borrower Representative or the Parent; or

(3) except as expressly permitted pursuant to Section 5.6, the Borrower shall cease to directly or indirectly own and control one hundred percent (100%) of each class of the outstanding equity interests of any Subsidiary the assets of which contribute more than \$5,000,000 to the Borrowing Base.

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

“Claims Administration Bank” means any third-party financial institution having capital and surplus in excess of \$250,000,000 and ~~whole~~whose long-term debt is rated “A” or the equivalent by Moody’s or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) that is designated by any Exar Originator to hold and distribute certain legal settlement funds administered by any Exar Originator in connection with such Exar Originator’s claims administration business.

“Claims Administration Indebtedness” means Indebtedness for borrowed money of any Exar Originator in favor of the Claims Administration Bank in respect of loans made pursuant to Claims Administration Arrangements.

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

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

“Closing Date” means the date of this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

“Collateral” means, subject to the ABL Intercreditor Agreement, all property, now existing or hereafter acquired, mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the Security Documents, including, without limitation, all of the property described in Schedule 9.1 hereto.

“Commitment Annex” means Annex A to this Agreement.

“Commitment Expiry Date” means the date that is 36 months following the Closing Date.

“Compliance Certificate” means a certificate, duly executed by a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit B hereto.

“Confirmation Order” means the Order (I) Approving Debtors’ Disclosure Statement and (II) Confirming Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code Docket No. 834 entered by the Bankruptcy Court on June 23, 2025.

“Conforming Changes” means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement

(as defined in Section 2.2(n)), any technical, administrative or operational changes (including (a) changes to the definition of “Base Rate,” “Business Day,” “Interest Period,” “Reference Time” or other definitions, (b) the addition of concepts such as “interest period”, (c) changes to timing and/or frequency of determining rates, making interest payments, giving borrowing requests, prepayment, conversion or continuation notices, or length of lookback periods, (d) the applicability of Section 2.8 (Compensation for Losses) and (e) other technical, administrative or operational matters) that Agent decides may be appropriate to reflect the adoption and implementation of Term SOFR or such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or determines that no such market practice exists, in such other manner as Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Financing 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.

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

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

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

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

(3) interest income for such period.

For purposes of this definition, interest on a capitalized lease obligation shall be deemed to accrue at an interest rate reasonably determined by the Borrowers to be the rate of interest implicit in such capitalized lease obligation in accordance with GAAP.

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

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

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

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

(4) (i) cash received from landlords for tenant allowances shall be included and (ii) to the extent not already included in Net Income, the cash portion of sublease rentals received shall be included;

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

(6) non cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(7) any gain, loss, income, expense or charge resulting from the application of any LIFO shall be excluded; and

(8) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with clause (e) of the definition of “Permitted Distributions” shall be included as though such amounts had been paid as income taxes directly by such Person for such period.

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



“Consolidated Subsidiary” means, at any date, any Subsidiary the accounts of which would be consolidated with those of “parent” Borrower (or any other Person, as the context may require hereunder) in its consolidated financial statements if such statements were prepared as of such date.

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

“Consolidated Total Indebtedness” means, as of any date of determination, an amount equal to the sum (without duplication) of (1) the aggregate principal amount of all outstanding Debt of the Borrowers and their respective Subsidiaries (excluding letters of credit or bank guarantees, to the extent undrawn, cash collateralized or backstopped) consisting of capitalized lease obligations and Debt for borrowed money, plus (2) the aggregate amount of all outstanding customary disqualified equity interests of the Borrowers and their respective Subsidiaries and all preferred stock of the Subsidiaries, with the amount of such disqualified equity interests and preferred stock equal to the greater of their respective voluntary or involuntary liquidation preferences, in each case determined on a consolidated basis in accordance with GAAP.

“Contingent Obligation” means, with respect to any Person, any direct or indirect liability of such Person: (a) with respect to any Debt of another Person (a **“Third Party Obligation”**) if the purpose or intent of such Person incurring such liability, or the effect thereof, is to provide assurance to the obligee of such Third Party Obligation that such Third Party Obligation will be paid or discharged, or that any agreement relating thereto will be complied with, or that any holder of such Third Party Obligation will be protected, in whole or in part, against loss with respect thereto; (b) with respect to any undrawn portion of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for the reimbursement of any drawing; (c) under any Swap Contract, to the extent not yet due and payable; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for any obligations of another Person pursuant to any guarantee or pursuant to any agreement to purchase, repurchase or otherwise acquire any obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to preserve the solvency, financial condition or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determinable amount, the maximum amount so guaranteed or otherwise supported.

“Control Agreement” means any Deposit Account Control Agreement or Securities Account Control Agreement.

“Controlled Group” means all members of any group of corporations and all members of a group of trades or businesses (whether or not incorporated) under common control which, together with any Borrower, are treated as a single employer under Section 414(b), (c), (m) or (o) of the Code or Section 4001(b) of ERISA.

“Credit Exposure” means, at any time, any portion of the Revolving Loan Commitment that remains outstanding; *provided, however*, that no Credit Exposure shall be deemed to exist solely due to the existence of contingent indemnification liability, absent the assertion of a claim, or the known existence of a claim reasonably likely to be asserted, with respect thereto.

“Credit Party” means each Borrower and each Guarantor; and **“Credit Parties”** means all such Persons, collectively.

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

“Debt” of a Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business, (d) all capital leases of such Person, (e) all non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit, banker’s acceptance or similar instrument, (f) all equity securities of such Person subject to repurchase or redemption other than at the sole option of such Person, (g) all obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person, (h) “earnouts” (until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP), purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts, (i) all Debt of others guaranteed by such Person, (j) off-balance sheet liabilities and/or Pension Plan or Multiemployer Plan liabilities of such Person, (k) obligations arising under non-compete agreements, and (l) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business. Without duplication of any of the foregoing, Debt of Borrowers shall include any and all Loans.

Notwithstanding the foregoing, Debt shall be deemed not to include (1) Contingent Obligations incurred in the Ordinary Course of Business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) [reserved]; (5) trade and other ordinary course payables, accrued expenses and intercompany liabilities, including with respect to working capital advancements, arising in the Ordinary Course of Business; (6) obligations in respect of Third Party Funds; (7) in the case of the Borrowers and their respective Subsidiaries (x) all intercompany Debt having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the Ordinary Course of Business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries; (8) ~~any~~ Claims Administration Indebtedness of the Exar Originators (except to the extent that any such Claims



Administration Indebtedness exceeds the Claims Administration Investments of such Exar Originator); and (9) any obligations under Swap Contracts; provided, that such agreements are entered into for bona fide hedging purposes of the Borrowers or their respective Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Borrower Representative, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Borrowers or their Subsidiaries entered into in the Ordinary Course of Business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Debt of the Borrowers or their Subsidiaries incurred without violation of this Agreement.

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

“Debtor Relief Laws” means the Bankruptcy Code, the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-up and Restructuring Act* (Canada), any corporate statute which is used by a Person to propose an arrangement in connection with a compromise of such Person’s debt obligations each as now and hereafter in effect, any successors to such statutes, 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, Canada or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

“Defined Period” means, for purposes of calculating the Fixed Charge Coverage Ratio for any given calendar month, the twelve (12) month period immediately preceding any such calendar month.

“Deposit Account” means a “deposit account” (as defined in Article 9 of the UCC), bank account or an investment account, or other account in which funds are deposited, held or invested for credit to or for the benefit of any Credit Party.

“Deposit Account Control Agreement” means an agreement, in form and substance satisfactory to Agent, among Agent, any Credit Party and each financial institution in which such Credit Party maintains a Deposit Account, which agreement provides that (a) such financial institution shall comply with instructions originated by Agent directing disposition of the funds

in such Deposit Account without further consent by the applicable Credit Party, and (b) such financial institution shall agree that it shall have no Lien on, or right of setoff or recoupment against, such Deposit Account or the contents thereof, other than in respect of usual and customary service fees and returned items for which Agent has been given value, in each such case expressly consented to by Agent, and containing such other terms and conditions as Agent may require, including as to any such agreement pertaining to any Lockbox Account, providing that ~~during any Cash Dominion Period~~ such financial institution shall wire, or otherwise transfer, in immediately available funds, on a daily basis to the Payment Account all funds received or deposited into such Lockbox or Lockbox Account.

“Dilution” means, as of any date of determination, a percentage, based upon the experience during any prior period selected from time to time by Agent in its sole discretion, that is the result of dividing the Dollar amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to Credit Parties’ Accounts during such period, by (b) Credit Parties’ billings with respect to Accounts during such period.

“Dilution Reserve” means, as of any date of determination, an amount sufficient to reduce the applicable advance rate against each applicable category of Eligible Accounts by one (1) percentage point for each percentage point by which Dilution is in excess of two and one-half (2.5%) percent.

“Dollars” means the lawful currency of the United States of America.

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

(1) Consolidated Taxes; *plus*

(2) (i) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, (ii) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Consolidated Subsidiaries and (iii) costs of surety bonds in connection with financing activities; *plus*

(3) Consolidated Depreciation and Amortization Expense; *plus*

(4) Consolidated Non-Cash Charges; *plus*

(5) any (x) net after-tax extraordinary, nonrecurring or unusual losses (plus all fees and expenses relating thereto) or (y) expenses or charges, including, without limitation, severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any New Project or any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facility rebranding costs, acquisition integration costs, facility opening costs, project and contract start-up costs, business optimization costs, recruiting costs, signing, retention or completion bonuses, and any fees, expenses, charges or change in control payments related to the Transactions



(including any costs relating to auditing prior periods, any transition-related expenses, and transaction expenses incurred before, on or after the Closing Date) for such period, in each case, to the extent not already added back in clause (21) or (23) below; *plus*

(6) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Consolidated Subsidiaries and including, without limitation, the effects of adjustments to (A) deferred rent, (B) capitalized lease obligations or other obligations or deferrals attributable to capital spending funds with suppliers or (C) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, for such period; *plus*

(7) any net after-tax loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets during such period; *plus*

(8) any net after-tax losses (plus all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Borrower Representative) during such period; *plus*

(9) any net after-tax losses (plus all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Swap Contracts or other derivative instruments during such period; *plus*

(10) [reserved]; *plus*

(11) any impairment charges and asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments to good will and other intangible assets arising pursuant to GAAP for such period; *plus*

(12) any non-cash expense realized or resulting from stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights, in each case to the extent not otherwise added back pursuant to clause (13) or (24); *plus*

(13) any (a) non-cash compensation charges, (b) [reserved], or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Closing Date of officers, directors and employees, in each case of such Person or any Consolidated Subsidiary, to the extent not already added back pursuant to clause (12); *plus*

(14) (a) the non-cash portion of “straight-line” rent expense and (b) the non-cash amortization of tenant allowances; *plus*

(15) any currency translation gains and losses related to currency remeasurements of Debt, and any net loss or gain resulting from hedging transactions for currency exchange risk, for such period; *plus*

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

(17) Capitalized Software Expenditures for such period; *plus*

(18) non-cash charges for deferred tax asset valuation allowances for such period; *plus*

(19) any other costs, expenses or charges resulting from facility closures or sales, including income (or losses) from such facility closures or sales, to the extent not already added back pursuant to clause (5)(y); *plus*

(20) business optimization expenses and other restructuring charges, reserves or expenses not related to the Transactions (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges) and Pre-Opening Expenses; to the extent not already added back pursuant to clause (5)(y); *plus*

(21) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) (i) related to any issuance of equity interests, Investment, acquisition, New Project, disposition, loan origination, recapitalization or the incurrence, modification or repayment of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful) or (ii) incurred in connection with the Transactions, including (A) such fees, expenses or charges related to the Transactions, the Obligations or any Debt and (B) any amendment or other modification of the Obligations or other Debt, in each case, to the extent not already added back pursuant to clause (5)(y); *plus*

(22) [reserved]; *plus*

(23) [reserved]; *plus*

(24) any costs or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of a Borrower or a Guarantor or net cash proceeds of an



issuance of equity interests of the Borrowers (other than customary disqualified equity interests), and to the extent not otherwise added back pursuant to clause (12) or (13); *plus*

(25) the amount of any loss attributable to a New Project, until the date that is 12 months after the date of completing the construction, acquisition, assembling or creation of such New Project, as the case may be; provided, that (a) such losses are reasonably identifiable and factually supportable and certified by a responsible financial or accounting officer of the Borrowers and (b) losses attributable to such New Project after 12 months from the date of completing such construction, acquisition, assembling or creation, as the case may be, shall not be included in this clause (25); *plus*

(26) [reserved]; *plus*

(27) with respect to any joint venture that is not a Subsidiary and solely to the extent relating to any net income referred to in clause (2) of the definition of “Consolidated Net Income” an amount equal to the proportion of those items described in clauses (1) and (2) above relating to such joint venture corresponding to the Borrower’s and the Subsidiaries’ proportionate share of such joint venture’s Consolidated Net Income (determined as if such joint venture were a Subsidiary); *plus*

(28) [reserved]; *plus*

(29) [reserved]; and

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

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

(31) any net after-tax extraordinary, nonrecurring or unusual gains (less all fees and expenses relating thereto); *plus*

(32) any net after-tax income from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets during such period; *plus*

(33) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Borrower Representative) during such period; *plus*

(34) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Swap Contracts or other derivative instruments during such period;

provided that for all purposes, the individual amount added back to EBITDA pursuant to any of clauses (5), (13), (14), (19), (20), (21)(i), (23), (24) or (25) above shall not be more than 15% of EBITDA for the most recently ended twelve month period (calculated prior to giving effect to such adjustments and exclusions) and, together with the aggregate amount added back pursuant to clauses (5), (13), (14), (19), (20), (21)(i), (23), (24) or (25) above, shall not be more than 30% of EBITDA for the most recently ended twelve month period (calculated prior to giving effect to such adjustments and exclusions).

Notwithstanding the foregoing, for purposes of determining EBITDA for any period that includes any of the months set forth below, EBITDA for such month shall equal the respective amount set forth opposite such month in the table set forth below:

<u>Month</u>	<u>EBITDA (in thousands)</u>
July 2024	\$6,321
August 2024	\$4,863
September 2025	\$6,989
October 2024	\$9,035
November 2024	\$8,412
December 2024	\$10,912
January 2025	\$4,269
February 2025	\$8,143
March 2025	\$9,504
April 2025	\$7,596
May 2025	\$4,069
June 2025	\$6,059

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

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

“Eligibility Reserves” means, effective as of five (5) Business Days after the date of written notice of any determination thereof to the Borrower Representative by Agent (which notice shall include a reasonable description of the basis for such determination), such amounts



as Agent, in its Permitted Discretion, may from time to time establish, against the gross amounts of Eligible Billed Accounts, Eligible ~~Exar Billed Accounts, Eligible Unbilled Accounts, Eligible Exar Unbilled Accounts~~ and Eligible Investment Grade Billed Accounts to reflect Dilution Reserves, Canadian Priority Payables Reserves, sales, excise or similar taxes and other risks or contingencies that may adversely affect any one or more class of such items or that may affect the credit risk or lending against the Eligible Accounts, in each case subject to the last sentence of the definition of “Borrowing Base”; **provided** that, during such five Business Day period, no Revolving Loans may be borrowed to the extent the aggregate Revolving Loan Outstandings after giving effect thereto would exceed the Revolving Loan Limit determined as if such new Eligibility Reserve were in effect.

“**Eligible Account**” means Eligible Billed Accounts, Eligible ~~Exar Billed Accounts, Eligible Unbilled Accounts, Eligible Exar~~ Unbilled Accounts and Eligible Investment Grade Billed Accounts.

“**Eligible Billed Account**” means, subject to the criteria below, an account receivable of a Credit Party ~~(other than (until the termination of the Exar Facility) an Exar Originator or a Canadian Credit Party until such time a Solvency Certificate has been delivered with respect to such Canadian Credit Party)~~, which was generated in the Ordinary Course of Business, which was generated originally in the name of a Credit Party ~~(other than (until the termination of the Exar Facility) an Exar Originator or a Canadian Credit Party until such time a Solvency Certificate has been delivered with respect to such Canadian Credit Party)~~ and not acquired via assignment or otherwise. The net amount of an Eligible Billed Account at any time shall be the face amount of such Eligible Billed Account as originally billed *minus* all cash collections and other proceeds of such Account received from or on behalf of the Account Debtor thereunder as of such date and any and all returns, rebates, discounts (which may, at Agent’s option, be calculated on shortest terms), credits, allowances or excise taxes of any nature at any time issued, owing, claimed by Account Debtors, granted, outstanding or payable in connection with such Accounts at such time. Without limiting the generality of the foregoing, no Account shall be an Eligible Billed Account if:

(a) the Account remains unpaid more than ninety (90) days past the due date (but in no event more than one hundred fifty (150) days after invoice date or the date that the applicable goods or services have been rendered, serviced or delivered);

(b) the Account is subject to any defense, set-off, recoupment, counterclaim, deduction, discount, backdating, postdating, redating, credit, chargeback, freight claim, allowance, or adjustment of any kind (but only to the extent of such defense, set-off, recoupment, counterclaim, deduction, discount, backdating, postdating, redating, credit, chargeback, freight claim, allowance, or adjustment), or the applicable Credit Party is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial process;

(c) if the Account arises from the sale of goods, any part of any goods the sale of which has given rise to the Account has been returned, rejected, lost, or damaged (but only to the extent that such goods have been so returned, rejected, lost or damaged);

(d) if the Account arises from the sale of goods, the sale was not an absolute, bona fide sale, or the sale was made on consignment or on approval or on a sale-or-return or bill-and-hold or progress billing basis, or the sale was made subject to any other repurchase or return agreement, or the goods have not been shipped to the Account Debtor or its designee or the sale was not made in compliance with applicable Laws;

(e) if the Account arises from the performance of services, the services have not actually been performed or the services were undertaken in violation of any Law or the Account represents a progress billing for which services have not been fully and completely rendered;

(f) the Account is subject to a Lien other than a Permitted Lien, or Agent does not have a first priority, perfected Lien on such Account;

(g) the Account is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment, unless such Chattel Paper or Instrument has been delivered to Agent;

(h) the Account Debtor is an Affiliate or Subsidiary of a Credit Party, or if the Account Debtor holds any Debt of a Credit Party;

(i) more than fifty percent (50%) of the aggregate balance of all Accounts owing from the Account Debtor obligated on the Account are ineligible under subclause (a) above (in which case all Accounts from such Account Debtor shall be ineligible);

(j) ~~the Credit Party owning~~ such Account is owned or generated by an Exar Originator; provided that following termination of the Exar Facility an Account owned or generated by an Excluded Exar Originator may be deemed an Eligible Billed Account at the Agent's sole discretion;

(k) the total unpaid Accounts of the Account Debtor obligated on the Account exceed twenty percent (20%) of the net amount of all Eligible Accounts owing from all Account Debtors (but only the amount of the Accounts of such Account Debtor exceeding such twenty percent (20%) limitation shall be considered ineligible);

(l) any covenant, representation or warranty contained in the Financing Documents with respect to such Account has been breached in any respect;

(m) the Account is unbilled or has not been invoiced to the Account Debtor in accordance with the procedures and requirements of the applicable Account Debtor;

(n) the Account is an obligation of an Account Debtor that is the federal, state, provincial, territorial or local government or any political subdivision thereof, unless Agent has agreed to the contrary in writing in the exercise of its Permitted Discretion and, if requested by Agent, in the exercise of its Permitted Discretion, Agent has received from the Account Debtor the acknowledgement of Agent's notice of assignment of such obligation pursuant to this Agreement;

(o) the Account is an obligation of an Account Debtor that has suspended business, made a general assignment for the benefit of creditors, is unable to pay its debts as they become due or as to which a petition has been filed (voluntary or involuntary) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or the Account is an Account as to which any facts, events or occurrences exist which could reasonably be expected to impair the validity, enforceability or collectability of such Account or reduce the amount payable or delay payment thereunder;

(p) the Account Debtor has its principal place of business or executive office outside the United States or Canada;

(q) the Account is payable in a currency other than United States Dollars or Canadian Dollars; *provided* that, in the case of Canadian Dollars, the aggregate amount of such Accounts does not exceed 20% of the aggregate amount of Eligible Accounts at any time;

(r) the Account Debtor is an individual;

(s) the Credit Party owning such Account has not signed and delivered to Agent notices, in the form requested by Agent, directing the Account Debtors to make payment to the applicable Lockbox Account;

(t) the Account includes late charges or finance charges (but only such portion of the Account shall be ineligible);

(u) the Account arises out of the sale of any Inventory upon which any other Person holds, claims or asserts a Lien (unless such Lien does not also include proceeds of such Inventory); or

(v) the Account or Account Debtor fails to meet such other specifications and requirements which may from time to time be established by Agent in its good faith credit judgment and Permitted Discretion and in accordance with its customary criteria.

“**Eligible Cash**” means cash and Cash Equivalents of a Credit Party that is held in a Cash Collateral Account or held in escrow by Agent on behalf of a Credit Party in a Deposit Account owned by Agent.

~~“**Eligible Exar Billed Accounts**” means, only following the termination of the Exar Facility and the release of any liens pursuant thereto, any Accounts held by an Exar Originator that:~~

~~(a) meet all criteria set forth in the definition of “Eligible Billed Account” except for clause (a) and (j) thereof; and~~

~~(b) do not remain unpaid more than one hundred fifty (150) days past the invoice date (or the date that the applicable goods or services have been rendered, serviced or delivered);~~

~~“Eligible Exar Unbilled Account” means, at any time of determination, Accounts of an Exar Originator that:~~

~~(a) qualify as Eligible Exar Billed Accounts, except that the invoice applicable to such Accounts has not been issued to the applicable Account Debtor; provided that an Account shall cease to be an Eligible Exar Unbilled Account upon the earlier of (i) the date the invoice applicable to such Account is issued to the applicable Account Debtor and (ii) ninety (90) days after the services giving rise to such Account have been completed by the applicable Exar Originator; and~~

~~(b) are evidenced by supporting documentation in form and substance reasonably satisfactory to Agent in form consistent with documentation delivered prior to the Closing Date.~~

“Eligible Investment Grade Billed Account” means, at any time of determination, Accounts of a Credit Party that:

(a) qualify as Eligible Billed Accounts;

(b) the Account Debtor is an Investment Grade Account Debtor; and

(c) are evidenced by supporting documentation in form and substance reasonably satisfactory to Agent in form consistent with documentation delivered prior to the Closing Date.

“Eligible Unbilled Account” means, at any time of determination, Accounts of a Credit Party (other than an Exar Originator) that:

(a) qualify as Eligible Billed Accounts, except that the invoice applicable to such Accounts has not been issued to the applicable Account Debtor; provided that an Account shall cease to be an Eligible Unbilled Account upon the earlier of (i) the date the invoice applicable to such Account is issued to the applicable Account Debtor and (ii) thirty (30) days after the services giving rise to such Account have been completed by the applicable Credit Party; and

(b) are evidenced by supporting documentation in form and substance reasonably satisfactory to Agent in form consistent with documentation delivered prior to the Closing Date.

In determining the amount to be included, Eligible Unbilled Accounts shall be calculated net of customer deposits and unapplied cash.

“Environmental Laws” means any present and future federal, state, provincial, territorial, municipal and local laws, statutes, ordinances, rules, regulations, standards, policies and other governmental directives or requirements, as well as common law, pertaining to the environment, natural resources, pollution, health (including any environmental clean-up statutes and all regulations adopted by any local, state, provincial, territorial, municipal, federal or other Governmental Authority, and any statute, ordinance, code, order, decree, law rule or regulation all of which pertain to or impose liability or standards of conduct concerning medical waste or

medical products, equipment or supplies), safety or clean-up that apply to any Borrower and relate to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. § 5101 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 *et seq.*), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 *et seq.*), the Occupational Safety and Health Act (29 U.S.C. § 651 *et seq.*), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. § 4851 *et seq.*), the *Canadian Environmental Protection Act, 1999*, any analogous federal, state, provincial, territorial, municipal or local laws, any amendments thereto, and the regulations promulgated pursuant to said laws, together with all amendments from time to time to any of the foregoing and judicial interpretations thereof.

“Equivalent Amount” means, on any date of determination, with respect to obligations or valuations denominated in one currency (the “first currency”), the amount of another currency (the “second currency”) which would result from Agent converting the first currency into the second currency at the Spot Rate on the applicable date of determination, or at such other rate as Agent may determine in its sole discretion.

“ERISA” means the Employee Retirement Income Security Act of 1974, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

“ERISA Plan” means any “employee benefit plan”, as such term is defined in Section 3(3) of ERISA (other than a Multiemployer Plan), which any Credit Party maintains, sponsors or contributes to, or, in the case of an employee benefit plan which is subject to Section 412 of the Code or Title IV of ERISA, to which any Credit Party or any member of the Controlled Group may have any liability, including any liability by reason of having been a substantial employer within the meaning of Section 4063 of ERISA at any time during the preceding five (5) years, or by reason of being deemed to be a contributing sponsor under Section 4069 of ERISA.

“Erroneous Payment” has the meaning specified therefor in Section 11.20.

“Erroneous Payment Deficiency Assignment” has the meaning specified therefor in Section 11.20.

“Erroneous Payment Impacted Loans” has the meaning specified therefor in Section 11.20.

“Erroneous Payment Return Deficiency” has the meaning specified therefor in Section 11.20.

“ETI” means Exela Technologies, Inc.

“ETI Funding Obligation” has the meaning assigned to it in the Plan of Reorganization.

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

“**Event of Default**” has the meaning set forth in Section 10.1.

~~“**Exar Billed Advance Rate**” means the advance rate applicable to Eligible Exar Billed Accounts, as set forth in the table below, which shall adjust automatically on the dates specified unless otherwise agreed by Agent in its sole discretion:~~

~~Date~~	~~Advance Rate on Eligible Exar Billed Accounts~~
~~Closing Date through and including the date that is six months after the first date upon which any Eligible Exar Billed Account is included in the Borrowing Base~~	~~85.0%~~
~~One day after the end of the period described immediately above, through and including the date that is seven months after the first date upon which any Eligible Exar Billed Account is included in the Borrowing Base~~	~~83.33%~~
~~One day after the end of the period described immediately above, through and including the date that is eight months after the first date upon which any Eligible Exar Billed Account is included in the Borrowing Base~~	~~81.67%~~
~~One day after the end of the period described immediately above, through and including the date that is nine months after the first date upon which any Eligible Exar Billed Account is included in the Borrowing Base~~	~~80.00%~~
~~One day after the end of the period described immediately above, through and including the date that is ten months after the first date upon which any Eligible Exar Billed Account is included in the Borrowing Base~~	~~78.33%~~
~~One day after the end of the period described immediately above, through and including the date that is eleven months after the first date upon which any Eligible Exar Billed Account~~	~~76.67%~~

is included in the Borrowing Base	
One day after the end of the period described immediately above, and thereafter	75%

“**Exar Facility**” means the receivables purchase facility established pursuant to that certain Receivables Purchase Agreement, dated as of February 12, 2024, among Exela BR SPV LLC, a Delaware limited liability company (“**Exar SPV**”), as seller, BR EXAR, LLC, a Delaware limited liability company (as successor by assignment to B. Riley Securities, Inc.), as buyer (the “**Exar Buyer**”), and the originators party thereto as of the Closing Date (the “**Exar Originators**”), as amended, restated, amended and restated, supplemented or otherwise modified from time to time ~~(for the avoidance of doubt, other than with respect to amendments, restatements, amendments and restatements, supplements or modifications which change the identities of the Exar Originators).~~

“**Exar Facility Amendment**” means the Exar Facility as amended and restated by that certain Amended and Restated Receivables Purchase Agreement, dated as of January 21, 2026, and as may be subsequently amended, or amended and restated, provided that the aggregate amount of principal Indebtedness incurred with respect to the Exar Facility Amendment shall not exceed \$10,000,000.

“**Exar Originator**” has the meaning specified ~~therefore~~therefor in the definition of Exar Facility.

~~“**Exar Unbilled Advance Rate**” means the advance rate applicable to Eligible Exar Unbilled Accounts, as set forth in the table below, which shall adjust automatically on the dates specified unless otherwise agreed by Agent in its sole discretion:~~

Date	Advance Rate on Eligible Exar Unbilled Accounts
~~Closing Date through and including the date that is six months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base~~	85.0%
~~One day after the end of the period described immediately above, through and including the date that is seven months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base~~	79.17%
~~One day after the end of the period described immediately above, through and including the date that is eight months after the first date upon which any Eligible Exar Unbilled~~	73.33%

Account is included in the Borrowing Base	
One day after the end of the period described immediately above, through and including the date that is nine months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	67.50%
One day after the end of the period described immediately above, through and including the date that is ten months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	61.67%
One day after the end of the period described immediately above, through and including the date that is eleven months after the first date upon which any Eligible Exar Unbilled Account is included in the Borrowing Base	55.83%
One day after the end of the period described immediately above, and thereafter	50.0%

“**Excess Availability**” means, at a particular date, an amount equal to the Revolving Loan Availability.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Excluded Account**” has the meaning specified therefor in Section 5.14.

“**Excluded Exar Originator**” means (a) [SourceHov Canada Company, an unlimited company under the laws of Nova Scotia](#), (b) [Novitex Enterprise Solutions Canada, Inc., an Ontario corporation](#), and (c) [BancTec \(Canada\), Inc., an Ontario corporation](#).

“**Excluded Subsidiary**” means, with respect to any Subsidiary of the Borrowers, (a) each Subsidiary that is prohibited from Guaranteeing the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a governmental (including regulatory) authority to Guarantee the Obligations (unless such consent, approval, license or authorization has been received); provided, that, for the avoidance of doubt, such Subsidiary shall have no obligation to seek such consent, approval, license or authorization, (b) each Subsidiary that is prohibited by any applicable contractual requirement from Guaranteeing the Obligations on the Closing Date or at the time such Subsidiary becomes a Subsidiary (in each case for so long as such restriction or any replacement or renewal thereof is in effect and only to the extent that such prohibition was not implemented or consented to with the intent of evading the requirements of Section 4.10), (c) [reserved], (d) any Subsidiary that (i) did not, as of the last day of the fiscal quarter of the Borrowers most recently ended, have assets with a value in excess



of 5.0% of the total assets or revenues representing in excess of 5.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date and (ii) taken together with all other such Subsidiaries being excluded pursuant to this clause (d), as of the last day of the fiscal quarter of the Borrowers most recently ended, did not have assets with a value in excess of 10.0% of the total assets or revenues representing in excess of 10.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date, and (e) any Subsidiary for which providing a Guarantee or granting Liens required by the Security Documents to secure Indebtedness could reasonably be expected to result in material tax consequences as determined in good faith by the Borrowers in consultation with the Required Lenders, in each case pursuant to clauses (a) through (e) hereof, only for so long as it remains as such; provided that any Subsidiary that incurs or provides a guarantee under (or has pledged its assets to secure the obligations of) any Indebtedness for borrowed money shall not be an Excluded Subsidiary.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to Agent, any Lender or any other recipient of any payment to be made by or on behalf of any obligation of Credit Parties hereunder or the Obligations or required to be withheld or deducted from a payment to Agent, such Lender or such recipient: (a) Taxes to the extent imposed on or measured by Agent’s, any Lender’s or such other recipient’s net income (however denominated), branch profits Taxes, and franchise Taxes, in each case, (i) imposed by the jurisdiction (or any political subdivision thereof) under which Agent, such Lender or such other recipient is organized, has its principal office or, in the case of any Lender, has its applicable lending office or (ii) that are Other Connection Taxes; (b) in the case of a Lender, United States withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in the Loans pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loans other than as a result of an assignment requested by a Credit Party under the terms hereof or (ii) such Lender changes its lending office for funding its Loan, except in each case to the extent that, pursuant to Section 2.8, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender acquired the applicable interest in a Loan or Revolving Loan Commitment or to such Lender immediately before it changed its lending office; (c) Taxes attributable to Agent’s, such Lender’s or such other recipient’s failure to comply with Section 2.8(c); and (d) any Taxes imposed under FATCA.

“Exit Notes” means the notes under the Exit Notes Indenture.

“Exit Notes Collateral Agent” means Ankura Trust Company, LLC, as the collateral agent under the Exit Notes Indenture.

“Exit Notes Indenture” means the indenture dated as of the date hereof among the XBP Americas, LLC, Exela Finance Inc., the guarantors named therein, the financial institutions named therein, the Trustee and the Exit Notes Collateral Agent, as in effect on the date hereof.

“Fair Value” means the amount at which the assets (both tangible and intangible), in their entirety, of the Borrower and its Subsidiaries taken as a whole and after giving effect to the consummation of the Transactions would change hands between a willing buyer and a willing

seller, within a commercially reasonable period of time, each having reasonable knowledge of the relevant facts, with neither being under any compulsion to act.

“**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 Treasury regulations or official interpretations thereof and any agreement entered into pursuant to the implementation of Section 1471(b)(1) of the Code, and any intergovernmental agreement, treaty or convention between the United States Internal Revenue Service, the U.S. Government and any governmental or taxation authority under any other jurisdiction which agreement’s principal purposes deals with the implement such sections of the Code.

“**Financing Documents**” means this Agreement, the ABL Intercreditor Agreement, any other intercreditor agreements, any Notes, the Security Documents, any subordination or intercreditor agreement pursuant to which any Debt and/or any Liens securing such Debt is subordinated to all or any portion of the Obligations and all other documents, instruments and agreements (other than any Swap Contract) related to the Obligations and heretofore executed, executed concurrently herewith or executed at any time and from time to time hereafter, as any or all of the same may be amended, supplemented, restated or otherwise modified from time to time.

“**Fixed Charge Calculation Date**” has the meaning assigned in the “Fixed Charge Coverage Ratio” definition.

“**Fixed Charge Coverage Ratio**” means, with respect to any Person for any period, the ratio of (a) (i) EBITDA of such Person for such period *minus* (ii) the Unfinanced Capital Expenditures of the Borrower and its Subsidiaries during such period *minus* (iii) Capitalized Software Expenditures to (b) the Fixed Charges of such Person for such period. In the event that the Borrowers or any of its Subsidiaries incurs, repays, repurchases or redeems any Debt or issues, repurchases or redeems disqualified equity interests or preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Fixed Charge Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Debt, or such issuance, repurchase or redemption of disqualified equity interests or preferred stock, as if the same had occurred at the beginning of the applicable period.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations that the Borrowers or any Subsidiary has made during the four-quarter reference period (each, for purposes of this definition, a “pro forma event”) shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes, business realignment projects or initiatives, New Projects, restructurings or reorganizations (and the change of any associated fixed charge obligations and the change in EBITDA resulting

therefrom) had occurred on the first day of the reference period. If since the beginning of such period any Person that subsequently became a Subsidiary or was merged with or into the Borrowers or any Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation, operational change, business realignment project or initiative, New Project, restructuring or reorganization, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation, operational change, business realignment project or initiative, New Project, restructuring or reorganization had occurred at the beginning of the applicable reference period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower Representative. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in a Responsible Officer's certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings reasonably expected to have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the reference period (including, to the extent applicable, the Transactions); provided, that for all purposes of determining EBITDA hereunder all adjustments (to the extent such adjustment is effected pursuant to the definition of EBITDA) shall not be more than the amount of applicable adjustments permitted pursuant to the applicable provision(s) of the definition of EBITDA, as the case may be for the most recently ended reference period (calculated prior to giving effect to such capped adjustments and exclusions (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.

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

For purposes of making the computation referred to above, in giving effect to each New Project which commences operations and records not less than one full fiscal quarter's operations during such period, the operating results of such New Project shall be annualized on a



straight line basis during such period, taking into account any seasonality adjustments determined by the Borrowers in good faith.

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

“Fixed Charges” means, with respect to any Person for any period, the sum, without duplication, of: (a) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, (b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock or customary disqualified equity interests of such Person and its Subsidiaries, (c) regularly scheduled payments of principal on Debt for borrowed money that were paid or payable (but without duplication) during such period (excluding, for the avoidance of doubt, that attributable to Capital Lease Obligations, the Exar Facility and the Exar Facility Amendment) and (d) the aggregate amount of cash payments made in respect of Taxes (other than payroll taxes, sales taxes and Transaction Tax Liability (as defined in the Plan of Reorganization)) during such period.

“Floor” means the rate per annum of interest equal to 1.00%.

“Foreign Lender” has the meaning specified therefor in Section 2.8(c)(i).

“GAAP” means generally accepted accounting principles set forth from time to time 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 agencies with similar functions of comparable stature and authority within the United States accounting profession), which are applicable to the circumstances as of the date of determination.

“General Intangible” means any “general intangible” as defined in Article 9 of the UCC (and includes, for certainty, any “intangible” as defined in the PPSA), and any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction, but including payment intangibles and software.

“Governmental Authority” means any nation or federal government, any state, province, territory, municipality or other political subdivision thereof, and any agency, department or Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any corporation or other Person owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing, whether domestic or foreign.

“guarantee” by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or

otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt 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 conditions or otherwise), or (b) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), *provided, however*, that the term guarantee shall not include endorsements for collection or deposit in the Ordinary Course of Business. The term **“guarantee”** used as a verb has a corresponding meaning.

“Guarantee” means the guarantee of the Guaranteed Obligations made by the Guarantors as set forth in Section 12 of this Agreement or in such other form as may be accepted by Agent in its reasonable discretion.

“Guarantee Supplement” has the meaning specified in Section 12.6.

“Guaranteed Obligations” has the meaning specified therefor in Section 12.2(a).

“Guarantor” means each Subsidiary of the Borrowers (other than an Excluded Subsidiary or other Person designated in writing by Agent as not required to be a Guarantor). For the avoidance of doubt, each Guarantor shall be jointly and severally liable for the Obligations to the extent provided in this Agreement and the other Financing Documents.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which is prohibited by any Environmental Laws; toxic mold, any substance that requires special handling; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” “pollutant” or other words of similar import within the meaning of any Environmental Law, including: (a) any “hazardous substance” defined as such in (or for purposes of) CERCLA, or any so-called “superfund” or “superlien” Law, including the judicial interpretation thereof; (b) any “pollutant or contaminant” as defined in 42 U.S.C.A. § 9601(33); (c) any material now defined as “hazardous waste” pursuant to 40 C.F.R. Part 260; (d) any petroleum or petroleum by-products, including crude oil or any fraction thereof; (e) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel; (f) any “hazardous chemical” as defined pursuant to 29 C.F.R. Part 1910; (g) any toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls (**“PCB’s”**), flammable explosives, radioactive materials, infectious substances, materials containing lead-based paint or raw materials which include hazardous constituents); and (h) any other toxic substance or contaminant that is subject to any Environmental Laws or other past or present requirement of any Governmental Authority.

“Hazardous Materials Contamination” means contamination (whether now existing or hereafter occurring) of the improvements, buildings, facilities, personalty, soil, groundwater, air

or other elements on or of the relevant property by Hazardous Materials, or any derivatives thereof, or on or of any other property as a result of Hazardous Materials, or any derivatives thereof, generated on, emanating from or disposed of in connection with the relevant property.

“**IG Advance Rate**” means the advance rate applicable to Eligible Investment Grade Billed Accounts, as set forth in the table below, which shall adjust automatically on the dates specified unless otherwise agreed by Agent in its sole discretion:

Date	Advance Rate on Eligible Investment Grade Billed Accounts
Closing Date through and including January 29, 2026	95.0%
January 30, 2026, through and including ~~July 29, 2026~~ <u>the Third Amendment Effective Date</u>	92.5%
<u>The day following the Third Amendment Effective Date through and including September 30, 2026</u>	<u>95.0%</u>
<u>October 1, 2026 through and including January 31, 2027</u>	<u>92.5%</u>
After ~~July 29~~ <u>February 1, 2026</u> <u>2027</u>	90.0%

“**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 Borrowers or any other Credit Party under any Financing Documents and (b) to the extent not otherwise described in (a), Other Taxes.

“**Instrument**” means “instrument”, as defined in Article 9 of the UCC or in the PPSA, as applicable.

“**Intellectual Property**” means, with respect to any Person, all patents, patent applications, industrial designs, industrial design applications and like protections, including improvements divisions, continuation, renewals, reissues, extensions and continuations in part of the same, trademarks, trade names, trade styles, trade dress, service marks, logos and other business identifiers and, to the extent permitted under applicable law, any applications therefor, whether registered or not, and the goodwill of the business of such Person connected with and symbolized thereby, copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative works, whether published or unpublished, technology, know-how and processes, operating manuals, trade secrets, computer hardware and software, rights to unpatented inventions and all applications and licenses therefor, used in or necessary for the conduct of business by such Person and all claims for damages by way of any past, present or future infringement of any of the foregoing.

“Interest Period” means any period commencing on the first day of a calendar month and ending on the last day of such calendar month.

“Inventory” means “inventory” as defined in Article 9 of the UCC or in the PPSA, as applicable.

“Investment” means any investment in any Person, whether by means of acquiring (whether for cash, property, services, securities or otherwise), making or holding Debt, securities, capital contributions, loans, time deposits, advances, guarantees or otherwise. The amount of any Investment shall be the original cost of such Investment *plus* the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect thereto.

“Investment Grade Account Debtor” means an Account Debtor listed on **Schedule 1.1** (as such list may be updated from time to time by Borrower and consented to by Agent) that, at any time of determination, has a corporate credit rating equal to or higher than Baa3 (or the equivalent) by Moody’s or BBB- (or the equivalent) by S&P.

“IRS” has the meaning specified therefor in Section 2.8(c)(i).

“Junior Lien Obligations” means the obligations with respect to Debt permitted to be incurred under this Agreement, which is by its terms intended to be secured by the Collateral on a basis junior to the Obligations, excluding the Term Loan Agreement and the Exit Notes.

“Laws” means any and all federal, state, provincial, territorial, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or hereafter in effect, which are applicable to any Credit Party in any particular circumstance. **“Laws”** includes, without limitation, Environmental Laws.

“Lender” means each of (a) MidCap Financial Trust, in its capacity as a lender hereunder, (b) each other Person party hereto in its capacity as a lender hereunder, (c) each other Person that becomes a party hereto as Lender pursuant to Section 11.17, and (d) the respective successors of all of the foregoing, and **“Lenders”** means all of the foregoing. In addition to the foregoing, solely for the purpose of identifying the Persons entitled to share in payments and collections from the Collateral as more fully set forth in this Agreement and the Security Documents, the term **“Lender”** shall include Eligible Swap Counterparties. In connection with any such distribution of payments and collections, Agent shall be entitled to assume that no amounts are due to any Eligible Swap Counterparty unless such Eligible Swap Counterparty has notified Agent of the amount of any such liability owed to it prior to such distribution.

“Liabilities” means the recorded liabilities (including contingent liabilities that would be recorded in accordance with GAAP) of the Borrower and its Subsidiaries taken as a whole, as of the Closing Date after giving effect to the consummation of the Transactions determined in accordance with GAAP consistently applied.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset. For the purposes of this



Agreement and the other Financing Documents, any Borrower or any Subsidiary 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.

“Litigation” means any action, suit or proceeding before any court, mediator, arbitrator or Governmental Authority.

“Loan(s)” means the Revolving Loans.

“Loan Account” has the meaning specified therefor in Section 2.6(b).

“Lockbox” has the meaning specified therefor in Section 2.11.

“Lockbox Account” means an account or accounts maintained at the Lockbox Bank into which collections of Accounts are paid, which account or accounts shall be, if requested by Agent, opened in the name of Agent (or a nominee of Agent).

“Lockbox Bank” has the meaning specified therefor in Section 2.11.

“Material Adverse Effect” means a material adverse effect on any of (a) the operations, assets, liabilities, financial condition or prospects of the Credit Parties taken as a whole, (b) the ability of the Credit Parties taken as a whole to perform any of their obligations under any Financing Document, (c) the legality, validity or enforceability of this Agreement or any other Financing Document, (d) the rights and remedies of any Agent or any Lender under any Financing Document, or (e) the validity, perfection or priority of a Lien in favor of Agent on Collateral having a fair market value in excess of \$25,000,000.

“Material Contracts” means, with respect to any Person, (a) each contract or agreement to which such Person or any of its Subsidiaries is a party involving aggregate consideration payable to or by such Person or such Subsidiary of \$10,000,000 or more in any fiscal year (other than purchase orders in the ordinary course of the business of such Person or such Subsidiary and other than contracts that by their terms may be terminated by such Person or Subsidiary in the ordinary course of its business upon less than 60 days’ notice without penalty or premium) and (b) all other contracts or agreements as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

“Maximum Lawful Rate” has the meaning specified therefor in Section 2.7.

“MCF” means MidCap Funding IV Trust, a Delaware statutory trust, and its successors and assigns.

“Minimum Balance” shall mean, on any day, an amount that equals the product of: (i) the average Borrowing Base (or, if less on any given day, the Revolving Loan Commitment) during the immediately preceding month *multiplied by* (ii) twenty percent (20.0%).

“Minimum Balance Fee” shall mean a fee equal to (a) the positive difference, if any, remaining after subtracting (i) the average end-of-day principal balance of Revolving Loans outstanding during the immediately preceding month (without giving effect to the clearance day calculations referenced above) or in Section 2.2(a) from (ii) the Minimum Balance multiplied by (b) the highest interest rate applicable to the Revolving Loans during such month (or, during the existence of an Event of Default, the default rate of interest set forth in Section 10.5).

“Multiemployer Plan” means a multiemployer plan within the meaning of Section 4001(a) (3) of ERISA to which any Credit Party or any other member of the Controlled Group (or any Person who in the last five years was a member of the Controlled Group) is making or accruing an obligation to make contributions or has within the preceding five plan years (as determined on the applicable date of determination) made contributions.

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

“New Project” means (x) each contract or project with respect to new customers and any expansions of contracts or projects with respect to existing customers and (y) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market, in each case, to the extent and for so long as not capitalized in the Ordinary Course of Business of the Borrowers and their Subsidiaries.

“Notes” has the meaning specified therefor in Section 2.3.

“Notice of Borrowing” means a notice of a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit D hereto.

“Obligations” means all obligations, liabilities and indebtedness (monetary (including, without limitation, the payment of interest and other amounts arising after the commencement of any case with respect to any Credit Party under any Debtor Relief Laws or any similar statute which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case) or otherwise) of each Credit Party under this Agreement or any other Financing Document, in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due. In addition to, but without duplication of, the foregoing, the Obligations shall include, without limitation, all obligations, liabilities and indebtedness arising from or in connection with all Swap Contracts entered into with any Eligible Swap Counterparty.

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

“OFAC Lists” means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.



“Operative Documents” means the Financing Documents, the Term Loan Documents, the Exit Notes Indenture and the B. Riley Credit Agreement.

“Ordinary Course of Business” means, in respect of any transaction involving any Credit Party, the ordinary course of business of such Credit Party, as conducted by such Credit Party in accordance with past practices.

“Organizational Documents” means, with respect to any Person other than a natural person, the documents by which such Person was organized or formed (such as a certificate of incorporation, certificate of limited partnership or articles of organization, and including, without limitation, any certificates of designation for preferred stock or other forms of preferred equity) and which relate to the internal governance of such Person (such as by-laws, memoranda of association, a partnership agreement or an operating, limited liability company or members agreement), including any and all shareholder agreements or voting agreements relating to the capital stock or other equity interests of such Person.

“Other Connection Taxes” means, with respect to a Lender or Agent, taxes imposed as a result of a present or former connection between Agent or any Lender and the jurisdiction imposing such tax (other than connections arising solely from Agent or such Lender having executed, delivered, become a party to, performed its obligations under, received payments under, engaged in any other transaction pursuant to or enforced any Financing Document, or sold or assigned an interest in any Loans or any Financing Document).

“Other Taxes” means all present or future stamp, court or 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 Financing Document, except any such taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.8(i)).

“Parent” means XBP Europe Holdings Inc., a Delaware corporation, and any successor thereto.

“Participant Register” has the meaning specified therefor in Section 11.17(a)(iii).

“Payment Account” means the account specified on the signature pages hereof into which all payments by or on behalf of each Borrower to Agent under the Financing Documents shall be made, or such other account as Agent shall from time to time specify by notice to Borrower Representative.

“Payment Condition” means, with respect to any payment subject to such condition, that:

(a) the Credit Parties shall have a pro forma Fixed Charge Coverage Ratio of not less than 1.00:1.00 after giving effect to such payment;

(b) the Credit Parties shall have maintained Excess Availability (after giving pro forma effect to any advance with respect to the subject payment) of not less than twenty

percent (20%) of the Revolving Loan Limit for the 30-day period immediately preceding the date of such payment; and

(c) no Default or Event of Default shall have occurred and be continuing on the date of such payment or as a result thereof.

“Payment Recipient” has the meaning specified therefor in Section 11.20.

“PBGC” means the Pension Benefit Guaranty Corporation and any Person succeeding to any or all of its functions under ERISA.

“Pension Plan” means any ERISA Plan that is subject to Section 412 of the Code or Title IV of ERISA.

“Permits” means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of a Credit Party required under all applicable Laws and required for such Credit Party in order to carry on its business as now conducted.

“Permitted Affiliate” means with respect to any Person (a) any Person that directly or indirectly controls such Person, and (b) any Person which is controlled by or is under common control with such controlling Person. As used in this definition, the term “control” of a Person means the possession, directly or indirectly, of the power to vote eighty percent (80%) or more of any class of voting securities of such Person or to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Permitted Asset Dispositions” means the following Asset Dispositions: (a) dispositions of Inventory in the Ordinary Course of Business and not pursuant to any bulk sale, (b) dispositions of furniture, fixtures and equipment in the Ordinary Course of Business that the applicable Borrower or Subsidiary determines in good faith is no longer used or useful in the business of such Borrower and its Subsidiaries, (c) dispositions approved by Agent, (d) licensing, on a non-exclusive basis, intellectual property rights in the ordinary course of business of the Borrowers or any Subsidiary, (e) leasing or subleasing assets in the ordinary course of business of the Borrower or any Subsidiary, (f) so long as no Event of Default has occurred and is continuing or would result therefrom, transfers of assets (i) from the Borrower or any Subsidiary to a Credit Party and (ii) from any Subsidiary that is not a Credit Party to any other Subsidiary, (g) any Asset Disposition occurring in accordance with the terms of the Tax Funding Agreement, (h) any involuntary loss, damage or destruction of property and any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property, (i) any involuntary loss, damage or destruction of property, (j) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property, (k)(i) the lapse of Registered Intellectual Property of the Borrowers or any Subsidiary of the Borrowers to the extent not economically desirable in the conduct of their business or (ii) the abandonment of Intellectual Property rights in the ordinary course of their business so long as (in each case under

clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Lenders, and (I) sales and contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility as amended and restated by that certain Exar Facility Amendment; provided that certain of the proceeds from such sale and contribution pursuant to this clause (i) are used to repay the B. Riley Credit Agreement (which may be by way of a purchase of a participation interest, so long as such participation interest is purchased by a Credit Party or immediately transferred to a Credit Party) in accordance with the terms of the Exar Facility as amended and restated by that certain Exar Facility Amendment.

“Permitted Contest” means, with respect to any tax obligation or other obligation allegedly or potentially owing from any Borrower or its Subsidiary to any governmental tax authority or other third party, a contest maintained in good faith by appropriate proceedings promptly instituted and diligently conducted and with respect to which such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made on the books and records and financial statements of the applicable Credit Party(ies); *provided, however*, that (a) compliance with the obligation that is the subject of such contest is effectively stayed during such challenge; (b) Borrowers’ and its Subsidiaries’ title to, and its right to use, the Collateral is not adversely affected thereby and Agent’s Lien and priority on the Collateral are not adversely affected, altered or impaired thereby; (c) Borrowers have given prior written notice to Agent of a Borrower’s or its Subsidiary’s intent to so contest the obligation; (d) the Collateral or any part thereof or any interest therein shall not be in any danger of being sold, forfeited or lost by reason of such contest by Borrowers or its Subsidiaries; (e) Borrowers have given Agent notice of the commencement of such contest and upon request by Agent, from time to time, notice of the status of such contest by Borrowers and/or confirmation of the continuing satisfaction of this definition; and (f) upon a final determination of such contest, Borrowers and its Subsidiaries shall promptly comply with the requirements thereof.

“Permitted Contingent Obligations” means (a) Contingent Obligations arising in respect of the Debt under or permitted by the Financing Documents; (b) Contingent Obligations resulting from endorsements for collection or deposit in the Ordinary Course of Business; (c) Contingent Obligations outstanding on the date of this Agreement and set forth on Schedule 5.1 (but not including any refinancings, extensions, increases or amendments to the indebtedness underlying such Contingent Obligations other than extensions of the maturity thereof without any other change in terms); (d) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations; (e) Contingent Obligations arising under indemnity agreements with title insurers to cause such title insurers to issue to Agent mortgagee title insurance policies; (f) Contingent Obligations arising with respect to customary indemnification obligations in favor of purchasers in connection with dispositions of personal property assets permitted under Section 5.6; (g) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Contingent Obligations existing or arising under any Swap Contract, *provided, however*, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation; and (h) other

Contingent Obligations not permitted by clauses (a) through (h) above, not to exceed the Threshold Amount in the aggregate at any time outstanding.

“Permitted Debt” means:

(a) Borrowers’ and its Subsidiaries’ Debt to Agent and each Lender under this Agreement and the other Financing Documents;

(b) Debt incurred as a result of endorsing negotiable instruments received in the Ordinary Course of Business;

(c) purchase money Debt to finance (whether prior to or within 180 days after) the acquisition of property or capital lease obligations not to exceed \$35,000,000 at any time (whether in the form of a loan or a lease and including any refinancing of such indebtedness pursuant to clause (ll) below) used solely to acquire, lease, construct, repair, replace or improve property or equipment used in the Ordinary Course of Business;

(d) Debt existing on the date of this Agreement and described on Schedule 5.1 (but not including any refinancings, extensions, increases or amendments to such Debt other than extensions of the maturity thereof without any other change in terms);

~~(f) Debt incurred pursuant to the Exar Facility amended and restated by that certain Exar Facility Amendment;~~

(e) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Debt existing or arising under any Swap Contract, *provided, however,* that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation;

(f) Debt in the form of insurance premiums financed through the applicable insurance company;

(g) trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business;

(h) Borrowers’ and its Subsidiaries’ Debt incurred in connection with the Term Loan Documents;

(i) ~~[reserved]~~ Debt incurred pursuant to the Exar Facility amended and restated by that certain Exar Facility Amendment;

(j) Debt of any Credit Party in an aggregate amount not to exceed \$25,000,000 so long as (x) the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries for the most recently ended four fiscal quarters for which financial statements have been delivered to Agent would have been at least 2.00 to 1.00 determined on a pro forma basis and (y) any such Debt shall be subordinated in right of payment to the Obligations and, if



secured, subordinated in respect of lien priority to the Liens securing the Obligations on terms acceptable to Agent;

(k) [reserved];

(l) Debt in an aggregate amount not to exceed \$5,000,000 so long as the Senior Secured Leverage Ratio for the most recently ended four fiscal quarters for which financial statements have been delivered to Agent does not exceed 3.75 to 1.00 determined on a pro forma basis;

(m) the Exit Notes issued on the Closing Date;

(n) [reserved];

(o) Debt (x) incurred to finance an acquisition or (y) of Persons that are acquired, in each case so long as (A)(i) the Borrowers would be permitted to incur at least \$1.00 of additional Debt pursuant to the Fixed Charge Coverage Ratio test set forth in clause (j) above or (ii) the Fixed Charge Coverage Ratio of the Borrowers would be no less than immediately prior to such acquisition, (B) the aggregate principal amount of Debt under clause (o)(x) shall not exceed \$10,000,000, and (C) any such Debt shall be subordinated in right of payment to the Obligations on terms acceptable to Agent;

(p) Debt of any Subsidiary that is not a Credit Party in an aggregate amount not to exceed \$4,000,000;

(q) Debt incurred on behalf of, or representing guarantees of Debt of, joint ventures of any Borrower or any Subsidiary in an aggregate principal amount not to exceed \$10,000,000, so long as any such Debt shall be subordinated in right of payment to the Obligations on terms acceptable to Agent;

(r) [reserved];

(s) Debt of the Borrowers or any Subsidiary in respect of the B. Riley Credit Agreement in an aggregate principal amount outstanding at any time not to exceed \$22,500,000 (it being understood and agreed that, notwithstanding anything herein to the contrary, the aggregate principal amount of the B. Riley Credit Agreement outstanding will be deemed to be reduced by the amount of the participation interest in respect thereof held by any Credit Party); provided that such Debt under the B. Riley Credit Agreement shall not be permitted after March 31, 2027;

(t) [reserved];

(u) (i) Additional Notes issued in connection with the ETI Funding Obligation and (ii) Additional Notes issued other than in connection with the ETI Funding Obligation in an amount not to exceed \$10,000,000;

(v) Debt of the Borrowers to any of the Subsidiaries; provided, that (x) any such Debt owed to a Subsidiary that is not a Borrower or a Guarantor is subordinated in right of

payment to the Obligations on terms acceptable to Agent and (y) the aggregate amount of all such Debt owed to a Borrower or a Guarantor by any Subsidiary that is not a Borrower or a Guarantor shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any equity interests or any other event which results in any such Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such Debt (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Debt constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an incurrence of such debt not permitted by this clause (v);

(w) Debt of any Subsidiary to the Borrowers or any other Subsidiary; provided, that (x) if a Subsidiary that is a Guarantor incurs such Debt to a Subsidiary that is not a Borrower or a Guarantor, such Debt is subordinated in right of payment to the Guarantee of such Subsidiary on terms acceptable to Agent and (y) if any Subsidiaries that are not a Guarantor incur Debt to any Borrower or Guarantor, the aggregate amount of such Debt shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any equity interests or any other event which results in any Subsidiary of the Borrowers holding such Debt ceasing to be a Subsidiary of the Borrowers or any other subsequent transfer of any such Debt (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Debt constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an incurrence of such Debt not permitted by this clause (v);

(x) Debt of the Borrowers or any Subsidiary in respect of the Unsecured Cash Pool;

(y) Debt incurred by the Borrowers or any Subsidiary of the Borrowers owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Borrowers or any of the Borrowers' Subsidiaries, respectively, pursuant to reimbursement or indemnification obligations to such Person, in each case, provided in the ordinary course of business or consistent with industry practices;

(z) Debt arising from agreements of the Borrowers or any Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Debt incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition, in each case, to the extent such obligation or transaction is permitted by this Agreement;

(aa) Debt of the Borrowers and the Subsidiaries in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case, reasonably required in the conduct of their respective business (giving effect to any growth or expansion of such business permitted hereunder), including those incurred to secure health, safety, insurance and environmental obligations of the Borrowers and the Subsidiaries, respectively, as conducted in accordance with good and prudent business industry practices and otherwise as permitted by this Agreement;



(bb) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business (provided that such Debt is extinguished within five Business Days of its incurrence) or other cash management services in the ordinary course of business;

(cc) Debt of the Borrowers or Subsidiary supported by a letter of credit or bank guarantee issued pursuant to Debt otherwise permitted by Section 5.1, in a principal amount not in excess of the stated amount of such letter of credit;

(dd) Debt of the Borrowers or Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(ee) Debt of the Borrowers and its respective Subsidiaries in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support their respective performance obligations and trade letters of credit (other than obligations in respect of other Debt) in the ordinary course of business;

(ff) to the extent constituting Debt of the Borrowers and the Subsidiaries, all premium (if any), defeasance costs, interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Debt otherwise permitted to be incurred pursuant to Section 5.1;

(gg) Debt in respect of obligations of the Borrowers or Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services for such Person; provided, that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Swap Contracts;

(hh) deposits raised by any Subsidiary that is subject to state and/or federal banking regulations that constitute Debt owing to such depositor;

(ii) Debt consisting of earn outs and obligations of the Borrowers or Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with any Permitted Investment by such Person;

(jj) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(kk) obligations in respect of Cash Management Agreements; and

(ll) the incurrence by the Borrowers or any of their Subsidiaries of Debt that serves to refund, refinance or defease any Debt as permitted under clauses (c), (d), (l), (n), (o), (p), (q) and (s) of the definition of "Permitted Debt" in an aggregate amount not to exceed the then-outstanding principal amount (or, if applicable, the liquidation preference face amount of the Debt being so refunded, refinanced or defeased), together with any accrued interest and any related fees, expenses and premiums (subject to the following proviso, "**Refinancing**



Indebtedness”) prior to its respective maturity; provided, however, that such Refinancing Indebtedness:

(i) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Debt being refunded, refinanced or defeased and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Debt being refunded or refinanced that were due on or after the date that is one year following the last maturity date of the Obligations;

(ii) to the extent such Refinancing Indebtedness refinances Debt subordinated in right of payment to the Obligations or a Guarantee, as applicable, such Refinancing Indebtedness is subordinated in rights of payment to the Obligations or the Guarantee, as applicable, on terms acceptable to Agent;

(iii) shall not have any of the Borrower Representative or any Subsidiary of the Borrower Representative as an obligor thereon except to the extent such Person was an obligor on the Debt being extended, refinanced or modified, and shall not be secured by any Lien on any asset other than the assets that secured such Debt being extended, refinanced or modified or, if applicable, shall be unsecured;

(iv) shall not (if secured) have a Lien priority greater than such Debt being extended, refinanced or modified; and

(v) shall not include Debt (including any guarantees) of a Subsidiary that is not a Borrower or a Guarantor that refinances Debt of a Borrower or a Subsidiary that is a Guarantor.

For purposes of determining compliance with Section 5.1:

(A) in the event that an item of Debt (or any portion thereof) meets the criteria of more than one of the categories of permitted Debt described in clauses (a) through (ll) of the definition of “Permitted Debt”, then the Borrower Representative may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such item of Debt (or any portion thereof) in any manner that complies with Section 5.1; provided, that (1) any Exit Notes issued on the Effective Date (as defined therein) (but for the avoidance of doubt, not any Additional Notes) shall be incurred under clause (m) of the definition of “Permitted Debt” and Debt under the Term Loan Documents and B. Riley Credit Agreement shall be incurred under clauses (h) and (s), respectively, of the definition of “Permitted Debt”, (2) the Obligations shall be incurred under clause (a) of the definition of “Permitted Debt”, (3) [reserved], (4) the Unsecured Cash Pool shall be incurred under clause (x) of the definition of “Permitted Debt”, (5) Additional Notes incurred in connection with the ETI Funding Obligation shall be incurred under clause (u)(i) of the definition of “Permitted Debt” and (6) Additional Notes other than those issued pursuant to clause (u)(i) of the definition of “Permitted Debt” shall be incurred under clause (u)(ii) of the definition of “Permitted Debt”, and in each case, may not be reclassified;

(B) at the time of incurrence, classification or reclassification, the Borrowers will be entitled to divide and classify an item of Debt in more than one of the categories of Debt described in the definition of “Permitted Debt” (or any portion thereof) without giving pro forma effect to the Debt incurred, classified or reclassified pursuant to any other clause or paragraph of the definition of “Permitted Debt” (or any portion thereof) when calculating the amount of Debt that may be incurred, classified or reclassified pursuant to any such clause or paragraph (or any portion thereof) at such time; provided, that, for the avoidance of doubt, it is understood and agreed that for any Debt incurred, classified or reclassified in reliance on a category of permitted Debt involving the calculation of a ratio, such Debt will be included in the calculation of such ratio at the time of such incurrence, classification or reclassification; and

(C) in connection with (x) the incurrence or issuance, as applicable, of revolving loan Debt under Section 5.1 or (y) any commitment to incur or issue Debt under Section 5.1, the Borrowers or applicable Subsidiary may designate such incurrence or issuance as having occurred on the date of first incurrence of such revolving loan Debt or commitment (such date, the “**Deemed Date**”), and any related subsequent actual incurrence or issuance will be deemed for all purposes under this Agreement to have been incurred or issued on such Deemed Date, including without limitation for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets hereunder (if applicable), the Senior Secured Leverage Ratio and EBITDA (and all such calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith)

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Debt, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Debt for purposes of Section 5.1. Guarantees of, or obligations in respect of letters of credit relating to, Debt which is otherwise included in the determination of a particular amount of Debt shall not be included in the determination of such amount of Debt; provided, that the incurrence of the Debt represented by such guarantee or letter of credit, as the case may be, was in compliance with Section 5.1.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower U.S. dollar equivalent), in the case of revolving credit debt. However, if the Debt is incurred to refinance other Debt denominated in a foreign currency, and the refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Debt does not exceed the principal amount of the Debt being refinanced.

Notwithstanding any other provision of Section 5.1, the maximum amount of Debt that Borrowers and their respective Subsidiaries may incur pursuant to Section 5.1 shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in



the exchange rate of currencies. The principal amount of any Debt incurred to refinance other Debt, if incurred in a different currency from the Debt being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Debt is denominated that is in effect on the date of the refinancing.

“**Permitted Discretion**” means a determination made by Agent in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) credit judgment in accordance with its usual and customary practices (adhering to its established credit policies) and, as it relates to the establishment or increase of Eligibility Reserves or the adjustment or imposition of exclusionary criteria, shall require that the contributing factors to the imposition or increase of any Eligibility Reserve shall not duplicate (i) the exclusionary criteria set forth in the definitions of “Eligible Billed Accounts”, “Eligible ~~Exar-Billed-Accounts~~”, “Eligible ~~Unbilled-Accounts~~”, “Eligible ~~Exar-Unbilled~~ Accounts” and “Eligible Investment Grade Billed Accounts”, as applicable (and vice versa), or (ii) any reserves deducted in computing book value or orderly liquidation value.

“**Permitted Distributions**” means the following Restricted Distributions:

- (a) dividends by any Subsidiary of any Credit Party to such parent Credit Party;
- (b) dividends payable solely in common stock;
- (c) repurchases of stock of former employees, directors or consultants pursuant to stock purchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase; *provided* however that such repurchase does not exceed the Threshold Amount in the aggregate per fiscal year;
- (d) amounts required for any direct or indirect parent of any Borrower to pay fees and expenses (including franchise or similar taxes) required to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any direct or indirect parent of any Borrower and general corporate operating and overhead expenses of any direct or indirect parent of the Borrower in each case to the extent such fees and expenses are attributable to the ownership or operation of the Borrowers, if applicable, and its Subsidiaries;
- (e) with respect to any taxable period (or portion thereof) for which the Borrowers and any of their Subsidiaries are members (or are disregarded from a member) of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state or local income tax purposes of which Parent is the common parent, dividends or distributions by the Borrowers or such applicable Subsidiaries, as the case may be, to such direct or indirect parent of the Borrowers in an amount not to exceed the lesser of (i) the sum of the amount of the relevant U.S. federal, state, or local income Taxes reduced by any such income Taxes directly paid or withheld at the level of the Borrowers or such Subsidiaries or (ii) the amount of any U.S. federal, state, or local income taxes that the Borrowers and/or its Subsidiaries, as applicable, would have paid for such taxable period (taking into account prior year losses) had the Borrowers and/or its Subsidiaries, as applicable, been a stand-alone

corporate taxpayer or a stand-alone corporate group; provided that distributions pursuant to this clause shall not exceed the actual Tax liability of Parent in respect of the relevant U.S. federal, state, local or non-U.S. income Taxes;

(f) any Restricted Distribution used to fund the payment of professional fees and expenses of Loeb & Loeb LLP, Cleary Gottlieb Steen & Hamilton LLP and Ropes & Gray LLP in connection with the Transactions to the extent permitted by Section 5.8;

(g) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration thereof, if at the date of declaration or the giving notice of such redemption, as applicable, such payment would have otherwise complied with the provisions of this Agreement;

(h) voluntary prepayments of the Term Loans, the B. Riley Credit Agreement or the Exit Notes, so long as after giving effect to such voluntary prepayments of the Term Loans, the B. Riley Credit Agreement or the Exit Notes, the Payment Conditions are satisfied; and

(i) the redemption, repurchase, defeasance, or other acquisition or retirement of Subordinated Debt of a Borrower or Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Subordinated Debt of such Borrower or Guarantor, which is incurred in accordance with Section 5.1 so long as:

(i) the principal amount (or accreted value, if applicable) of such new Debt does not exceed the principal amount (or accreted value, if applicable), plus any accrued and unpaid interest, of the Subordinated Debt being so redeemed, repurchased, defeased, acquired or retired for value (plus the amount of any premium required to be paid under the terms of the instrument governing the Subordinated Debt being so redeemed, repurchased, acquired or retired, any tender premiums, plus any defeasance costs, fees and expenses incurred in connection therewith),

(ii) such Debt is subordinated to the Obligations or the related Guarantee of such Guarantor, as the case may be, on terms acceptable to Agent, at least to the same extent as such Subordinated Debt so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value,

(iii) such Debt has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Subordinated Debt being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Obligations then outstanding, and

(iv) such Debt has a Weighted Average Life to Maturity at the time incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Subordinated Debt being so redeemed, repurchased, defeased, acquired or retired and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Subordinated Debt being redeemed, repurchased, defeased, acquired or

retired that were due on or after the date that is one year following the last maturity date of any Exit Notes then outstanding were instead due on such date.

“Permitted Investments” means:

- (a) Investments shown on Schedule 5.7 and existing on the Closing Date;
- (b) cash and Cash Equivalents;
- (c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the Ordinary Course of Business;
- (d) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrowers or their Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrowers’ Board of Directors (or other governing body), but the aggregate of all such loans outstanding may not exceed the Threshold Amount at any time;
- (e) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the Ordinary Course of Business;
- (f) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the Ordinary Course of Business, *provided, however*, that this subpart (f) shall not apply to Investments of Borrowers in any Subsidiary;
- (g) Investments consisting of deposit accounts in which Agent has received a Deposit Account Control Agreement;
- (h) Investments by any Borrower or any Subsidiary in any Credit Party;
- (i) other Investments in an amount not exceeding \$5,000,000 in the aggregate;
- (j) Investments in a Person if as a result of such Investment (i) such Person becomes a Guarantor, or (ii) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, a Credit Party;
- (k) Investments in any Subsidiary that is not a Guarantor not to exceed, at any one time in the aggregate outstanding under this clause (k), the Threshold Amount;
- (l) [reserved];

(m) Investments in joint ventures (as determined in good faith by the Borrower at the time of the making thereof, and without giving effect to any subsequent changes in value) not to exceed, at any one time in the aggregate outstanding under this clause (m), the Threshold Amount;

(n) any Investment occurring in accordance with the terms of the Tax Funding Agreement;

(o) (i) Investments consisting of the licensing or contribution of intellectual property (on a non-exclusive basis) pursuant to joint marketing arrangements with other Persons in the ordinary course of business; (ii) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property (on a non-exclusive basis) in each case in the ordinary course of business;

(p) Investments of a Subsidiary acquired after the Closing Date or of an entity merged into, amalgamated with, or consolidated with the Borrowers or a Subsidiary of the Borrowers that is a Guarantor in a transaction that is not prohibited by 5.7 after the Closing Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(q) any Investment consisting of intercompany current liabilities in connection with the cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries;

(r) any Investment in the form of a participation interest in the B. Riley Credit Agreement which the Borrower and its Subsidiaries are required to make pursuant to the Exar Facility as amended and restated by that certain Exar Facility Amendment, so long as such Investment is immediately contributed to the Credit Parties and is not transferred to any Person other than a Credit Party;

(s) any Investment of the Exar Buyer in the Exar Originators or Exar Originators in Exar Buyer in connection with the Exar Facility amended and restated by that certain Exar Facility Amendment;

(t) guarantees by the Borrowers or any Subsidiary of the Borrowers of operating leases or of other obligations that do not constitute Debt, in each case, entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business; and

(u) Investments the payment for which consists of equity interests of the Borrowers (other than disqualified stock) or any direct or indirect parent of the Borrowers, as applicable.

“Permitted Liens” means:

(a) deposits or pledges of cash to secure obligations under workmen’s compensation, social security or similar laws, or under unemployment insurance (but excluding

Liens arising under ERISA or in respect of any Canadian Pension Plan) pertaining to a Credit Party's or its Subsidiary's employees, if any;

(b) deposits or pledges of cash to secure bids, tenders, contracts (other than contracts for the payment of money or the deferred purchase price of property or services), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the Ordinary Course of Business;

(c) carrier's, warehousemen's, mechanic's, workmen's, materialmen's or other like Liens on Collateral, other than any Collateral which is part of the Borrowing Base, arising in the Ordinary Course of Business with respect to obligations which are not due, or which are being contested pursuant to a Permitted Contest;

(d) Liens on Collateral, other than Accounts, for taxes or other governmental charges not due and payable or the subject of a Permitted Contest, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(e) attachments, appeal bonds, judgments and other similar Liens on Collateral not exceeding \$15,000,000 in value, arising in connection with court proceedings and not giving rise to an Event of Default; *provided*, however, that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are the subject of a Permitted Contest;

(f) Liens and encumbrances in favor of Agent under the Term Loan Documents in accordance with the ABL Intercreditor Agreement;

(g) Liens and encumbrances in favor of Agent under the Financing Documents;

(h) Liens on Collateral, other than Collateral which is part of the Borrowing Base, existing on the date hereof and set forth on Schedule 5.2;

(i) any Lien on any property or equipment securing Debt permitted under subpart (c) of the definition of Permitted Debt and on any proceeds thereof, accessions and additions thereto, customary security deposits and related property with respect to such property or equipment, provided, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates);

(j) [reserved];

(k) [reserved];

(l) Liens securing obligations in respect of Debt incurred pursuant to clause (l) of the definition of "Permitted Debt" so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(m) Liens securing obligations in respect of Debt incurred pursuant to the Exit Notes in accordance with the ABL Intercreditor Agreement;

(n) Liens securing obligations in respect of Debt incurred pursuant to clause

(j) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(o) Liens securing obligations in respect of Debt incurred pursuant to clause (o) of the definition of “Permitted Debt” so long as such Liens secure Debt not created or incurred in connection with, or in contemplation of, the acquisition and only extend to the property or assets acquired in such acquisition (and accessions and additions thereto and proceeds and products thereof);

(p) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary of a Borrower, or on assets or property acquired by a Borrower or a Subsidiary, so long as in each case such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary or such acquisition and do not extend to any other property of the Borrowers or their Subsidiaries (other than pursuant to after-acquired property clauses in effect at the time of the acquisition);

(q) Liens (i) on not more than \$2,000,000 of deposits securing Swap Contracts entered into for non-speculative purposes and (ii) on cash or Cash Equivalents securing Swap Contracts in the Ordinary Course of Business submitted for clearing in accordance with applicable requirements of law;

(r) Claims Administration Liens;

(s) Liens securing obligations in respect of Debt incurred pursuant to the B. Riley Credit Agreement on a junior basis to the Obligations in accordance with the ABL Intercreditor Agreement;

(t) Liens of the Borrower or any Subsidiary securing obligations the outstanding principal amount of which does not, taken together with the principal amount of all other obligations secured by Liens incurred under this clause (t) that are at that time outstanding, exceed (i) in the event such Liens incurred under this clause (t) are subordinated to the Liens securing the Obligations on terms acceptable to the Agent and the Required Lenders, \$15,000,000 or (ii) otherwise, \$1,000,000;

(u) Liens on non-Collateral assets in an aggregate amount not to exceed \$5,000,000;

(v) [reserved];

(w) non-consensual Liens (not incurred in connection with borrowed money) on equipment of any of the Borrowers or any of their Subsidiaries not exceeding \$5,000,000 in value and granted in the ordinary course of business to any client of a Borrower or such Subsidiary at which such equipment is located;



(x) Liens securing obligations in respect of Debt incurred pursuant to the clause (u) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(y) Liens securing obligations in respect of Debt incurred pursuant to clause (x) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(z) Liens securing obligations in respect of Debt incurred pursuant to clause (p) of the definition of “Permitted Debt” so long as any such Liens do not extend to the property or assets of the Borrowers or any Subsidiary of the Borrowers other than a Subsidiary that is not a Borrower or a Guarantor;

(aa) Liens securing obligations in respect of Debt incurred pursuant to clause (q) of the definition of “Permitted Debt”;

(bb) licenses of intellectual property and software that are not material to the conduct of any of the business lines of the Borrowers or any Subsidiary of the Borrowers and the value of which does not constitute a material portion of the assets of the Borrowers and their respective Subsidiaries, taken as a whole, respectively, and such license does not materially interfere with the ordinary course of conduct of the business of the Borrowers or any of their Subsidiaries;

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

(dd) [reserved];

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

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

(gg) Liens on the Collateral securing Junior Lien Obligations (subject to a junior lien intercreditor agreement in form and substance satisfactory to Agent) in an aggregate amount not to exceed the Threshold Amount; provided that the Obligations are secured on a senior priority basis to the obligations so secured until such time as such obligations are no longer secured by a Lien;

(hh) Liens to secure cash management services in the ordinary course of business; provided, that such Liens are not incurred in connection with, and do not secure, any borrowings or Indebtedness;

(ii) Liens granted by (i) each Exar Originator in favor of Exar SPV and (ii) Exar SPV to the Exar Buyer, in each case, in Receivables Assets, pursuant to the Exar Facility in effect as amended and restated by that certain Exar Facility Amendment; and

(jj) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Debt secured by any Lien referred to in clauses (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (x), (y), (z), (aa) and (gg) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under clauses (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (x), (y), (z), (aa) and (gg) of this definition at the time the original Lien became a Permitted Lien under this Agreement, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided, further, that in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clauses (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition, the principal amount of any Debt incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition and not this clause (jj) of this definition for purposes of determining the principal amount of Debt outstanding under clause (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition; provided, further, however, that any Lien securing any refinancing of any Debt secured by a Lien referred to in clause (gg) shall be a junior Lien (subject to a junior lien intercreditor agreement in form and substance satisfactory to Agent) and any Lien securing any refinancing of any Debt referenced to in clauses (s), (x) and (y) shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent; provided,

further, that Liens securing the Term Loan Agreement, the Exit Notes and the B. Riley Credit Agreement shall be subject to the ABL Intercreditor Agreement.

For purposes of determining compliance with Section 5.2, (i) a Lien need not be permitted solely by reference to one category of permitted Liens described in the definition of “Permitted Liens” but may be permitted in part under any combination thereof and (ii) in the event that a Lien meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of “Permitted Liens”, the Borrower Representative may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such Lien in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien in one of the categories of permitted Liens (or any portion thereof) described in the definition of “Permitted Liens” and, in such event, such Lien will be treated as being incurred or existing pursuant to only such clause or clauses (or any portion thereof) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be incurred pursuant to any other clause or paragraph (or portion thereof) at such time. In addition, with respect to any revolving loan Debt or commitment to incur Debt that is designated to be incurred on any Deemed Date pursuant to clause (C) of the definition of “Permitted Debt”, any Lien that does or that shall secure such Debt may also be designated by the Borrower Representative or any Subsidiary to be incurred on such Deemed Date and, in such event, any related subsequent actual incurrence of such Lien shall be deemed for all purposes under this Agreement to be incurred on such prior date, including for purposes of calculating usage of any “Permitted Lien” (and any calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith).

With respect to any Lien securing Debt that was permitted to secure such Debt at the time of the incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Debt with the same terms or in the form of common stock of the Borrowers, the payment of dividends on equity interests constituting Debt in the form of additional shares of equity interests of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt described in clause (g) of the definition of “Debt.”

“Permitted Modifications” means (a) such amendments or other modifications to a Borrower’s or Subsidiary’s Organizational Documents as are required under this Agreement or by applicable Law and fully disclosed to Agent within thirty (30) days after such amendments or modifications have become effective, and (b) such amendments or modifications to a Borrower’s or Subsidiary’s Organizational Documents (other than those involving a change in the name of a Borrower or Subsidiary or involving a reorganization of a Borrower or Subsidiary under the laws of a different jurisdiction) that would not materially adversely affect the rights and interests of Agent or Lenders and fully disclosed to Agent within thirty (30) days after such amendments or modifications have become effective.



“Person” means any natural person, corporation, limited liability company, unlimited liability company, professional association, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority.

“Plan of Reorganization” means the Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, attached to the Confirmation Order as Exhibit A, and all exhibits, supplements, appendices, and schedules thereto, as may be altered, amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof.

“Pledged ULC Shares” means the equity interests which are shares in the capital stock of a ULC and which are mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the Security Documents, including, without limitation, all of the property described in Schedule 9.1 hereto.

“PPSA” means the Personal Property Security Act (Ontario) (or any successor statute) and the regulations thereunder; *provided* that if validity, perfection and effect of perfection and non-perfection and opposability of Agent’s Lien in any Collateral are governed by the personal property security laws of any Canadian jurisdiction other than Ontario, PPSA shall mean those personal property security laws (including the Civil Code of Quebec) of such other jurisdiction for the purposes of the provisions hereof relating to such validity, perfection, and effect of perfection and non-perfection and for the definitions related to such provisions, as from time to time in effect.

“Pre-Opening Expenses” means, with respect to any fiscal period, the amount of expenses (other than interest expense) incurred with respect to facilities which are classified as “pre-opening expenses” (or any similar or equivalent caption) on the applicable financial statements of the Borrowers and their respective Subsidiaries for such period, prepared in accordance with GAAP.

“Pro Rata Share” means (a) [reserved], (b) with respect to a Lender’s obligation to make Revolving Loans, such Lender’s right to receive the unused line fee described in Section 2.2(b), the Revolving Loan Commitment Percentage of such Lender, (c) with respect to a Lender’s right to receive payments of principal and interest with respect to Revolving Loans, such Lender’s Revolving Loan Exposure with respect thereto; and (d) for all other purposes (including, without limitation, the indemnification obligations arising under Section 11.6) with respect to any Lender, the percentage obtained by *dividing* (i) the sum of the Revolving Loan Commitment Amount of such Lender (or, in the event the Revolving Loan Commitment shall have been terminated, such Lender’s then existing Revolving Loan Outstandings), *by* (ii) the sum of the Revolving Loan Commitment (or, in the event the Revolving Loan Commitment shall have been terminated, the then existing Revolving Loan Outstandings) of all Lenders.

“Proceeds of Crime Act” means the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada), as amended from time to time, and including all regulations thereunder.

“Public Reporting Entity” has the meaning specified therefor in Section 4.1.

“Receivables Assets” means accounts receivable (including any bills of exchange) from time to time originated, acquired or otherwise owned by the Exar Originators and all right, title and interests in and to (i) all security interests or liens securing payment of such accounts receivable, (ii) any obligations supporting such accounts receivable, including all guarantees, insurance and other agreements or arrangements supporting or securing payment of such accounts receivable, (iii) all books and records relating to such accounts receivables and the related obligor and (iv) all payments and collections with respect to, and other proceeds of, such accounts receivable.

“Reference Time” means approximately a time substantially consistent with market practice two (2) SOFR Business Days prior to the first day of each calendar month. If by 5:00 pm (New York City time) on any interest lookback day, Term SOFR in respect of such interest lookback day has not been published on the SOFR Administrator’s Website, then Term SOFR for such interest lookback day will be Term SOFR as published in respect of the first preceding SOFR Business Day for which Term SOFR was published on the SOFR Administrator’s Website; provided that such first preceding SOFR Business Day is not more than three (3) SOFR Business Days prior to such interest lookback day.

“Register” has the meaning specified therefor in Section 11.17(a)(iii).

“Registered Intellectual Property” means Intellectual Property that is issued, registered, renewed or the subject of a pending application.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“Required Lenders” means at any time Lenders holding (a) fifty percent (50%) or more of the Revolving Loan Commitment, or (b) if the Revolving Loan Commitment has been terminated, fifty percent (50%) or more of the then aggregate outstanding principal balance of the Loans.

“Requirements of Law” means, with respect to any Person, collectively, the common law and any and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities), and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

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

“Responsible Officer” means any of the Chief Executive Officer, Chief Financial Officer or any other officer of the applicable Borrower acceptable to Agent.

“Restricted Cash” means cash and Cash Equivalents held by Subsidiaries of the Borrowers that would appear as “restricted” on a consolidated balance sheet of the Borrowers or any of their respective Subsidiaries.

“Restricted Distribution” means as to any Person (a) any dividend or other distribution (whether in cash, securities or other property) on any equity interest in such Person (except those payable solely in its equity interests of the same class), (b) any payment by such Person on account of (i) the purchase, redemption, retirement, defeasance, surrender, cancellation, termination or acquisition of any equity interests in such Person or any claim respecting the purchase or sale of any equity interest in such Person, or (ii) any option, warrant or other right to acquire any equity interests in such Person, (c) any management fees, salaries or other fees or compensation to any Person holding an equity interest in a Borrower or a Subsidiary of a Borrower (other than (i) payments of salaries to individuals, (ii) directors fees, and (iii) advances and reimbursements to employees or directors, all in the Ordinary Course of Business), an Affiliate of a Borrower or an Affiliate of any Subsidiary of a Borrower, (d) any lease or rental payments to an Affiliate or Subsidiary of a Borrower, or (e) repayments of or debt service on Subordinated Debt (other than the B. Riley Credit Agreement and Debt permitted under clauses (v) and (w) of the definition of “Permitted Debt”) unless permitted under and made pursuant to a Subordination Agreement applicable to such loans or other indebtedness and voluntary prepayments of the Term Loans or the Exit Notes.

“Revolving Lender” means each Lender having a Revolving Loan Commitment Amount in excess of \$0 (or, in the event the Revolving Loan Commitment shall have been terminated at any time, each Lender at such time having Revolving Loan Outstandings in excess of \$0).

“Revolving Loan Availability” means, at any time, the Revolving Loan Limit *minus* the Revolving Loan Outstandings.

“Revolving Loan Borrowing” means a borrowing of a Revolving Loan.

“Revolving Loan Commitment” means, as of any date of determination, the aggregate Revolving Loan Commitment Amounts of all Lenders as of such date.

“Revolving Loan Commitment Amount” means, as to any Lender, the dollar amount set forth opposite such Lender’s name on the Commitment Annex under the column “Revolving Loan Commitment Amount” (if such Lender’s name is not so set forth thereon, then the dollar amount on the Commitment Annex for the Revolving Loan Commitment Amount for such Lender shall be deemed to be \$0), as such amount may be adjusted from time to time by (a) any amounts assigned (with respect to such Lender’s portion of Revolving Loans outstanding and its commitment to make Revolving Loans) pursuant to the terms of any and all effective assignment agreements to which such Lender is a party, and (b) any Additional Tranche(s) activated by Borrowers. For the avoidance of doubt, the aggregate Revolving Loan Commitment Amount of all Lenders on the Closing Date shall be \$150,000,000 and if the Additional Tranche is fully

activated by Borrowers pursuant to the terms of the Agreement such amount shall increase to \$175,000,000.

“Revolving Loan Commitment Percentage” means, as to any Lender, (a) on the Closing Date, the percentage set forth opposite such Lender’s name on the Commitment Annex under the column “Revolving Loan Commitment Percentage” (if such Lender’s name is not so set forth thereon, then, on the Closing Date, such percentage for such Lender shall be deemed to be zero), and (b) on any date following the Closing Date, the percentage equal to the Revolving Loan Commitment Amount of such Lender on such date *divided by* the Revolving Loan Commitment on such date.

“Revolving Loan Exposure” means, with respect to any Lender on any date of determination, the percentage equal to the amount of such Lender’s Revolving Loan Outstandings on such date *divided by* the aggregate Revolving Loan Outstandings of all Lenders on such date.

“Revolving Loan Limit” means, at any time, (a) the lesser of (i) the Revolving Loan Commitment and (ii) the Borrowing Base, minus (b) the Availability Block.

“Revolving Loan Outstandings” means, at any time of calculation, (a) the then existing aggregate outstanding principal amount of Revolving Loans, and (b) when used with reference to any single Lender, the then existing outstanding principal amount of Revolving Loans advanced by such Lender.

“Revolving Loans” has the meaning specified therefor in Section 2.1(a).

“SEC” means the United States Securities and Exchange Commission.

“Second Amendment Effective Date” means January 21, 2026.

“Secured Indebtedness” means any Consolidated Total Indebtedness secured by a Lien.

“Securities Account” means a “securities account” (as defined in Article 9 of the UCC or in the STA, as applicable), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of any Borrower.

“Securities Account Control Agreement” means an agreement, in form and substance satisfactory to Agent, among Agent, any applicable Borrower and each securities intermediary in which such Borrower maintains a Securities Account pursuant to which Agent shall obtain “control” (as defined in Article 9 of the UCC or in the STA, as applicable) over such Securities Account.

“Security Document” means this Agreement, the Canadian Security Agreement, any Control Agreements and any other agreement, document or instrument executed concurrently herewith or at any time hereafter pursuant to which one or more Credit Parties or any other Person either (a) guarantees payment or performance of all or any portion of the Obligations, and/or (b) provides, as security for all or any portion of the Obligations, a Lien on any of its assets in favor of Agent for its own benefit and the benefit of the Lenders, as any or all of the

same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Senior Secured Leverage Calculation Date**” has the meaning assigned in the “Senior Secured Leverage Ratio” definition.

“**Senior Secured Leverage Ratio**” means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Subsidiaries constituting Obligations hereunder, Notes Obligations (as defined in the Exit Notes Indenture), Obligations (as defined in the Term Loan Credit Agreement) and obligations under the B. Riley Credit Agreement, in each case as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Subsidiaries and held by such Person and its Subsidiaries as of such date of determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to Agent immediately preceding such date on which such additional Debt is incurred. In the event that the Borrowers or any Subsidiary incurs, repays, repurchases or redeems any Debt subsequent to the commencement of the period for which the Senior Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Senior Secured Leverage Ratio is made (the “**Senior Secured Leverage Calculation Date**”), then the Senior Secured Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of customary disqualified equity interests or preferred stock as if the same had occurred at the beginning of the applicable four-quarter period.

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

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower Representative. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in an Responsible Officer's certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings that would have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the four-quarter reference period (including, to the extent applicable, the Transactions); provided, that for all purposes of determining EBITDA hereunder all adjustments and exclusions (to the extent such adjustment or exclusion is effected pursuant to the definition of EBITDA) shall not be more than the amount of applicable adjustments or exclusions permitted pursuant to the applicable provision(s) of the definitions of EBITDA and/or Consolidated Net Income, as the case may be for the most recently ended twelve month period (calculated prior to giving effect to such capped adjustments and exclusions (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.

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

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

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

“Significant Subsidiary” means any Subsidiary that would be a “Significant Subsidiary” of the Borrowers within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

“SOFR” means, with respect to any SOFR Business Day, a rate per annum equal to the secured overnight financing rate for such SOFR Business Day.

“SOFR Administrator” means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of Term SOFR selected by Agent in its reasonable discretion).

“SOFR Administrator’s Website” means the website of the SOFR Administrator, currently at <https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr.html>, or any successor source for Term SOFR identified by the SOFR Administrator from time to time.

“SOFR Business Day” means any day other than a Saturday or Sunday or 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.

“SOFR Interest Rate” means, with respect to each day during which interest accrues on a Loan, the rate per annum (expressed as a percentage) equal to (a) Term SOFR for the applicable Interest Period for such day; or (b) if the then-current Benchmark has been replaced with a Benchmark Replacement pursuant to Section 2.2(n), such Benchmark Replacement for such day. Notwithstanding the foregoing, the SOFR Interest Rate shall not at any time be less the Floor.

“SOFR Loan” means a Loan that bears interest at a rate based on Term SOFR.

“Solvent” means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its liabilities (including Contingent Obligations), and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted or after giving effect to any contemplated transaction; (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due and (d) with respect to any Canadian Credit party as of the date any Accounts of such Canadian Credit Party are initially included on any Borrowing Base Certificate, such Person is not an “insolvent person” within the meaning of the Bankruptcy and Insolvency Act (Canada).

“Specified Default” shall mean an Event of Default arising under Section 10.1(a), 10.1(c) (solely as a result of any material misrepresentation in any Borrowing Base Certificate), Section 10.1(b) (solely as a result of a default in the due observance or performance of Section 2.11, Section 4.13, Section 6.1, Section 6.2, Section 4.1(m), or Section 5.14), Section 10.1(e), Section 10.1(f) or Section 10.1(p).

“Spot Rate” means, on any date, as determined by Agent, the spot selling rate posted by Reuters on its website for the sale of the applicable currency for Dollars at approximately 11:00 a.m., New York City time, on such date; provided, that if, for any reason, no such spot rate is being quoted, the spot selling rate shall be determined by reference to such publicly available services for displaying exchange rates as may be reasonably selected by Agent, or, in the event no such service is selected, such spot selling rate shall instead be the rate reasonably determined by Agent as the spot rate of exchange in the market where its foreign currency exchange operations in respect of the applicable currency are then being conducted, at or about 11:00 a.m., New York City time, on the applicable date for the purchase of the relevant currency for delivery two Business Days later; provided, that, Agent may obtain such spot rate from another financial institution designated by Agent if Agent does not have a spot rate for any such currency as of the date of determination.

“STA” means the Securities Transfer Act, 2006 (Ontario) or, to the extent applicable, similar legislation of any other Canadian jurisdiction, as amended from time to time.

“Subordinated Debt” means any Debt of Borrowers incurred pursuant to the terms of the Subordinated Debt Documents and with the prior written consent of Agent, all of which documents must be in form and substance acceptable to Agent in its sole discretion. For the avoidance of doubt, neither the Debt under the Term Loan Agreement nor the Exit Notes shall constitute Subordinated Debt solely by virtue of their respective junior lien priority with respect to the ABL Priority Collateral.

“Subordinated Debt Documents” means any documents evidencing and/or securing Debt governed by a Subordination Agreement, all of which documents must be in form and substance acceptable to Agent in its sole discretion.

“Subordinated Obligations” has the meaning specified therefor in Section 12.7.

“Subordination Agreement” means any agreement between Agent and another creditor of Borrowers, as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof, pursuant to which the Debt owing from any Borrower(s) and/or the Liens securing such Debt granted by any Borrower(s) to such creditor are subordinated in any way to the Obligations and the Liens created under the Security Documents, the terms and provisions of such Subordination Agreements to have been agreed to by and be acceptable to Agent in the exercise of its sole discretion.

“Subsidiary” means, with respect to any Person, (a) any corporation of which an aggregate of more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, capital stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned legally or beneficially by such Person or one or more Subsidiaries of such Person, or with respect to which any such Person has the right to vote or designate the vote of more than fifty percent (50%) of such capital stock whether by proxy, agreement, operation of

law or otherwise, and (b) any partnership, limited liability company or unlimited liability company in which such Person and/or one or more Subsidiaries of such Person shall have an interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%) or of which any such Person is a general partner or may exercise the powers of a general partner. Unless the context otherwise requires, each reference to a Subsidiary shall be a reference to a Subsidiary of a Borrower.

“Supermajority Lenders” means at any time Lenders holding (a) sixty-six and two thirds percent (66 2/3%) or more of the Revolving Loan Commitment, or (b) if the Revolving Loan Commitment has been terminated, sixty-six and two thirds percent (66 2/3%) or more of the then aggregate outstanding principal balance of the Loans.

“Swap Contract” means any “swap agreement”, as defined in Section 101 of the Bankruptcy Code, that is obtained by Borrower to provide protection against fluctuations in interest or currency exchange rates, but only if Agent provides its prior written consent to the entry into such “swap agreement”.

“Tax Distributions” means any distributions described in clause (e) of the definition of “Permitted Distributions”.

“Tax Funding Agreement” means that certain Tax Funding Agreement, dated as of the date hereof, by and among the XBP Americas, LLC and each of its debtor affiliates, XBP Americas, LLC, in its capacity as agent, the Parent, ETI, GP 3XCV LLC and XCV-STs, LLC.

“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, additions to tax or penalties applicable thereto.

“Term Agent” as defined in the ABL Intercreditor Agreement.

“Term Loan Agreement” means that certain Financing Agreement, dated as of the Closing Date, by and among XBP Americas, LLC, the Guarantors, Ankura Trust Company, LLC, as administrative agent and collateral agent, and the other financial institutions party thereto, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time.

“Term Loan Documents” means the collective reference to the Term Loan Agreement and any other document, agreement and instrument executed and/or delivered in connection therewith or relating thereto, together with any amendment, supplement, waiver, or other modification to any of the foregoing.

“Term Priority Collateral” has the meaning specified therefor in the ABL Intercreditor Agreement.

“Term SOFR” means the greater of (a) the forward-looking term rate for a period comparable to a one-month Interest Period based on SOFR that is published by the SOFR Administrator and is displayed on the SOFR Administrator’s Website at approximately the Reference Time for such Interest Period plus 0.11448%, reset monthly, and (b) the Floor.



Unless otherwise specified in any amendment to this Agreement entered into in accordance with Section 2.2(n), in the event that a Benchmark Replacement with respect to Term SOFR is implemented, then all references herein to Term SOFR shall be deemed references to such Benchmark Replacement.

“**Termination Date**” means the earlier to occur of (a) the Commitment Expiry Date, (b) any date on which Agent accelerates the maturity of the Loans pursuant to Section 10.2, or (c) the termination date stated in any notice of termination of this Agreement provided by Borrowers in accordance with Section 2.12; *provided* that, in each case, if such date is not a Business Day the Termination Date will be the next succeeding Business Day.

“**Third Amendment Effective Date**” means March 6, 2026.

“**Third Party Funds**” means any accounts or funds, or any portion thereof, received by the Borrowers or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon the Borrowers or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“**Threshold Amount**” means \$3,000,000.

“**Transaction Costs**” has the meaning specified therefor in the definition of “Transactions.”

“**Transactions**” means each of the following transactions:

- (a) the execution, delivery and performance of the Operative Documents;
- (b) the borrowing of Revolving Loans on the Closing Date in an amount not less than \$58,652,539.79;
- (c) the execution, delivery and performance of the Term Loan Documents and the extensions of credit thereunder on the Closing Date;
- (d) the execution, delivery and performance of the B. Riley Credit Agreement and the extensions of credit thereunder on the Closing Date;
- (e) the transactions under or pursuant to or contemplated by the Plan of Reorganization, including the Restructuring Transactions (as defined in the Plan of Reorganization); and
- (f) the payment of all fees, costs and expenses incurred in connection with the transactions described in the foregoing provisions of this definition (the “**Transaction Costs**”).

“**Trustee**” means U.S. Bank Trust Company, National Association, as trustee under the Exit Notes Indenture.

“U.S. Tax Compliance Certificate” has the meaning specified therefor in Section 2.8(c)(i).

“UCC” means the Uniform Commercial Code of the State of New York or of any other state the laws of which are required to be applied in connection with the perfection of security interests in any Collateral.

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended ~~from~~ 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.

“ULC” means any unlimited company, unlimited liability company or unlimited liability corporation or any similar entity existing under the laws of any province or territory of Canada and any successor to any such entity.

“Unfinanced Capital Expenditures” means, for any period, the amount equal to Capital Expenditures which are not financed by the incurrence of any Indebtedness (except to the extent funded with the proceeds of the Revolving Loans; it being understood and agreed that, to the extent any Capital Expenditures are financed with Revolving Loans, such Capital Expenditures shall be deemed Unfinanced Capital Expenditures).

“United States” means the United States of America.

“Unsecured Cash Pool” has the meaning specified in the Plan of Reorganization.

“Weighted Average Life to Maturity” means, when applied to any Debt, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Debt multiplied by the amount of such payment, by (2) the sum of all such payments.

“Withholding Agent” means any Borrower or 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 Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder (including, without limitation, determinations made pursuant to the exhibits hereto) shall be made, and all financial statements required to be delivered hereunder shall be prepared on a consolidated basis in accordance with GAAP applied on a basis consistent with the most recent audited consolidated financial statements of each Borrower and its Consolidated Subsidiaries delivered to Agent and each of the Lenders on or prior to the Closing Date. If at any time any change in GAAP would affect the computation of any financial ratio or financial requirement set forth in any Financing Document, and either Borrowers or the Required Lenders shall so request, Agent, the Lenders and Borrowers 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, however*, that until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) Borrowers shall provide to Agent and the Lenders financial statements and other documents required under this Agreement which include a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Debt or other liabilities of any Credit Party or any Subsidiary of any Credit Party at “fair value”, as defined therein.

Section 1.3 Other Definitional and Interpretive Provisions. References in this Agreement to “Articles”, “Sections”, “Annexes”, “Exhibits”, or “Schedules” shall be to Articles, Sections, Annexes, Exhibits or Schedules of or to this Agreement unless otherwise specifically provided. Any term defined herein may be used in the singular or plural. “Include”, “includes” and “including” shall be deemed to be followed by “without limitation”. Except as otherwise specified or limited herein, references to any Person include the successors and assigns of such Person. References “from” or “through” any date mean, unless otherwise specified, “from and including” or “through and including”, respectively. Unless otherwise specified herein, the settlement of all payments and fundings hereunder between or among the parties hereto shall be made in lawful money of the United States and in immediately available funds. References to any statute or act shall include all related current regulations and all amendments and any successor statutes, acts and regulations. All amounts used for purposes of financial calculations required to be made herein shall be without duplication. References to any statute or act, without additional reference, shall be deemed to refer to federal statutes and acts of the United States. References to any agreement, instrument or document shall include all schedules, exhibits, annexes and other attachments thereto. References to capitalized terms that are not defined herein, but are defined in the UCC or PPSA, shall have the meanings given them in the UCC or PPSA, as applicable. All references herein to times of day shall be references to daylight or standard time, as applicable. All references herein to a merger, transfer, consolidation, amalgamation, assignment, sale or transfer, or analogous term, will be construed to mean also a division of or by a limited liability company, as if it were a merger, transfer,

consolidation, amalgamation, assignment, sale or transfer, or similar term, as applicable. Any series of limited liability company shall be considered a separate Person.

Section 1.4 Time is of the Essence. Time is of the essence in Borrower's and each other Credit Party's performance under this Agreement and all other Financing Documents.

Section 1.5 Exchange Rates.

(a) Principal, interest, reimbursement obligations, fees, and all other amounts payable under this Agreement and the other Financing Documents to Agent and the Lenders shall be payable in Dollars. Unless stated otherwise, all calculations, comparisons, measurements or determinations under this Agreement shall be made in Dollars. For the purpose of such calculations, comparisons, measurements or determinations, amounts or proceeds denominated in other currencies shall be converted to the Equivalent Amount of Dollars on the date of calculation, comparison, measurement or determination. Unless expressly provided otherwise, where a reference is made to a Dollar amount, the amount is to be considered as the amount in Dollars and, ~~therefore~~therefor, each other currency shall be converted into the Equivalent Amount thereof in Dollars. If at any time following one or more fluctuations in the exchange rate of any currency against the Dollar, the Revolving Loan Outstandings exceed the Revolving Loan Limit or any other limitations hereunder based on Dollars, the Credit Parties shall, not later than the next Business Day, make the necessary payments or repayments to reduce such Revolving Loan Outstandings to an amount necessary to eliminate such excess.

Section 1.6 Quebec Interpretation. For purposes of the interpretation or construction of this Agreement pursuant to the laws of the Province of Quebec, for purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Financing Document) and for all other purposes pursuant to which the interpretation or construction of any other Financing Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) "personal property" shall be deemed to include "movable property", (b) "real property" shall be deemed to include "immovable property", (c) "tangible property" shall be deemed to include "corporeal property", (d) "intangible property" shall be deemed to include "incorporeal property", (e) "security interest", "mortgage" and "lien" shall be deemed to include a "hypothec", a "reservation of ownership", "prior claim" and a "resolutive clause," (f) all references to filing, registering or recording under the PPSA or the UCC shall be deemed to include publication under the Civil Code of Québec, (g) all references to "perfection" of or "perfected" Liens shall be deemed to include a reference to an "opposable" or "set up" Liens as against third parties, (h) any "right of offset", "right of setoff" or similar expression shall be deemed to include a "right of compensation", (i) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall be deemed to include a "mandatary," (k) "construction liens" shall be deemed to include "legal hypothecs in favor of persons having taken part in the construction or renovation of an immovable", (l) "joint and several" shall be deemed to include "solidary" and "jointly and severally" shall be deemed to include "solidarily" (m) "gross negligence or willful misconduct" shall be deemed to be "intentional or gross fault", (n) "beneficial ownership" shall be deemed to



include “ownership on behalf of another as mandatary”, (o) “legal title” shall be deemed to include “holding title on behalf of an owner as mandatary or prête-nom”, (p) “easement” shall be deemed to include “servitude”, (q) “priority” shall be deemed to include “prior claim” or “rank”, as applicable, (r) “survey” shall be deemed to include “certificate of location and plan”, (s) “fee simple title” and “fee title” shall be deemed to include “right of ownership”, (t) “foreclosure” shall be deemed to include “the exercise of a hypothecary right”, (u) “leasehold interest” shall be deemed to include “valid rights resulting from a lease”, (v) “lease” for personal or movable property shall be deemed to include a “contract of leasing (crédit-bail)”, (~~x~~w) “deposit account” shall include a “financial account” as defined in Article 2713.6 of the Civil Code of Québec, and (~~y~~x) “guarantee” and “guarantor” shall include “suretyship” and “surety”, respectively. The parties hereto confirm that it is their wish that this Agreement and any other Financing Document be drawn up in the English language only and that all other documents contemplated hereunder or relating hereto, including notices, shall also be drawn up in the English language only. *Les parties aux présentes confirment que c’est leur volonté que cette convention et les autres documents de credit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisages par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*

ARTICLE 2 - LOANS

Section 2.1 Loans.

(a) Revolving Loans.

(i) Revolving Loans and Borrowings. On the terms and subject to the conditions set forth herein, each Lender severally agrees to make loans to Borrowers from time to time as set forth herein (each a “**Revolving Loan**”, and collectively, “**Revolving Loans**”) equal to such Lender’s Revolving Loan Commitment Percentage of Revolving Loans requested by Borrowers hereunder, *provided, however*, that after giving effect thereto, the Revolving Loan Outstandings shall not exceed the Revolving Loan Limit. Borrowers shall deliver to Agent a Notice of Borrowing with respect to each proposed Revolving Loan Borrowing, such Notice of Borrowing to be delivered before 1:00 p.m. (Eastern time) two (2) Business Days prior to the date of such proposed borrowing. Each Borrower and each Revolving Lender hereby authorizes Agent to make Revolving Loans on behalf of Revolving Lenders, at any time in its sole discretion, to pay principal owing in respect of the Loans and interest, fees, expenses and other charges payable by any Credit Party from time to time arising under this Agreement or any other Financing Document. The Borrowing Base shall be determined by Agent based on the most recent Borrowing Base Certificate delivered to Agent in accordance with this Agreement and such other information as may be available to Agent. Without limiting any other rights and remedies of Agent hereunder or under the other Financing Documents, the Revolving Loans shall be subject to Agent’s continuing right to withhold from the Borrowing Base Eligibility Reserves, and to increase and decrease such

Eligibility Reserves from time to time, if and to the extent that in Agent's Permitted Discretion, such Eligibility Reserves are necessary.

(ii) Mandatory Revolving Loan Repayments and Prepayments.

(A) The Revolving Loan Commitment shall terminate on the Termination Date. On such Termination Date, there shall become due, and Borrowers shall pay, the entire outstanding principal amount of each Revolving Loan, together with accrued and unpaid Obligations pertaining thereto incurred to, but excluding the Termination Date; *provided, however*, that such payment is made not later than 12:00 Noon (Eastern time) on the Termination Date.

(B) If at any time the Revolving Loan Outstandings exceed the Revolving Loan Limit (including as a result of the imposition or increase of any Availability Block), then, on the next succeeding Business Day, Borrowers shall repay the Revolving Loans in an aggregate amount equal to such excess.

(C) Principal payable on account of Revolving Loans shall be payable by Borrowers to Agent (I) ~~during any Cash Dominion Period,~~ immediately upon the receipt by any Borrower or Agent of any payments on or proceeds from any of the Accounts, to the extent of such payments or proceeds, as further described in Section 2.11 below, and (II) in full on the Termination Date.

(iii) Optional Prepayments. Borrowers may from time to time prepay the Revolving Loans in whole or in part; *provided, however*, that any such partial prepayment shall be in an amount equal to \$1,000,000 or a higher integral multiple of \$250,000.

(b) Additional Tranches. After the Closing Date, so long as no Default or Event of Default exists and subject to the terms of this Agreement, with the prior written consent of Agent and the Required Lenders in their sole discretion, the Revolving Loan Commitment may be increased upon the written request of Borrower Representative (which such request shall state the aggregate amount of the Additional Tranche requested and shall be made at least thirty (30) days prior to the proposed effective date of such Additional Tranche) to Agent to activate an Additional Tranche; *provided, however*, that Agent and Lenders shall have no obligation to consent to any requested activation of an Additional Tranche and the written consent of Agent and the Required Lenders shall be required in order to activate an Additional Tranche. Upon activating an Additional Tranche, each Lender's Revolving Loan Commitment shall increase by a proportionate amount so as to maintain the same Pro Rata Share of the Revolving Loan Commitment as such Lender held immediately prior to such activation. In the event Agent and the Required Lenders do not consent to the activation of a requested Additional Tranche within thirty (30) days after receiving a written request from Borrower Representative, then the Revolving Loan Commitment shall not be



increased and, within the next ninety (90) days, Borrowers may terminate this Agreement upon written notice to Agent and, if the Borrowing Base on the date of such request would have supported such increased Revolving Loan Commitment, upon repayment in full of all Obligations, no fee shall be due pursuant to Section 2.2(g) or Section 2.2(h) in connection with such termination.

Section 2.2 Interest, Interest Calculations and Certain Fees.

(a) Interest.

(i) From and following the Closing Date, except as expressly set forth in this Agreement, Loans and the other Obligations shall bear interest at the sum of the SOFR Interest Rate *plus* the Applicable Margin. Interest on the Loans shall be paid in arrears on the first (1st) day of each month and on the maturity of such Loans, whether by acceleration or otherwise. Interest on all other Obligations shall be payable upon demand. For purposes of calculating interest, all funds transferred to the Payment Account for application to any Revolving Loans ~~during a Cash Dominion Period~~ shall be subject to a three (3) Business Day clearance period and all interest accruing on such funds during such clearance period shall accrue for the benefit of Agent, and not for the benefit of the Lenders.

(ii) In the event one or more of the following events (other than any such event constituting a Benchmark Transition Event) occurs with respect to Term SOFR: (a) a public statement or publication of information by or on behalf of the SOFR Administrator announcing that the SOFR Administrator has ceased or will cease to provide Term SOFR for a 1-month period, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide Term SOFR for a 1-month period; (b) a public statement or publication of information by the regulatory supervisor for the SOFR Administrator, the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official or resolution authority with jurisdiction over the SOFR Administrator, or a court or an entity with similar insolvency or resolution authority, which states that the SOFR Administrator has ceased or will cease to provide Term SOFR for a 1-month period permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide Term SOFR for a 1-month period; or (c) a public statement or publication of information by the regulatory supervisor for the SOFR Administrator announcing that Term SOFR for a 1-month period is no longer, or as of a specified future date will no longer be, representative and Agent has provided Borrower Representative with notice of the same, any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loan at the end of the applicable Interest Period.

(iii) In connection with Term SOFR, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Financing 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 Financing Document. Agent will promptly notify Borrower Representative and the Lenders of the effectiveness of any Conforming Changes.

(b) Unused Line Fee. From and following the Closing Date, Borrowers shall pay Agent, for the benefit of all Lenders committed to make Revolving Loans, in accordance with their respective Pro Rata Shares, a fee in an amount equal to (i) (A) the Revolving Loan Commitment *minus* (B) the average daily balance of the sum of the Revolving Loan Outstandings during the preceding month, *multiplied by* (ii) 0.50% per annum. Such fee is to be paid monthly in arrears on the first day of each month.

(c) Minimum Balance Fee. On the first Business Day of each month, commencing on September 2, 2025, the Borrowers agree to pay to Agent, for the ratable benefit of all Lenders, the sum of the Minimum Balance Fees due for the prior month. The Minimum Balance Fee shall be deemed fully earned when due and payable and, once paid, shall be non-refundable.

(d) Collateral Fee. From and following the Closing Date, Borrowers shall pay Agent, for its own account and not for the benefit of any other Lenders, a fee in an amount equal to \$7,500 per month. The collateral management fee shall be deemed fully earned when due and payable in arrears on the last day of each calendar month prior to the Termination Date and on such date and, once paid, shall be non-refundable.

(e) Origination Fee. Contemporaneous with Borrowers' execution of this Agreement, Borrowers shall pay Agent, for the benefit of all Lenders committed to make Revolving Loans on the Closing Date, in accordance with their respective Pro Rata Shares, a fee in an amount equal to (i) the Revolving Loan Commitment, *multiplied by* (ii) one percent (1.00%). All fees payable pursuant to this paragraph shall be non-refundable as of the Closing Date.

(f) Deferred Revolving Loan Origination Fee. If Lenders' funding obligations in respect of the Revolving Loan Commitment under this Agreement terminate for any reason (whether by voluntary termination by Borrowers, by reason of the occurrence of an Event of Default or otherwise) prior to the Commitment Expiry Date, Borrowers shall pay to Agent, for the benefit of all Lenders committed to make Revolving Loans on the Closing Date, a fee as compensation for the costs of such Lenders being prepared to make funds available to Borrowers under this Agreement, equal to an amount determined by *multiplying* the Revolving Loan Commitment *by* the following applicable percentage amount: (i) two percent (2.00%) if such prepayment or termination occurs on or prior to the date that is the first anniversary of the ~~Closing~~Third Amendment Effective Date, (ii) one percent (1.00%) if such termination occurs after the first anniversary of the ~~Closing~~Third Amendment Effective Date but on or prior to the date that is the second anniversary of the ~~Closing~~Third Amendment Effective Date, and (iii) zero percent (0.00%) if such termination occurs after the second anniversary of the

~~Closing~~Third Amendment Effective Date. All fees payable pursuant to this paragraph shall be deemed fully earned and non-refundable as of the Closing Date.

(g) [Reserved].

(h) [Reserved].

(i) Audit Fees. Borrowers shall pay to Agent, for its own account and not for the benefit of any other Lenders, all reasonable fees and expenses in connection with any audits and inspections of Borrowers' books and records, audits, valuations or appraisals of the Collateral, audits of Borrowers' compliance with applicable Laws and such other matters as Agent shall deem appropriate; *provided* that Borrowers shall only be required to reimburse Agent for the costs of one (1) such audit or inspection per fiscal year (or, solely with respect to the 2026 fiscal year, two (2) such audits or inspections), unless a Specified Default has occurred and is continuing, in which case Agent may conduct and be fully reimbursed for any additional audits or inspections at its sole discretion. All such fees and expenses shall be due and payable on the first Business Day of the month following the date of issuance by Agent of a written request for payment thereof to Borrowers.

(j) Wire Fees. Borrowers shall pay to Agent, for its own account and not for the account of any other Lenders, on written demand, fees for incoming and outgoing wires made for the account of Borrowers, such fees to be based on Agent's then current wire fee schedule (available upon written request of the Borrowers).

(k) [Reserved].

(l) Computation of Interest and Related Fees. All interest and fees under each Financing Document shall be calculated on the basis of a 360-day year for the actual number of days elapsed. The date of funding of a Loan shall be included in the calculation of interest. The date of payment of a Loan shall be excluded from the calculation of interest. If a Loan is repaid on the same day that it is made, one (1) day's interest shall be charged. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid under any Financing Document is to be calculated on the basis of a 360-day or 365-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or 365, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

(m) Automated Clearing House Payments. If Agent so elects, monthly payments of principal, interest, fees, expenses or any other amounts due and owing from Borrower to Agent hereunder shall be paid to Agent by Automated Clearing House debit of immediately available funds from the financial institution account designated by Borrower Representative in the Automated Clearing House debit authorization executed by Borrowers or Borrower Representative in connection with this Agreement, and shall



be effective upon receipt. Borrowers shall execute any and all forms and documentation necessary from time to time to effectuate such automatic debiting. In no event shall any such payments be refunded to Borrowers.

(n) Benchmark Replacement Setting: Conforming Changes.

(i) Upon the occurrence of a Benchmark Transition Event, Agent and Borrowers may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and Borrower so long as Agent has not received, by such time, written notice of objection thereto from Lenders comprising the Required Lenders. No such replacement will occur prior to the applicable Benchmark Transition Start Date. In connection with the implementation of a Benchmark Replacement, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Financing 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 Financing Document. Agent will promptly notify Borrower Representative and the Lenders of the implementation of any Benchmark Replacement and the effectiveness of any Conforming Changes.

(ii) Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 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 Financing Document, except, in each case, as expressly required pursuant to this Section. Notwithstanding anything to the contrary herein or in any other Financing Document, at any time, (a) if the then-current Benchmark is a term rate (including Term SOFR) and either (i) 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 Agent in its reasonable discretion or (ii) 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 or will be no longer representative, then 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 (i) is subsequently displayed on a screen or information service for a Benchmark or (ii) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark, then 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. Agent will promptly notify Borrower

Representative of the removal or reinstatement of any tenor of a Benchmark pursuant to this Section.

(iii) Upon Borrower Representative's receipt of notice of the commencement of a Benchmark Unavailability Period, any outstanding affected Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period.

(o) The following terms used in this Section 2.2(o) shall have the following meanings:

"Available Tenor" means, as of any date of determination with respect to the then-current Benchmark, (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 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 pursuant to this Agreement, 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" or similar term pursuant to Section 2.2(o).

"Benchmark" means, initially, Term SOFR; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to Term SOFR or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.2(o).

"Benchmark Replacement" means, with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by Agent for the applicable Benchmark Replacement Date:

(1) Daily Simple SOFR; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by Agent 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 to the then-current Benchmark for Dollar-denominated syndicated credit facilities 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 Financing Documents.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the 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 Agent in consultation with the Borrower Representative giving due consideration to any selection or

recommendation by the Relevant Governmental Body, or any evolving or then-prevailing market convention at such time, for determining a spread adjustment, or method for calculating or determining such spread adjustment, for such type of replacement for U.S. dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Date” means the earlier to occur of the following events with respect to the then-current Benchmark: (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 no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) 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 the occurrence of one or more of the following events with respect to the then-current Benchmark: (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 Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official or 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, 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 no longer, or as of a specified future date will no longer 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, 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 90th 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 the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clauses (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with Section 2.2(o) and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Financing Document in accordance with Section 2.2(o).

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

Section 2.3 **Notes.** The portion of the Loans made by each Lender shall be evidenced, if so requested by such Lender, by one or more promissory notes executed by Borrowers on a joint and several basis (each, a “Note”) in an original principal amount equal to such Lender’s Revolving Loan Commitment Amount. Upon activation of an Additional Tranche in accordance with Section 2.1(b) hereof, Borrowers shall deliver to each Lender to whom Borrowers previously delivered a Note, a restated Note evidencing such Lender’s Revolving Loan Commitment Amount.

Section 2.4 [Reserved].

Section 2.5 [Reserved].

Section 2.6 **General Provisions Regarding Payment; Loan Account.**

(a) All payments to be made by each Borrower under any Financing Document, including payments of principal and interest made hereunder and pursuant to any other Financing Document, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension (it being understood and agreed that, solely for purposes of calculating financial covenants and computations contained herein and determining compliance therewith, if payment is made, in full, on any such extended due date, such payment shall be deemed to have been paid on the original due date without giving effect to any extension thereto). Any payments received in the Payment Account before 12:00 Noon (Eastern time) on any date shall be deemed received by Agent on such date, and any payments received in the



Payment Account at or after 12:00 Noon (Eastern time) on any date shall be deemed received by Agent on the next succeeding Business Day.

(b) Agent shall maintain a loan account (the “**Loan Account**”) on its books to record Loans and other extensions of credit made by the Lenders hereunder or under any other Financing Document, and all payments thereon made by each Borrower. All entries in the Loan Account shall be made in accordance with Agent’s customary accounting practices as in effect from time to time. The balance in the Loan Account, as recorded in Agent’s books and records at any time shall be conclusive and binding evidence of the amounts due and owing to Agent by each Borrower absent manifest error; *provided, however*, that any failure to so record or any error in so recording shall not limit or otherwise affect any Borrower’s duty to pay all amounts owing hereunder or under any other Financing Document. Agent shall endeavor to provide Borrowers with a monthly statement regarding the Loan Account (but neither Agent nor any Lender shall have any liability if Agent shall fail to provide any such statement). Unless any Borrower notifies Agent of any objection to any such statement (specifically describing the basis for such objection) within ninety (90) days after the date of receipt thereof, it shall be deemed final, binding and conclusive upon Borrowers in all respects as to all matters reflected therein.

Section 2.7 Maximum Interest. In no event shall the interest charged with respect to the Loans or any other Obligations of any Borrower under any Financing Document exceed the maximum amount permitted under the laws of the State of New York, the federal laws of Canada (including the Criminal Code (Canada)) or of any other applicable jurisdiction. Notwithstanding anything to the contrary herein or elsewhere, if at any time the rate of interest payable hereunder or under any Note or other Financing Document (the “Stated Rate”) would exceed the highest rate of interest permitted under any applicable law to be charged (the “Maximum Lawful Rate”), then for so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable shall be equal to the Maximum Lawful Rate; *provided, however*, that if at any time thereafter the Stated Rate is less than the Maximum Lawful Rate, each Borrower shall, to the extent permitted by law, continue to pay interest at the Maximum Lawful Rate until such time as the total interest received is equal to the total interest which would have been received had the Stated Rate been (but for the operation of this provision) the interest rate payable. Thereafter, the interest rate payable shall be the Stated Rate unless and until the Stated Rate again would exceed the Maximum Lawful Rate, in which event this provision shall again apply. In no event shall the total interest received by any Lender exceed the amount which it could lawfully have received had the interest been calculated for the full term hereof at the Maximum Lawful Rate. If, notwithstanding the prior sentence, any Lender has received interest hereunder in excess of the Maximum Lawful Rate, such excess amount shall be applied to the reduction of the principal balance of the Loans or to other amounts (other than interest) payable hereunder, and if no such principal or other amounts are then outstanding, such excess or part thereof remaining shall be paid to Borrowers. In computing interest payable with reference to the Maximum Lawful Rate applicable to any Lender, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate *divided by* the number of days in the year in which such calculation is made.

Section 2.8 Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality.

(a) All payments of principal and interest on the Loans and all other amounts payable hereunder shall be made free and clear of and without deduction or withholding for any present or future 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, and if any such withholding or deduction is in respect of any Indemnified Taxes, then the Borrowers shall pay such additional amount or amounts as is necessary to ensure that the net amount actually received by Agent and each Lender will equal the full amount Agent and such Lender would have received had no such withholding or deduction been required (including, without limitation, such withholdings and deductions applicable to additional amounts payable under this Section 2.8). After payment of any Tax by a Borrower to a Governmental Authority pursuant to this Section 2.8, such Borrower shall promptly forward to Agent the original or a certified copy of an official receipt, a copy of the return reporting such payment, or other documentation satisfactory to Agent evidencing such payment to such authority. In addition, Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of Agent timely reimburse it for the payment of, any Other Taxes.

(b) The Borrowers shall indemnify Agent and Lenders, within ten (10) days after demand thereof, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.8) payable or paid by Agent or any Lender or required to be withheld or deducted from a payment to Agent or any Lender and any 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 Borrowers by a Lender (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(c) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments made under any Financing Document shall deliver to Borrower Representative and Agent, at the time or times prescribed by applicable Law or reasonably requested by Borrower Representative or Agent, such properly completed and executed documentation reasonably requested by Borrower Representative or Agent 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 Borrower Representative or Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by Borrowers or Agent as will enable Borrowers or 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 Sections 2.8(c)(i), 2.8(c)(ii) and 2.8(e) below) shall not be required if in such 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.

(i) Each Lender that is not a "United States person" (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes and is a party hereto on the Closing Date or purports to become an assignee of an interest pursuant to Section 11.17(a) after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) (each such Lender a "**Foreign Lender**") shall, to the extent permitted by Law, execute and deliver to Borrower Representative and 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 Representative or Agent) whichever of the following is applicable: (A) 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 Financing Document, executed copies of United States Internal Revenue Service ("**IRS**") Forms W-8BEN or W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Financing Documents, executed copies of IRS Forms W-8BEN or W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "business profits" or "other income" article of such tax treaty; (B) executed copies of Form W-8ECI or W-8EXP (or successor form); (C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-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 any 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 Forms W-8BEN or W-8BEN-E (or successor form); (D) 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-8EXP, IRS Form W-8BEN or W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9 (or successor form), 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 F-4 on behalf of each such direct and indirect partner; or (E) other applicable forms, certificates or documents prescribed by the IRS. 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 Borrower Representative and Agent in writing of its legal inability to do so. In addition, to the extent permitted by applicable Law, such forms shall be delivered by each Foreign Lender upon the obsolescence or invalidity of any form previously delivered by such Foreign Lender. Each Foreign Lender shall promptly notify Borrower Representative at any time it determines that it is no longer in a position to provide any previously delivered certificate to Borrower Representative (or any other form of certification adopted by the U.S. taxing authorities for such purpose).

(ii) Each Lender that is a “United States person” (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes and is a party hereto on the Closing Date or purports to become an assignee of an interest pursuant to Section 11.17(a) after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) shall, to the extent permitted by Law, provide to Borrower Representative and 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 Representative or Agent), a properly completed and executed IRS Form W-9 or any successor form certifying as to such Lender’s entitlement to an exemption from U.S. backup withholding and other applicable forms, certificates or documents prescribed by the IRS or reasonably requested by Borrower Representative or Agent. Each such Lender shall promptly notify Borrowers at any time it determines that any certificate previously delivered to Borrower Representative (or any other form of certification adopted by the U.S. governmental authorities for such purposes) is no longer valid.

(iii) Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower Representative and 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 Representative or Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. Federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrowers or Agent to determine the withholding or deduction required to be made.

(iv) Agent, and any sub-agent and any successor or supplemental Agent, shall deliver to the Borrowers on or prior to the date on which such person becomes Agent, sub-agent or successor or supplemental Agent hereunder (and from time to time thereafter upon the reasonable request of a Borrower), a properly completed and executed IRS Form W-9. Agent and any sub-agent and successor or supplemental Agent 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

Borrowers in writing of its legal inability to do so. Agent hereby represents and warrants to the Credit Parties that it is a “U.S. person” and a “financial institution” and that it will comply with its “obligation to withhold,” each within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(ii).

(d) If any Lender determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Taxes as to which it has been indemnified by any Borrower pursuant to this Section 2.8 (including by the payment of additional amounts pursuant to this Section 2.8), then it shall promptly pay an amount equal to such refund to Borrowers, net of all reasonable out-of-pocket expenses of such Lender or of Agent with respect thereto, including any Taxes; *provided, however*, that Borrowers, upon the written request of such Lender or Agent, agree to repay any amount paid over to Borrowers to such Lender or to Agent (plus any related penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Lender or Agent is required, for any reason, to disgorge or otherwise repay such refund. Notwithstanding anything to the contrary in this Section 2.8, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.8(d) the payment of which 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 Section 2.8 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.

(e) If a payment made to a Lender under any Financing Document would be subject to U.S. 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 Borrower Representative and Agent at the time or times prescribed by Law and at such time or times reasonably requested by Borrower Representative or Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower Representative or Agent as may be necessary for Borrowers and 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 (e), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(f) Each Lender shall severally indemnify 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 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 11.17 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 Agent in connection with any Financing 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 Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to set off and apply any and all amounts at any time owing to such Lender under any Financing Document or otherwise payable by Agent to such Lender from any other source against any amount due to Agent under this paragraph (f).

(g) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law regarding capital adequacy, in each instance, after the Closing Date, or any change after the Closing Date in the interpretation, administration or application thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation, administration or application thereof, or the compliance by any Lender or any Person controlling such Lender with any request, guideline or directive regarding capital adequacy (whether or not having the force of Law) of any such Governmental Authority, central bank or comparable agency adopted or otherwise taking effect after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or such controlling Person's capital as a consequence of such Lender's obligations hereunder to a level below that which such Lender or such controlling Person could have achieved but for such adoption, taking effect, change, interpretation, administration, application or compliance (taking into consideration such Lender's or such controlling Person's policies with respect to capital adequacy) then from time to time, upon demand by such Lender (which demand shall be accompanied by a certificate setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to Agent), Borrowers shall promptly pay to such Lender such additional amount as will compensate such Lender or such controlling Person for such reduction, so long as such amounts have accrued on or after the day which is two hundred seventy (270) days prior to the date on which such Lender first made demand therefor; *provided* that notwithstanding anything in this Agreement 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 applicable Law", regardless of the date enacted, adopted or issued.

(h) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law shall (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender, (ii) subject any Lender to any tax of any kind whatsoever with respect to this Agreement, or any SOFR Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes,

Connection Income Taxes and Taxes covered in (b) through (d) in the definition of Excluded Taxes); or (iii) impose on any Lender any other condition, cost or expense (other than a Tax) affecting this Agreement or SOFR Loans made by such Lender, and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to Term SOFR (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrowers will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(i) If any Lender requests compensation under any of the clauses in this Section 2.8), or requires Borrowers to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8, then, upon the written request of Borrower Representative, such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder (subject to the provisions of Section 11.17) to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or materially reduce amounts payable pursuant to any such Section, as the case may be, in the future, (ii) would not subject such Lender to any unreimbursed cost or expense and (iii) would not otherwise be disadvantageous to such Lender (as determined in its sole good faith discretion). Without limitation of the provisions of Section 12.14, each Borrower hereby agrees to pay all reasonable and documented, out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(j) Subject to Section 2.2(n), if Agent determines (which determination shall be conclusive and binding absent manifest error) that Term SOFR cannot be determined pursuant to the definition thereof on or prior to the first day of any Interest Period, Agent will promptly so notify the Borrowers and each Lender. Upon notice thereof by Agent to Borrowers, any obligation of the Lenders to make SOFR Loans shall be suspended until Agent revokes such notice. Upon receipt of such notice, any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period. Upon any such conversion, Borrower shall also pay any additional amounts required pursuant to this Agreement.

(k) If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain or fund SOFR Loans, or to determine or charge interest rates based upon Term SOFR, then, upon notice thereof by such Lender to Borrowers (through Agent), any obligation of such Lender to make SOFR Loans shall be suspended, in each case until such Lender notifies Agent and Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, all SOFR Loans shall become Base Rate Loans. Upon any such conversion, Borrower shall also pay any additional amounts required pursuant to this Agreement.

(l) Each party's obligations under this Section 2.8 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of all Obligations hereunder.

Section 2.9 Appointment of Borrower Representative.

(a) Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent and attorney-in-fact to request and receive Loans in the name or on behalf of such Borrower and any other Borrowers, deliver Notices of Borrowing, and Borrowing Base Certificates, give instructions with respect to the disbursement of the proceeds of the Loans, giving and receiving all other notices and consents hereunder or under any of the other Financing Documents and taking all other actions (including in respect of compliance with covenants) in the name or on behalf of any Borrower or Borrowers pursuant to this Agreement and the other Financing Documents. Agent and Lenders may disburse the Loans to such bank account of Borrower Representative or a Borrower or otherwise make such Loans to a Borrower, in each case as Borrower Representative may designate or direct, without notice to any other Borrower. Notwithstanding anything to the contrary contained herein, Agent may at any time and from time to time require that Loans to or for the account of any Borrower be disbursed directly to an operating account of such Borrower.

(b) Borrower Representative hereby accepts the appointment by Borrowers to act as the agent and attorney-in-fact of Borrowers pursuant to this Section 2.9. Borrower Representative shall ensure that the disbursement of any Loans that are at any time requested by or to be remitted to or for the account of a Borrower shall be remitted or issued to or for the account of such Borrower.

(c) Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent to receive statements on account and all other notices from Agent and Lenders with respect to the Obligations or otherwise under or in connection with this Agreement and the other Financing Documents.

(d) Any notice, election, representation, warranty, agreement or undertaking made or delivered by or on behalf of any Borrower by Borrower Representative shall be deemed for all purposes to have been made or delivered by such Borrower, as the case may be, and shall be binding upon and enforceable against such Borrower to the same extent as if made or delivered directly by such Borrower.

(e) No resignation by or termination of the appointment of Borrower Representative as agent and attorney-in-fact as aforesaid shall be effective, except after ten (10) Business Days' prior written notice to Agent. If the Borrower Representative resigns under this Agreement, Borrowers shall be entitled to appoint a successor Borrower Representative (which shall be a Borrower and shall be reasonably acceptable to Agent as such successor). Upon the acceptance of its appointment as successor Borrower Representative hereunder, such successor Borrower Representative shall succeed to all the rights, powers and duties of the retiring Borrower Representative and the term "Borrower Representative" shall mean such successor Borrower Representative



for all purposes of this Agreement and the other Financing Documents, and the retiring or terminated Borrower Representative's appointment, powers and duties as Borrower Representative shall be thereupon terminated.

Section 2.10 Joint and Several Liability; Rights of Contribution; Subordination and Subrogation.

(a) Borrowers are defined collectively to include all Persons named as one of the Borrowers herein; *provided, however*, that any references herein to "any Borrower", "each Borrower" or similar references, shall be construed as a reference to each individual Person named as one of the Borrowers herein. Each Person so named shall be jointly and severally liable for all of the obligations of Borrowers under this Agreement. Each Borrower, individually, expressly understands, agrees and acknowledges, that the credit facilities would not be made available on the terms herein in the absence of the collective credit of all of the Persons named as the Borrowers herein, the joint and several liability of all such Persons, and the cross-collateralization of the collateral of all such Persons. Accordingly, each Borrower individually acknowledges that the benefit to each of the Persons named as one of the Borrowers as a whole constitutes reasonably equivalent value, regardless of the amount of the credit facilities actually borrowed by, advanced to, or the amount of collateral provided by, any individual Borrower. In addition, each entity named as one of the Borrowers herein hereby acknowledges and agrees that all of the representations, warranties, covenants, obligations, conditions, agreements and other terms contained in this Agreement shall be applicable to and shall be binding upon and measured and enforceable individually against each Person named as one of the Borrowers herein as well as all such Persons when taken together. By way of illustration, but without limiting the generality of the foregoing, the terms of Section 10.1 of this Agreement are to be applied to each individual Person named as one of the Borrowers herein (as well as to all such Persons taken as a whole), such that the occurrence of any of the events described in Section 10.1 of this Agreement as to any Person named as one of the Borrowers herein shall constitute an Event of Default even if such event has not occurred as to any other Persons named as the Borrowers or as to all such Persons taken as a whole.

(b) Notwithstanding any provisions of this Agreement to the contrary, it is intended that the joint and several nature of the liability of each Borrower for the Obligations and the Liens granted by Borrowers to secure the Obligations, not constitute a Fraudulent Conveyance (as defined below). Consequently, Agent, Lenders and each Borrower agree that if the liability of a Borrower for the Obligations, or any Liens granted by such Borrower securing the Obligations would, but for the application of this sentence, constitute a Fraudulent Conveyance, the liability of such Borrower and the Liens securing such liability shall be valid and enforceable only to the maximum extent that would not cause such liability or such Lien to constitute a Fraudulent Conveyance, and the liability of such Borrower and this Agreement shall automatically be deemed to have been amended accordingly. For purposes hereof, the term "Fraudulent Conveyance" means a fraudulent conveyance under Section 548 of Chapter 11 of Title II of the Bankruptcy Code or a fraudulent conveyance, fraudulent transfer or transfer at undervalue under the applicable provisions of any fraudulent conveyance or fraudulent



transfer law or similar law of any state, province, territory, nation or other governmental unit, as in effect from time to time.

(c) Agent is hereby authorized, without notice or demand (except as otherwise specifically required under this Agreement) and without affecting the liability of any Borrower hereunder, at any time and from time to time, to (i) renew, extend or otherwise increase the time for payment of the Obligations; (ii) with the written agreement of any Borrower, change the terms relating to the Obligations or otherwise modify, amend or change the terms of any Note or other agreement, document or instrument now or hereafter executed by any Borrower and delivered to Agent for any Lender; (iii) accept partial payments of the Obligations; (iv) take and hold any Collateral for the payment of the Obligations or for the payment of any guaranties of the Obligations and exchange, enforce, waive and release any such Collateral; (v) apply any such Collateral and direct the order or manner of sale thereof as Agent, in its sole discretion, may determine; and (vi) settle, release, compromise, collect or otherwise liquidate the Obligations and any Collateral therefor in any manner, all guarantor and surety defenses being hereby waived by each Borrower. Without limitations of the foregoing, with respect to the Obligations, each Borrower hereby makes and adopts each of the agreements and waivers set forth in the Guarantee set forth under Section 12 hereof. Except as specifically provided in this Agreement or any of the other Financing Documents, Agent shall have the exclusive right to determine the time and manner of application of any payments or credits, whether received from any Borrower or any other source, and such determination shall be binding on all Borrowers. All such payments and credits may be applied, reversed and reapplied, in whole or in part, to any of the Obligations that Agent shall determine, in its sole discretion, without affecting the validity or enforceability of the Obligations of the other Borrower.

(d) Each Borrower hereby agrees that, except as hereinafter provided, its obligations hereunder shall be unconditional, irrespective of (i) the absence of any attempt to collect the Obligations from any obligor or other action to enforce the same; (ii) the waiver or consent by Agent with respect to any provision of any instrument evidencing the Obligations, or any part thereof, or any other agreement heretofore, now or hereafter executed by a Borrower and delivered to Agent; (iii) failure by Agent to take any steps to perfect and maintain its security interest in, or to preserve its rights to, any security or collateral for the Obligations; (iv) the institution of any proceeding under any Debtor Relief Law, or any similar proceeding, by or against any Credit Party or Agent's election in any such proceeding of the application of Section 1111(b)(2) of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws); (v) any borrowing or grant of a security interest by a Borrower as debtor-in-possession, under Section 364 of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws); (vi) the disallowance, under Section 502 of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws), of all or any portion of Agent's claim(s) for repayment of any of the Obligations; or (vii) any other circumstance other than payment in full of the Obligations which might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety.

(e) The Borrowers hereby agree, as between themselves, that to the extent that Agent, on behalf of Lenders, shall have received from any Borrower any Recovery Amount (as defined below), then the paying Borrower shall have a right of contribution against each other Borrower in an amount equal to such other Borrower's contributive share of such Recovery Amount; provided, however, that in the event any Borrower suffers a Deficiency Amount (as defined below), then the Borrower suffering the Deficiency Amount shall be entitled to seek and receive contribution from and against the other Borrowers in an amount equal to the Deficiency Amount; and provided, further, that in no event shall the aggregate amounts so reimbursed by reason of the contribution of any Borrower equal or exceed an amount that would, if paid, constitute or result in Fraudulent Conveyance. Until all Obligations have been paid and satisfied in full, no payment made by or for the account of a Borrower including, without limitation, (i) a payment made by such Borrower on behalf of the liabilities of any other Borrower, or (ii) a payment made by any other Guarantor under any Guarantee, shall entitle such Borrower, by subrogation or otherwise, to any payment from such other Borrower or from or out of such other Borrower's property. The right of each Borrower to receive any contribution under this Section 2.10(e) or by subrogation or otherwise from any other Borrower shall be subordinate in right of payment to the Obligations and such Borrower shall not exercise any right or remedy against such other Borrower or any property of such other Borrower by reason of any performance of such Borrower of its joint and several obligations hereunder, until the Obligations have been indefeasibly paid and satisfied in full, and no Borrower shall exercise any right or remedy with respect to this Section 2.10(e) until the Obligations have been indefeasibly paid and satisfied in full. As used in this Section 2.10(e), the term "Recovery Amount" means the amount of proceeds received by or credited to Agent from the exercise of any remedy of the Lenders under this Agreement or the other Financing Documents, including, without limitation, the sale of any Collateral. As used in this Section 2.10(e), the term "Deficiency Amount" means any amount that is less than the entire amount a Borrower is entitled to receive by way of contribution or subrogation from, but that has not been paid by, the other Borrowers in respect of any Recovery Amount attributable to the Borrower entitled to contribution, until the Deficiency Amount has been reduced to \$0 through contributions and reimbursements made under the terms of this Section 2.10(e) or otherwise.

(f) Notwithstanding any other provision contained herein or in any other Financing Document, if a "secured creditor" (as that term is defined under the Bankruptcy and Insolvency Act (Canada)) is determined by a court of competent jurisdiction not to include a Person to whom obligations are owed on a joint and several basis, then such Person's Obligations (and the Obligations of each other Canadian Credit Party or any other applicable Credit Party), to the extent such Obligations are secured, shall be several obligations and not joint and several obligations.

Section 2.11 Collections and Lockbox Account.

(a) Credit Parties shall maintain a lockbox or other acceptable deposit accounts used solely for the purpose of collection of receivables (individually and collectively, the "**Lockbox**") with (a) PNC Bank from the Closing Date through and including January 31, 2026, (b) JPMorgan Chase Bank, N.A., as of the Second



Amendment Effective Date, or (c) another United States depository institution (or, in the case of a Canadian Credit Party, another Canadian depository institution) designated from time to time by Agent (the “**Lockbox Bank**”), subject to the provisions of this Agreement, and shall execute with the Lockbox Bank a Control Agreement and such other agreements related to such Lockbox as Agent may require. Borrowers shall ensure that all collections of Accounts are paid directly from Account Debtors (i) into the Lockbox for deposit into the Lockbox Account and/or (ii) directly into the Lockbox Account; *provided, however*, unless Agent shall otherwise direct by written notice to Borrowers, Borrowers shall be permitted to cause Account Debtors who are individuals to pay Accounts directly to Borrowers, which Borrowers shall then administer and apply in the manner required below. ~~During any Cash Dominion Period, all~~ All funds deposited into a Lockbox Account shall be transferred into the Payment Account by the close of each Business Day.

(b) Upon three (3) Business Days’ prior written request, Borrower Representative may request that the Agent release any funds in a Cash Collateral Account so long as (a) no Default or Event of Default has occurred and is continuing or would result therefrom, (b) such release will not result in the Revolving Loan Outstandings exceeding the Revolving Loan Limit and (c) concurrent with such written request, Borrower Representative provides to the Agent a duly completed Borrowing Base Certificate signed by a Responsible Officer as of the date of such written request giving pro forma effect to such release of funds.

(c) Notwithstanding anything in any lockbox agreement or Control Agreement to the contrary, Borrowers agree that they shall be liable for any fees and charges in effect from time to time and charged by the Lockbox Bank in connection with the Lockbox, the Lockbox Account, and that Agent shall have no liability therefor. Borrowers hereby indemnify and agree to hold Agent harmless from any and all liabilities, claims, losses and demands whatsoever, including reasonable attorneys’ fees and expenses, arising from or relating to actions of Agent or the Lockbox Bank pursuant to this Section or any lockbox agreement or Control Agreement or similar agreement, except to the extent of such losses arising solely from Agent’s gross negligence or willful misconduct.

(d) ~~During any Cash Dominion Period,~~ Agent shall immediately apply, on a daily basis, all funds transferred into the Payment Account pursuant to this Section to reduce the outstanding Revolving Loans in such order of application as Agent shall elect. If as the result of collections of Accounts pursuant to the terms and conditions of this Section, a credit balance exists with respect to the Loan Account, such credit balance shall not accrue interest in favor of Borrowers, but Agent shall transfer such funds into an account designated by Borrower Representative for so long as no Event of Default exists. ~~Agent shall exercise its commercially reasonable efforts to rescind cash dominion promptly after the occurrence of a Cash Dominion Termination.~~

(e) To the extent that any collections of Accounts or proceeds of other Collateral are not sent directly to the Lockbox or Lockbox Account but are received by any Borrower, such collections shall be held in trust for the benefit of Agent pursuant to

an express trust created hereby and immediately remitted, in the form received, to applicable Lockbox or Lockbox Account. No such funds received by any Borrower shall be commingled with other funds of the Borrowers.

(f) Borrowers acknowledge and agree that compliance with the terms of this Section is essential, and that Agent and Lenders will suffer immediate and irreparable injury and have no adequate remedy at law, if any Borrower, through acts or omissions, causes or permits Account Debtors to send payments other than to the Lockbox or Lockbox Accounts or if any Borrower fails to promptly deposit collections of Accounts or proceeds of other Collateral in the Lockbox Account as herein required. Accordingly, in addition to all other rights and remedies of Agent and Lenders hereunder, Agent shall have the right to seek specific performance of the Borrowers' obligations under this Section, and any other equitable relief as Agent may deem necessary or appropriate, and Borrowers waive any requirement for the posting of a bond in connection with such equitable relief.

(g) Borrowers shall not, and Borrowers shall not suffer or permit any Credit Party to, (i) withdraw any amounts from any Lockbox Account ~~during any Cash Dominion Period~~, (ii) change the procedures or sweep instructions under the agreements governing any Lockbox Accounts, or (iii) send to or deposit in any Lockbox Account any funds other than payments made with respect to and proceeds of Accounts or other Collateral. Borrowers shall, and shall cause each Credit Party to, cooperate with Agent in the identification and reconciliation on a daily basis of all amounts received in or required to be deposited into the Lockbox Accounts. In addition, if any such amount cannot be identified or reconciled to the reasonable satisfaction of Agent, Agent may utilize its own staff or, if it deems necessary, engage an outside auditor, in either case at Borrowers' expense (which in the case of Agent's own staff shall be in accordance with Agent's then prevailing customary charges (*plus* expenses)), to make such examination and report as may be necessary to identify and reconcile such amount.

(h) ~~During any Cash Dominion Period, if~~ any Borrower breaches its obligation to direct payments of the proceeds of the Collateral to the Lockbox Account, Agent, as the irrevocably made, constituted and appointed true and lawful attorney for Borrowers, may, by the signature or other act of any of Agent's authorized representatives (without requiring any of them to do so), direct any Account Debtor to pay proceeds of the Collateral to Borrowers by directing payment to the Lockbox Account.

Section 2.12 Termination; Restriction on Termination.

(a) Termination by Lenders. In addition to the rights set forth in Section 10.2, Agent may, and at the direction of Required Lenders shall, terminate this Agreement without notice upon or after the occurrence and during the continuance of an Event of Default.

(b) Termination by Borrowers. Upon at least thirty (30) days' prior written notice to Agent and Lenders, Borrowers may, at its option, terminate this

Agreement. Any notice of termination given by Borrowers shall be irrevocable unless all Lenders otherwise agree in writing and no Lender shall have any obligation to make any Loans on or after the termination date stated in such notice. Borrowers may elect to terminate this Agreement in its entirety only. No section of this Agreement or type of Loan available hereunder may be terminated singly.

(c) Effectiveness of Termination. All of the Obligations shall be immediately due and payable upon the Termination Date. All undertakings, agreements, covenants, warranties and representations of Borrowers contained in the Financing Documents shall survive any such termination and Agent shall retain its Liens in the Collateral and Agent and each Lender shall retain all of its rights and remedies under the Financing Documents notwithstanding such termination until all Obligations have been discharged or paid, in full, in immediately available funds, including, without limitation, all Obligations under Section 2.2(f). Notwithstanding the foregoing or the payment in full of the Obligations, Agent shall not be required to terminate its Liens in the Collateral unless, with respect to any loss or damage Agent may incur as a result of dishonored checks or other items of payment received by Agent from Borrower or any Account Debtor and applied to the Obligations, Agent shall, at its option, (i) have received a written agreement satisfactory to Agent, executed by Borrowers and by any Person whose loans or other advances to Borrowers are used in whole or in part to satisfy the Obligations, indemnifying Agent and each Lender from any such loss or damage or (ii) have retained cash Collateral or other Collateral for such period of time as Agent, in its discretion, may deem necessary to protect Agent and each Lender from any such loss or damage.

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

To induce Agent and Lenders to enter into this Agreement and to make the Loans and other credit accommodations contemplated hereby, each Credit Party hereby represents and warrants to Agent and each Lender that (after giving effect to the Transactions):

Section 3.1 **Existence and Power.** Each Credit Party is an entity as specified on Schedule 3.1, is duly organized, validly existing and in good standing under the laws of the jurisdiction specified on Schedule 3.1 and no other jurisdiction, has the same legal name as it appears in such Credit Party's Organizational Documents and an organizational identification number (if any), in each case as specified on Schedule 3.1, and has all powers and all Permits necessary or desirable in the operation of its business as presently conducted or as proposed to be conducted, except where the failure to have such Permits could not reasonably be expected to have a Material Adverse Effect. Each Credit Party is qualified to do business as a foreign entity in each jurisdiction in which it is required to be so qualified, which jurisdictions as of the Closing Date are specified on Schedule 3.1, except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.1, no Credit Party (a) has had, over the five (5) year period preceding the Closing Date, any name other than its current name, or (b) was incorporated or organized under the laws of any jurisdiction other than its current jurisdiction of incorporation or organization.

Section 3.2 Organization and Governmental Authorization; No Contravention. The execution, delivery and performance by each Credit Party of the Operative Documents to which it is a party are within its powers, have been duly authorized by all necessary action pursuant to its Organizational Documents, require no further action by or in respect of, or filing with, any Governmental Authority and do not violate, conflict with or cause a breach or a default under (a)(i) any Law applicable to any Credit Party or (ii) any of the Organizational Documents of any Credit Party, or (b) any agreement or instrument binding upon it, except for such violations, conflicts, breaches or defaults as could not, with respect to clause (a)(i) or clause (b), reasonably be expected to have a Material Adverse Effect.

Section 3.3 Binding Effect. Each of the Operative Documents to which any Credit Party is a party constitutes a valid and binding agreement or instrument of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

Section 3.4 Capitalization. The authorized equity securities of each of the Credit Parties as of the Closing Date are as set forth on Schedule 3.4. All issued and outstanding equity securities of each of the Credit Parties are duly authorized and validly issued, fully paid, nonassessable, free and clear of all Liens other than those in favor of Agent for the benefit of Agent and Lenders, and such equity securities were issued in compliance with all applicable Laws. The identity of the holders of the equity securities of each of the Credit Parties and the percentage of their fully-diluted ownership of the equity securities of each of the Credit Parties as of the Closing Date is set forth on Schedule 3.4. No shares of the capital stock or other equity securities of any Credit Party, other than those described above, are issued and outstanding as of the Closing Date. Except as set forth on Schedule 3.4, as of the Closing Date there are no preemptive or other outstanding rights, options, warrants, conversion rights or similar agreements or understandings for the purchase or acquisition from any Credit Party of any equity securities of any such entity.

Section 3.5 Financial Information. All information delivered to Agent and pertaining to the financial condition of any Credit Party fairly presents the financial position of such Credit Party as of such date in conformity with GAAP (and as to unaudited financial statements, subject to normal year-end adjustments and the absence of footnote disclosures). Since the Petition Date, there has been no material adverse change in the business, operations, properties, prospects or condition (financial or otherwise) of any Credit Party.

Section 3.6 Litigation. Except as set forth on Schedule 3.6 as of the Closing Date, and except as hereafter disclosed to Agent in writing, there is no Litigation pending against, or to such Credit Party's knowledge threatened against or affecting, any Credit Party or, to such Credit Party's knowledge, any party to any Operative Document other than a Credit Party. There is no Litigation pending in which an adverse decision could reasonably be expected to have a Material Adverse Effect or which in any manner draws into question the validity of any of the Operative Documents.

Section 3.7 Ownership of Property. Each Credit Party and each of its Subsidiaries is the lawful owner of, has good and marketable title to and is in lawful possession of, or has valid

leasehold interests in, all properties and other assets (real or personal, tangible, intangible or mixed) material to its business and purported or reported to be owned or leased (as the case may be) by such Person.

Section 3.8 No Default. No Event of Default, or to such Credit Party's knowledge, Default, has occurred and is continuing. No Credit Party is in breach or default under or with respect to any contract, agreement, lease or other instrument to which it is a party or by which its property is bound or affected, which breach or default could reasonably be expected to have a Material Adverse Effect.

Section 3.9 Labor Matters. As of the Closing Date, there are no strikes or other labor disputes pending or, to any Credit Party's knowledge, threatened against any Credit Party. Hours worked and payments made to the employees of the Credit Parties have not been in violation of the Fair Labor Standards Act or any other applicable Law dealing with such matters. All payments due from the Credit Parties, or for which any claim may be made against any of them, on account of wages and employee and retiree health and welfare insurance and other benefits have been paid or accrued as a liability on their books, as the case may be, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which it is a party or by which it is bound.

Section 3.10 Regulated Entities. No Credit Party is an "investment company" or a company "controlled" by an "investment company" or a "subsidiary" of an "investment company," all within the meaning of the Investment Company Act of 1940.

Section 3.11 Margin Regulations. None of the proceeds from the Loans have been or will be used, directly or indirectly, for the purpose of purchasing or carrying any "margin stock" (as defined in Regulation U of the Federal Reserve Board), for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any "margin stock" or for any other purpose which might cause any of the Loans to be considered a "purpose credit" within the meaning of Regulation T, U or X of the Federal Reserve Board.

Section 3.12 Compliance With Laws; Anti-Terrorism Laws.

(a) Each Credit Party is in compliance with the requirements of all applicable Laws, except for such noncompliance which could not reasonably be expected to have a Material Adverse Effect.

(b) None of the Credit Parties and, to the knowledge of the Credit Parties, none of their Affiliates (i) is in violation of any Anti-Terrorism Law, (ii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, (iii) is a Blocked Person, or is controlled by a Blocked Person, (iv) is acting or will act for or on behalf of a Blocked Person, (v) is associated with, or will become associated with, a Blocked Person or (vi) is providing, or will provide, material, financial or technical support or other services to or in support of acts of



terrorism of a Blocked Person. No Credit Party nor, to the knowledge of any Credit Party, any of its Affiliates or agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (B) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law or any Canadian Economic Sanctions and Export Control Laws.

(c) The representations and warranties in Section 3.12 shall not apply to any Canadian Credit Party, or to any director, officer, agent or employee of such Party, to the extent that they would result in a violation of or conflict with the Foreign Extraterritorial Measures (United States) Order, 1992.

Section 3.13 Taxes. (i) All Tax returns and other reports required by applicable law to be filed by any Credit Party have been timely filed and (ii) all Taxes imposed upon any Credit Party or any property of any Credit Party which have become due and payable on or prior to the date hereof have been paid, except (A) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization and paid in accordance with the Plan of Reorganization, and (B) Taxes subject to a Permitted Contest.

Section 3.14 Compliance with ERISA.

(a) Each ERISA Plan (and the related trusts and funding agreements) complies in form and in operation with, has been administered in compliance with, and the terms of each ERISA Plan satisfy, the applicable requirements of ERISA and the Code in all material respects. Each ERISA Plan which is intended to be qualified under Section 401(a) of the Code is so qualified, and the United States Internal Revenue Service has issued a favorable determination letter with respect to each such ERISA Plan which may be relied on currently. No Credit Party has incurred liability for any material excise tax under any of Sections 4971 through 5000 of the Code.

(b) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Credit Party and each Subsidiary is in compliance with the applicable provisions of ERISA and the provision of the Code relating to ERISA Plans and the regulations and published interpretations therein. During the thirty-six (36) month period prior to the [Closing Date](#) (i) no steps have been taken to terminate any Pension Plan, and (ii) no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which could result in the incurrence by any Credit Party of any material liability, fine or penalty. No Credit Party has incurred liability to the PBGC (other than for current premiums) with respect to any employee Pension Plan. All contributions (if any) have been made on a timely basis to any Multiemployer Plan that are required to be made by any Credit Party or any other member of the Controlled Group under the terms of the plan or of any collective bargaining agreement or by applicable Law; no Credit Party nor any member of the Controlled Group has withdrawn or partially withdrawn



from any Multiemployer Plan, incurred any withdrawal liability with respect to any such plan or received notice of any claim or demand for withdrawal liability or partial withdrawal liability from any such plan, and no condition has occurred which, if continued, could result in a withdrawal or partial withdrawal from any such plan, and no Credit Party nor any member of the Controlled Group has received any notice that any Multiemployer Plan is in reorganization, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of any excise tax, that any such plan is or has been funded at a rate less than that required under Section 412 of the Code, that any such plan is or may be terminated, or that any such plan is or may become insolvent.

Section 3.15 Consummation of Operative Documents; Brokers. Except for fees payable to Agent and/or Lenders, no broker, finder or other intermediary has brought about the obtaining, making or closing of the transactions contemplated by the Operative Documents, and no Credit Party has or will have any obligation to any Person in respect of any finder's or brokerage fees, commissions or other expenses in connection herewith or therewith.

Section 3.16 Related Transactions. All transactions contemplated by the Operative Documents to be consummated on or prior to the date hereof have been so consummated (including, without limitation, the disbursement and transfer of all funds in connection therewith) in all material respects pursuant to the provisions of the applicable Operative Documents, true and complete copies of which have been delivered to Agent, and in compliance with all applicable Law, except for such Laws the noncompliance with which would not reasonably be expected to have a Material Adverse Effect.

Section 3.17 Material Contracts. Except for the agreements set forth on Schedule 3.17(a), as of the Closing Date there are no Material Contracts. Schedule 3.17(b) sets forth, with respect to each real estate lease agreement to which any Credit Party is a party (as a lessee) as of the Closing Date, the address of the subject property and the annual rental (or, where applicable, a general description of the method of computing the annual rental). The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination in favor of any party to any Material Contract (other than any Credit Party), except any such termination which would not reasonably be expected to have a Material Adverse Effect.

Section 3.18 Compliance with Environmental Requirements; No Hazardous Materials. Except in each case as set forth on Schedule 3.18:

(a) no notice, notification, demand, request for information, citation, summons, complaint or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, or to such Credit Party's knowledge, threatened by any Governmental Authority or other Person with respect to any (i) alleged violation by any Credit Party of any Environmental Law, (ii) alleged failure by any Credit Party to have any Permits required in connection with the conduct of its business or to comply with the terms and conditions thereof, (iii) any generation, treatment, storage, recycling, transportation or disposal of any Hazardous Materials, or (iv) release of Hazardous Materials; and

(b) no property now owned or leased by any Credit Party and, to the knowledge of each Credit Party, no such property previously owned or leased by any Credit Party, to which any Credit Party has, directly or indirectly, transported or arranged for the transportation of any Hazardous Materials, is listed or, to such Credit Party's knowledge, proposed for listing, on the National Priorities List promulgated pursuant to CERCLA, or CERCLIS (as defined in CERCLA) or any similar state list or is the subject of federal, state or local enforcement actions or, to the knowledge of such Credit Party, other investigations which may lead to claims against any Credit Party for clean-up costs, remedial work, damage to natural resources or personal injury claims, including, without limitation, claims under CERCLA.

(c) For purposes of this Section 3.18, each Credit Party shall be deemed to include any business or business entity (including a corporation) that is, in whole or in part, a predecessor of such Credit Party.

Section 3.19 Intellectual Property. Each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property that is material to the condition (financial or other), business or operations of such Credit Party. All Intellectual Property existing as of the Closing Date which is issued, registered or pending with any United States or foreign Governmental Authority (including, without limitation, any and all applications for the registration of any Intellectual Property with any such United States or foreign Governmental Authority) and all licenses under which any Credit Party is the licensee of any such registered Intellectual Property (or any such application for the registration of Intellectual Property) owned by another Person are set forth on Schedule 3.19. Such Schedule 3.19 indicates in each case whether such registered Intellectual Property (or application therefor) is owned or licensed by such Credit Party, and in the case of any such licensed registered Intellectual Property (or application therefor), lists the name and address of the licensor and the name and date of the agreement pursuant to which such item of Intellectual Property is licensed and whether or not such license is an exclusive license and indicates whether there are any purported restrictions in such license on the ability to such Credit Party to grant a security interest in and/or to transfer any of its rights as a licensee under such license. Except as indicated on Schedule 3.19, the applicable Credit Party is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each such registered Intellectual Property (or application therefor) purported to be owned by such Credit Party, free and clear of any Liens and/or licenses in favor of third parties or agreements or covenants not to sue such third parties for infringement. All registered Intellectual Property of each Credit Party is duly and properly registered, filed or issued in the appropriate office and jurisdictions for such registrations, filings or issuances, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect. No Credit Party is party to, nor bound by, any material license or other agreement with respect to which any Credit Party is the licensee that prohibits or otherwise restricts such Credit Party from granting a security interest in such Credit Party's interest in such license or agreement or other property. To such Credit Party's knowledge, each Credit Party conducts its business without infringement or claim of infringement of any Intellectual Property rights of others and there is no infringement or claim of infringement by others of any Intellectual Property rights of any Credit Party, which infringement or claim of infringement could reasonably be expected to have a Material Adverse Effect.

Section 3.20 Solvency. As of (a) the Closing Date, the Borrower and each other Credit Party is (on a consolidated basis), and immediately after giving effect to the Transactions to occur on the Closing Date, is Solvent and (b) the date any Accounts of a Canadian Credit Party are initially included on any Borrowing Base Certificate, such Canadian Credit Party is, on a stand-alone basis, not an “insolvent person” as defined in the Bankruptcy and Insolvency Act (Canada).

Section 3.21 Full Disclosure. None of the written information (financial or otherwise) (other than any projections, budgets, pro forma financial statements, estimates and other forward-looking information (collectively, “**Projections**”), information of a general economic nature and third party reports and memoranda) concerning the Credit Parties, their Subsidiaries and the transactions contemplated hereby furnished by or on behalf of any Credit Party to Agent or any Lender in connection with the consummation of the transactions contemplated by the Operative Documents, when furnished and taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which such statements were made (in each case, after giving effect to all supplements and updates thereto from time to time). All Projections delivered to Agent and the Lenders by Borrowers (or their agents) have been prepared on the basis of the assumptions stated therein and such assumptions are believed by such Borrower to be fair and reasonable as of the date furnished in light of current business conditions; *provided, however*, that Borrowers can give no assurance that such Projections will be attained, such Projections are subject to significant uncertainties and contingencies many of which are beyond the Borrowers’ control, and actual results may vary materially.

Section 3.22 Canadian Pension Plans. All obligations of the Credit Parties (including fiduciary, funding, investment and administration obligations) required to be performed in connection with any Canadian Pension Plan and the funding agreements relating thereto have been performed on a timely basis. All contributions or premiums required to be made or paid by the Credit Parties to any Canadian Pension Plan have been made on a timely basis in accordance with the terms of such plans and all applicable laws. No event has occurred which could cause the loss of registered status of any Canadian Pension Plan. No fact or situation that may reasonably be expected to result in a Material Adverse Effect exists in connection with any Canadian Pension Plan. No Credit Party nor any of its Subsidiaries has any withdrawal liability in connection with a Canadian Pension Plan which could reasonably be expected to have a Material Adverse Effect. No Lien has arisen, choate or inchoate, in respect of any Credit Party or its Subsidiaries or its or their property in connection with any Canadian Pension Plan (save for contribution amounts not yet due). No Credit Party contributes to, sponsors or maintains, or has contributed to, sponsored or maintained (in the last 5 years), a Canadian Defined Benefit Plan. No Canadian Pension Event has occurred or is reasonably likely to occur.

Section 3.23 Subsidiaries. Credit Parties do not own any stock, partnership interests, limited liability company interests or other equity securities except for Permitted Investments.

Section 3.24 [Reserved].

Section 3.25 Borrowing Base Collateral. As to each Account that is identified by the Credit Parties as an Eligible Account in a Borrowing Base Certificate submitted to Agent, such

Account is, (i) a bona fide existing payment obligation of the applicable Account Debtor created by the sale and delivery of Inventory or the rendition of services to such Account Debtor in the Ordinary Course of Business of the applicable Credit Party, (ii) owed to the applicable Credit Party without any known defenses, disputes, offsets, counterclaims, or rights of return or cancellation, and (iii) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Billed Account, Eligible ~~Exar Billed Account, Eligible Unbilled Account, Eligible Exar~~ Unbilled Account, or Eligible Investment Grade Billed Account, as the case may be.

ARTICLE 4 - AFFIRMATIVE COVENANTS

Each Credit Party agrees that, so long as any Credit Exposure exists:

Section 4.1 **Financial Statements and Other Reports.** The Borrower Representative shall deliver to Agent, on behalf of itself and each other Credit Party:

(a) as soon as available, but no later than (i) thirty (30) days after the last day of each calendar month (other than the last month of any fiscal quarter) and (ii) forty-five (45) days after the last day of each of March, June, September and December, a company prepared consolidated balance sheet, cash flow and income statement (including year-to-date results), in each case covering the Borrower Representative's and its Consolidated Subsidiaries' consolidated operations during the period, prepared under GAAP, consistently applied, setting forth in comparative form the corresponding figures as at the end of the corresponding month of the previous fiscal year and the projected figures for such period based upon the projections required hereunder, all in reasonable detail, certified by a Responsible Officer and in a form acceptable to Agent; *provided* that solely for the period commencing as of the Closing Date through and including December 31, 2025, the cash flow statements may be delivered quarterly;

(b) together with the financial reporting package described in (a) above, evidence of payment and satisfaction of all payroll, withholding and similar taxes due and owing by the Credit Parties with respect to the payroll period(s) occurring during such month;

(c) (x) prior to any initial public offering with respect to Borrower's equity interests as soon as available, but no later than one hundred twenty (120) days after the last day of Borrower's fiscal year, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Agent in its reasonable discretion (except for a qualification solely related to a going concern or with respect to any Debt which matures within twelve months from the time such opinion is delivered) or (y) following any such initial public offering, within fifteen (15) days after the time period specified in the SEC's rules and regulations for non-accelerated filers, annual reports of the Public Reporting Entity for such fiscal year containing the information that would have been required to be contained in an annual report on Form 10-K (or any successor or comparable form) if the Public Reporting



Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC;

(d) within five (5) days of delivery or filing thereof, copies of all statements, reports and notices made available to the Borrower Representative's security holders or to any holders of Subordinated Debt and copies of all reports and other filings made by a Credit Party with any stock exchange on which any securities of any Credit Party are traded and/or the SEC;

(e) a prompt written notice of any legal actions pending against any Credit Party or any Subsidiaries thereof that could reasonably be expected to result in damages or costs to any Credit Party or any of Subsidiaries thereof equal to or in excess of \$10,000,000 or may be reasonably expected to result in a Material Adverse Effect;

(f) prompt written notice of an event that materially and adversely affects the value of any material Intellectual Property owned by a Credit Party;

(g) promptly after the same become available, copies of any amendments, waivers or other modifications of or relating to the Term Loan Facility;

(h) budgets, sales projections, operating plans and other financial information and information, reports or statements regarding the Credit Parties, their business and the Collateral as Agent may from time to time reasonably request;

(i) along with the monthly reports delivered pursuant to Section 4.1(a) above, evidence reasonably satisfactory to Agent of each Credit Party's compliance with any payment plan or arrangement with any taxing authority with respect to Priority Tax Claims (as defined in the Plan of Reorganization), including copies of payment confirmations, material correspondence with taxing authorities and a schedule of outstanding Priority Tax Claims;

(j) as soon as available, but no later than five (5) days after the last day of each fiscal quarter, an updated Schedule 1.1 identifying the credit ratings of Investment Grade Account Debtors used in determination of Eligible Investment Grade Billed Accounts, in form and substance reasonably satisfactory to Agent;

(k) together with the delivery of the monthly financial statements described in clause (a) above, a duly completed Compliance Certificate signed by a Responsible Officer setting forth calculations showing compliance with the financial covenants set forth in this Agreement, including the Fixed Charge Coverage Ratio calculation and, during the Availability Block Period, whether an Availability Block is in effect and the amount thereof;

(l) promptly upon their becoming available, copies of all Swap Contracts and Material Contracts, in each case that are required to be publicly filed; and

(m) (i) as soon as available, but in any event no later than the second (2nd) Business Day of each week, a new "roll-forward" Borrowing Base Certificate (or,



at Borrower's option, a complete Borrowing Base Certificate), (ii) within twenty (20) days after the last day of each month, in arrears, a duly completed Borrowing Base Certificate signed by a Responsible Officer, with aged listings of accounts receivable and accounts payable (by invoice date); ~~provided that Borrower shall deliver such Borrowing Base Certificates as soon as available, but in any event no later than the second (2nd) Business Day of each week, in arrears, following the occurrence and during the continuance of a Cash Dominion Period; and provided, further, that Borrower shall deliver~~, and (iii) concurrently with any Notice of Borrowing, a new "roll-forward" Borrowing Base Certificate as required pursuant to Exhibit D (or, at Borrower's option, a complete Borrowing Base Certificate) concurrently with any Notice of Borrowing.

At the option of the Borrowers, the Borrowers may make available to Agent and such requesting Lenders the information required to be provided pursuant to clause (c) of the immediately preceding paragraph by posting such information to its website (or the website of any of the Borrower Representative's parent companies, including the Public Reporting Entity) on IntraLinks or any comparable online data system or website to which each Lender and Agent have access; provided, that the Borrower Representative shall notify (which may be by electronic mail) Agent of the posting of any such documents and provide to Agent by electronic mail electronic versions (i.e., soft copies) of such documents. If at any time the Borrowers or any direct or indirect parent of the Borrowers has made a good faith determination to file a registration statement with the SEC with respect to an initial public offering of such entity's equity interests, the Borrowers will not be required to disclose any information or take any actions that, in the good faith view of the Borrowers would violate the securities laws or the SEC's "gun jumping" rules.

Notwithstanding the foregoing, (A) neither the Credit Parties nor another Public Reporting Entity will be required to deliver any information, certificates or reports that would otherwise be required by (i) Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 or 308 of Regulation S-K or (ii) Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-generally accepted accounting principles financial measures contained therein, (B) such reports will not be required to contain financial information required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X or include any exhibits or certifications required by Form 10-K, Form 10-Q or Form 8-K (or any successor or comparable forms) or related rules under Regulation S-K and (C) such reports shall not be required to present compensation or beneficial ownership information.

The financial statements, information and other documents required to be provided as described in clause (c) of the first paragraph of this Section 4.1 may be those of (i) the Borrower Representative and its Subsidiaries (on a combined basis) or (ii) any direct or indirect parent of all of the Credit Parties (any such entity, a "**Public Reporting Entity**"); provided, that, if the financial information so delivered relates to such direct or indirect parent of the Credit Parties the same is accompanied by consolidating financial statements (including statements of cash flows) that explain in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Borrower Representative and its Subsidiaries on a standalone basis, on the other hand, for the applicable period. Notwithstanding any of the foregoing herein, to the extent any of the Credit Parties' parent companies is subject to the reporting requirements under Section 13 or 15(d) of the Exchange Act, such information



described in this paragraph shall be included in the Form 10-K reports of the Public Reporting Entity described in clause (c) of the first paragraph of this Section 4.1 filed with the SEC.

Notwithstanding the foregoing, the Credit Parties will be deemed to have delivered such reports and information referred to in this Section 4.1 to the Lenders and Agent for all purposes of this Agreement if the Credit Parties or another Public Reporting Entity has filed such reports with the SEC via the EDGAR filing system (or any successor system), and such reports are publicly available. In addition, except as required by the last sentence of the immediately preceding paragraph, the requirements of this Section 4.1 shall be deemed satisfied and the Credit Parties will be deemed to have delivered such reports and information referred to this Section 4.1 to Agent, holders, prospective investors, market makers and securities analysts for all purposes of this Agreement by the posting of reports and information that would be required to be provided on the Borrower's website (or that of any of the Credit Parties' parent companies, including the Public Reporting Entity). Agent shall have no obligation to monitor whether the Credit Parties post such reports, information and documents on the Borrower's website (or that of any of the Credit Parties' parent companies, including the Public Reporting Entity) or the SEC's EDGAR service, or collect or re-post any such information from any Credit Party (or any of the Credit Parties' parent companies) website or the SEC's EDGAR service.

Section 4.2 Payment and Performance of Obligations. Each Credit Party (a) will pay and discharge, and cause each Subsidiary to pay and discharge, on a timely basis as and when due, in accordance with Applicable Law, all of their respective obligations and liabilities, except for such obligations and/or liabilities (i) that may be the subject of a Permitted Contest or (ii) the nonpayment or nondischarge of which could not reasonably be expected to have a Material Adverse Effect or result in a Lien against any Collateral, except for Permitted Liens, (b) without limiting anything contained in the foregoing clause (a), pay all amounts due and owing in respect of Taxes (including without limitation, payroll and withholdings tax liabilities) on a timely basis as and when due, and in any case prior to the date on which any material fine, penalty, interest, late charge or loss may be added thereto for nonpayment thereof, except (i) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization or otherwise satisfied in accordance with the Plan of Reorganization (provided, that, for the avoidance of doubt, the Credit Parties shall pay Taxes to the extent required under and in accordance with the Plan of Reorganization), and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP, (c) will maintain, and cause each Subsidiary to maintain, in accordance with GAAP, appropriate reserves for the accrual of all of their respective obligations and liabilities, and (d) will not breach or permit any Subsidiary to breach, or permit to exist any default under, the terms of any lease, commitment, contract, instrument or obligation to which it is a party, or by which its properties or assets are bound, except for such breaches or defaults which could not reasonably be expected to have a Material Adverse Effect.

Section 4.3 Maintenance of Existence. Each Credit Party will preserve, renew and maintain in full force and effect and in good standing under the laws of its jurisdiction of organization, and will cause each Subsidiary to preserve, renew and keep in full force and effect and in good standing under the laws of its jurisdiction of organization, their respective existence and (except in the case failure to do so could not reasonably be expected to have a Material



Adverse Effect except solely with respect to any jurisdiction other than the jurisdiction of organization of such Credit Party or Subsidiary) their respective rights, privileges and franchises necessary or desirable in the normal conduct of business.

Section 4.4 Maintenance of Property; Insurance.

(a) Each Credit Party will keep, and will cause each Subsidiary to keep, all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect. If all or any part of the Collateral useful or necessary in its business, or upon which any Borrowing Base is calculated, becomes damaged or destroyed, each Credit Party will, and will cause each Subsidiary to, promptly and completely repair and/or restore the affected Collateral in a good and workmanlike manner (except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect), regardless of whether Agent agrees to disburse insurance proceeds or other sums to pay costs of the work of repair or reconstruction.

(b) Upon completion of any Permitted Contest, Credit Parties shall, and will cause each Subsidiary to, promptly pay the amount due, if any, and deliver to Agent proof of the completion of the contest and payment of the amount due, if any (except in each case to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect), following which Agent shall return the security, if any, deposited with Agent pursuant to the definition of Permitted Contest.

(c) Each Credit Party will maintain (i) casualty insurance on all real and personal property on an all risks basis (including the perils of flood, windstorm and quake), covering the repair and replacement cost of all such property and coverage, business interruption and rent loss coverages with extended period of indemnity (for the period required by Agent from time to time) and indemnity for extra expense, in each case without application of coinsurance and with agreed amount endorsements, (ii) general and professional liability insurance (including products/completed operations liability coverage), and (iii) such other insurance coverage in such amounts and with respect to such risks as Agent may request from time to time, pursuant to the Insurance Requirements attached hereto as Schedule 4.4; *provided, however*, that, in no event shall such insurance be in amounts or with coverage less than, or with carriers with qualifications inferior to, any of the insurance or carriers in existence as of the Closing Date (or required to be in existence after the Closing Date under a Financing Document). All such insurance shall be provided by insurers having an A.M. Best policyholders rating reasonably acceptable to Agent.

(d) On or prior to the Closing Date (subject to Section 7.4), and at all times thereafter, each Credit Party will cause Agent to be named as an additional insured, assignee and lender loss payee (which shall include, as applicable, identification as mortgagee), as applicable, on each insurance policy required to be maintained pursuant to this Section 4.4 pursuant to endorsements in form and substance acceptable to Agent. Credit Parties shall deliver to Agent and the Lenders (i) on the Closing Date (subject to

Section 7.4), a certificate from Credit Parties' insurance broker dated such date showing the amount of coverage as of such date, and that if all or any part of such policy is canceled, terminated or expires, the insurer will forthwith give notice thereof to each additional insured, assignee and loss payee and that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by each additional insured, assignee and loss payee of written notice thereof, (ii) upon the request of any Lender through Agent from time to time full information as to the insurance carried, (iii) within five (5) days of receipt of notice from any insurer, a copy of any notice of cancellation, nonrenewal or material change in coverage from that existing on the date of this Agreement, (iv) forthwith, notice of any cancellation or nonrenewal of coverage by any Credit Party, and (v) at least 60 days prior to expiration of any policy of insurance, evidence of renewal of such insurance upon the terms and conditions herein required.

(e) In the event any Credit Party fails to provide Agent with evidence of the insurance coverage required by this Agreement, Agent may purchase insurance at Credit Party's expense to protect Agent's interests in the Collateral. This insurance may, but need not, protect such Credit Party's interests. The coverage purchased by Agent may not pay any claim made by such Credit Party or any claim that is made against such Credit Party in connection with the Collateral. Such Credit Party may later cancel any insurance purchased by Agent, but only after providing Agent with evidence that such Credit Party has obtained insurance as required by this Agreement. If Agent purchases insurance for the Collateral, Credit Parties will be responsible for the costs of that insurance to the fullest extent provided by law, including interest and other charges imposed by Agent in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations. The costs of the insurance may be more than the cost of insurance such Credit Party is able to obtain on its own.

Section 4.5 Compliance with Laws and Material Contracts. Each Credit Party will comply, and cause each Subsidiary to comply, with the requirements of all applicable Laws and Material Contracts, except to the extent that failure to so comply could not reasonably be expected to have a Material Adverse Effect.

Section 4.6 Inspection of Property, Books and Records. Each Credit Party will keep, and will cause each Subsidiary to keep, proper books of record substantially in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities; and will permit, and will cause each Subsidiary to permit, at the sole cost of the applicable Credit Party or any applicable Subsidiary, representatives of Agent and of any Lender to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective operations and the Collateral, to verify the amount and age of the Accounts, the identity and credit of the respective Account Debtors, to review the billing practices of Credit Parties and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants as often as may reasonably be desired. In the absence of a Specified Default, Credit Parties shall not be required to reimburse Agent pursuant to this Section 4.6 more than one (1) time per fiscal year



(or, solely with respect to the 2026 fiscal year, two (2) times), and shall give the applicable Credit Party or any applicable Subsidiary commercially reasonable prior notice of such exercise, and subject to the aforesaid limitation absent a Specified Default, the Credit Parties shall be responsible for all documented fees, expenses and other costs pursuant to Section 2.2(i). At any time following the occurrence and during the continuance of a Specified Default, Agent may exercise its rights under this Section 4.6, without prior notice.

Section 4.7 Use of Proceeds. Credit Parties shall use the proceeds of Revolving Loans solely for (a) transaction fees incurred in connection with the Financing Documents and the refinancing on the Closing Date of Debt, (b) for working capital and general corporate needs of Borrowers and their Subsidiaries and (c) to effect the Transactions in accordance with the Plan of Reorganization, to make payments and distributions under the Plan of Reorganization, and to pay the Transaction Costs. No portion of the proceeds of the Loans will be used for family, personal, agricultural or household use.

Section 4.8 Notices of Litigation and Defaults. Credit Parties will give prompt written notice to Agent (a) of any litigation or governmental proceedings pending or threatened (in writing) against Borrowers or any other Credit Party which would reasonably be expected to have a Material Adverse Effect with respect to Borrowers or any other Credit Party or which in any manner calls into question the validity or enforceability of any Financing Document, (b) upon any Credit Party becoming aware of the existence of any Default or Event of Default, (c) if any Credit Party is in breach or default under or with respect to any Material Contract, or if any Credit Party is in breach or default under or with respect to any other contract, agreement, lease or other instrument to which it is a party or by which its property is bound or affected, which breach or default could reasonably be expected to have a Material Adverse Effect, (d) of any strikes or other labor disputes pending or, to any Credit Party's knowledge, threatened against any Credit Party, (e) if there is any infringement or claim of infringement by any other Person with respect to any Intellectual Property rights of any Credit Party, or if there is any claim by any other Person that any Credit Party in the conduct of its business is infringing on the Intellectual Property Rights of others, which in any such case could reasonably be expected to have a Material Adverse Effect, (f) the occurrence of any "default" or "event of default" under and as defined in the Term Loan Agreement, and (g) of all returns, recoveries, disputes and claims that involve more than the Threshold Amount. Each Credit Party represents and warrants that Schedule 4.9 sets forth a complete list of all matters existing as of the Closing Date for which notice could be required under this Section and all litigation or governmental proceedings pending or threatened (in writing) against any Credit Party as of the Closing Date.

Section 4.9 Hazardous Materials; Remediation.

(a) If any release or disposal of Hazardous Materials shall occur or shall have occurred on any real property or any other assets of any Borrower or any other Credit Party, such Borrower or Credit Party will cause, or direct the applicable Subsidiary to cause, the prompt containment and removal of such Hazardous Materials and the remediation of such real property or other assets as is necessary to comply with all Environmental Laws and to preserve the value of such real property or other assets. Without limiting the generality of the foregoing, each Credit Party shall, and shall cause each other Subsidiary to, comply with each Environmental Law requiring the

performance at any real property by any Borrower or any other Credit Party of activities in response to the release or threatened release of a Hazardous Material.

(b) Credit Parties will provide Agent within thirty (30) days after written demand therefor with a bond, letter of credit or similar financial assurance evidencing to the reasonable satisfaction of Agent that sufficient funds are available to pay the cost of removing, treating and disposing of any Hazardous Materials or Hazardous Materials Contamination and discharging any assessment which may be established on any property as a result thereof, such demand to be made, if at all, upon Agent's reasonable business determination that the failure to remove, treat or dispose of any Hazardous Materials or Hazardous Materials Contamination, or the failure to discharge any such assessment could reasonably be expected to have a Material Adverse Effect.

Section 4.10 Further Assurances.

(a) Each Credit Party will, and will cause each Subsidiary to, at its own cost and expense, promptly and duly take, execute, acknowledge and deliver all such further acts, documents and assurances as may from time to time be necessary or as Agent or the Required Lenders may from time to time reasonably request in order to carry out the intent and purposes of the Financing Documents and the transactions contemplated thereby, including all such actions to establish, create, preserve, protect and perfect a first priority Lien (subject only to Permitted Liens and to the ABL Intercreditor Agreement) in favor of Agent for itself and for the benefit of the Lenders on the Collateral (including Collateral acquired after the date hereof). Without limiting the generality of the foregoing, (x) Credit Parties shall, at the time of the delivery of any Compliance Certificate disclosing the acquisition by an Credit Party of any registered Intellectual Property or application for the registration of Intellectual Property, deliver to Agent a duly completed and executed supplement to the applicable Credit Party's Patent Security Agreement or Trademark Security Agreement in the form of the respective Exhibit thereto, and (y) at the request of Agent, following the disclosure by Credit Parties on any Compliance Certificate of the acquisition by any Credit Party of any rights under a license as a licensee with respect to any registered Intellectual Property or application for the registration of any Intellectual Property owned by another Person, Credit Parties shall execute any documents requested by Agent to establish, create, preserve, protect and perfect a first priority lien in favor of Agent (subject only to Permitted Liens and to the ABL Intercreditor Agreement), to the extent legally possible, in such Credit Party's rights under such license.

(b) Upon receipt of an affidavit of an authorized representative of Agent or a Lender as to the loss, theft, destruction or mutilation of any Note or any other Financing Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other applicable Financing Document, Credit Parties will issue, in lieu thereof, a replacement Note or other applicable Financing Document, dated the date of such lost, stolen, destroyed or

mutilated Note or other Financing Document in the same principal amount thereof and otherwise of like tenor.

(c) Upon the formation or acquisition of a new Subsidiary (other than an Excluded Subsidiary), Credit Parties shall, within ten (10) Business Days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) Agent (in each case acting at the direction of the Required Lenders)) after such formation or acquisition, (i) pledge, have pledged or cause or have caused to be pledged to Agent (or to the Term Agent as bailee) pursuant to a pledge agreement in form and substance satisfactory to Agent, all of the outstanding shares of equity interests or other equity interests of such new Subsidiary owned directly or indirectly by any Credit Party, along with undated stock or equivalent powers for such certificates, executed in blank; (ii) unless Agent shall agree otherwise in writing, cause the new Subsidiary to take such other actions (including entering into or joining any Security Documents) as are necessary or advisable in the reasonable opinion of Agent in order to grant Agent, acting on behalf of the Lenders, a first priority Lien on all real and personal property of such Subsidiary in existence as of such date and in all after acquired property (subject only to Permitted Liens and to the ABL Intercreditor Agreement), which first priority Liens are required to be granted pursuant to this Agreement; (iii) unless Agent shall agree otherwise in writing, cause such new Subsidiary to become a Guarantor of the obligations of Credit Parties hereunder and under the other Financing Documents pursuant to a Guarantee Supplement; and (iv) cause the new Subsidiary to deliver certified copies of such Subsidiary's certificate or articles of incorporation, together with good standing certificates, by-laws (or other operating agreement or governing documents), resolutions of the Board of Directors or other governing body, approving and authorize the execution and delivery of the Security Documents, incumbency certificates and to execute and/or deliver such other documents and legal opinions or to take such other actions as may be requested by Agent, in each case, in form and substance satisfactory to Agent.

Notwithstanding the foregoing, no Excluded Subsidiary shall be required to become a Guarantor hereunder (and, as such, shall not be required to deliver the documents required by this clause (c) above); provided, however, that (I) if the equity interests of a foreign Subsidiary that is an Excluded Subsidiary are owned by a Credit Party, such Credit Party shall deliver all such documents, instruments, agreements (including, without limitation, at the reasonable request of Agent, a pledge agreement governed by the laws of the jurisdiction of the organization of such Excluded Subsidiary, in form and substance satisfactory to Agent) and certificates representing such equity interests to Agent, and take all commercially reasonable actions reasonably requested by Agent or otherwise necessary to grant and to perfect a first-priority Lien (subject to Permitted Liens) in favor of Agent, in 100% of all equity interests of such foreign Subsidiary owned by such Credit Party, and (II) promptly and in any event within 20 days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) Agent (in each case acting at the direction of the Required Lenders)) after the effectiveness of any amendment of the Internal Revenue Code to allow for 100% of the voting equity interests of such foreign Subsidiary to be pledged to Agent without material adverse tax consequences to the



Credit Parties and their Subsidiaries, 100% of such voting equity interests shall be pledged pursuant to this clause (c). For purposes hereof, Subsidiaries incorporated, formed or organized under the laws of Canada or any province or territory thereof shall not be considered foreign Subsidiaries.

Section 4.11 [Reserved].

Section 4.12 **Power of Attorney.** After the occurrence and during the continuance of an Event of Default, each of the authorized representatives of Agent is hereby irrevocably made, constituted and appointed the true and lawful attorney for each Credit Party (without requiring any of them to act as such) with full power of substitution to do the following: (a) endorse the name of each Credit Party upon any and all checks, drafts, money orders, and other instruments for the payment of money that are payable to each Credit Party and constitute collections on such Credit Party's Accounts; (b) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower to perform the same and Borrower has failed to take such action, execute in the name of any Credit Party any schedules, assignments, instruments, documents, and statements that Credit Parties are obligated to give Agent under this Agreement; (c) take any action Credit Parties are required to take under this Agreement; (d) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower to perform the same and Borrower has failed to take such action, do such other and further acts and deeds in the name of Credit Parties that Agent may deem necessary or desirable to enforce any Account or other Collateral or perfect Agent's security interest or Lien in any Collateral; and (e) do such other and further acts and deeds in the name of Credit Parties that Agent may deem necessary or desirable to enforce its rights with regard to any Account or other Collateral. This power of attorney shall be irrevocable and coupled with an interest.

Section 4.13 **Borrowing Base Collateral Administration.**

(a) All data and other information relating to Accounts or other intangible Collateral shall at all times be kept by Credit Parties, at their respective principal offices and shall not be moved from such locations without (i) providing prior written notice to Agent, and (ii) obtaining the prior written consent of Agent, which consent shall not be unreasonably withheld.

(b) Credit Parties shall provide prompt written notice to each Person who either is currently an Account Debtor or becomes an Account Debtor at any time following the date of this Agreement that directs each Account Debtor to make payments into the Lockbox, and hereby authorizes Agent, upon Credit Parties' failure to send such notices within ten (10) days after the date of this Agreement (or ten (10) days after the Person becomes an Account Debtor), to send any and all similar notices to such Person. Agent reserves the right to notify Account Debtors that Agent has been granted a Lien upon all Accounts.

Section 4.14 **Maintenance of Management.** Borrower will cause its business to be continuously managed by its present chief executive officer and chief financial officer or such other individuals serving in such capacities as shall be reasonably satisfactory to Agent.

Borrower will notify Agent promptly in writing of any change in its board of directors or executive officers.

ARTICLE 5 - NEGATIVE COVENANTS

Each Credit Party agrees that, so long as any Credit Exposure exists:

Section 5.1 Debt; Contingent Obligations. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, incur, assume, guarantee or otherwise become or remain directly or indirectly liable with respect to, any Debt, except for Permitted Debt. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, assume, incur or suffer to exist any Contingent Obligations, except for Permitted Contingent Obligations.

Section 5.2 Liens. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except for Permitted Liens.

Section 5.3 Restricted Distributions. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, declare, order, pay, make or set apart any sum for any Restricted Distribution, except for Permitted Distributions.

The Borrowers, in their sole discretion, may classify any Permitted Distribution or Permitted Investment as being made in part under one of the clauses or subclauses of the definitions of “Permitted Distribution” and “Permitted Investments” and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section 5.3 to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (i), (k), (p) and (q) of the definition of “Permitted Investments.”

Section 5.4 Restrictive Agreements. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) enter into or assume any agreement (other than the Financing Documents, the Term Loan Documents, the Exit Notes and the B. Riley Credit Agreement (and extensions, modifications and replacements of any of the foregoing that are not materially more restrictive with respect to dividend and payment restrictions), any agreement or instrument of a Person acquired by a Credit Party or a Subsidiary in existence at the time of such acquisition (which restriction is not applicable to any Person, or the assets of any Person, other than the Person, or the assets of the Person, so acquired), any secured Permitted Debt that limits the right of the debtor to dispose of the assets securing such Debt, any agreements for purchase money debt permitted under clause (c) of the definition of Permitted Debt, and any customary restrictions and conditions contained in agreements relating to the sale or other disposition of assets pending such sale or other disposition) prohibiting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or (b) create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind (except as provided by the Financing Documents, the Term Loan Documents, the Exit Notes and the B. Riley Credit Agreement (and extensions, modifications and replacements of any of the foregoing that are not materially more restrictive with respect to dividend and payment restrictions)), any agreement or instrument of a Person acquired by a Credit Party or a Subsidiary in existence at the time of such acquisition (which restriction is not applicable to any



Person, or the assets of any Person, other than the Person, or the assets of the Person, so acquired), any secured Permitted Debt that limits the right of the debtor to dispose of the assets securing such Debt, any agreements for purchase money debt permitted under clause (c) of the definition of Permitted Debt and customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business or consistent with industry norm, on the ability of any Subsidiary to: (i) pay or make Restricted Distributions to any Credit Party or any Subsidiary; (ii) pay any Debt owed to any Credit Party or any Subsidiary; (iii) make loans or advances to any Borrower or any Subsidiary; or (iv) transfer any of its property or assets to any Credit Party or any Subsidiary.

Section 5.5 Payments and Modifications of Subordinated Debt. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) declare, pay, make or set aside any amount for payment in respect of Subordinated Debt, except for payments made in full compliance with and expressly permitted under the Subordination Agreement and payments permitted by Section 5.3, (b) amend or otherwise modify the terms of any Subordinated Debt, except for amendments or modifications made in full compliance with the Subordination Agreement, (c) declare, pay, make or set aside any amount for payment in respect of any Debt hereinafter incurred that, by its terms, or by separate agreement, is payment subordinated to the Obligations, except for payments made in full compliance with and expressly permitted under the subordination provisions applicable thereto and payments permitted by Section 5.3, or (d) amend or otherwise modify the terms of any such Debt if the effect of such amendment or modification is to (i) increase the interest rate or fees on, or change the manner or timing of payment of, such Debt, (ii) accelerate or shorten the dates upon which payments of principal or interest are due on, or the principal amount of, such Debt, (iii) change in a manner adverse to any Credit Party or Agent any event of default or add or make more restrictive any covenant with respect to such Debt, (iv) change the prepayment provisions of such Debt or any of the defined terms related thereto, (v) change the subordination provisions thereof (or the subordination terms of Section 12.7 hereof or any other guarantee thereof), or (vi) change or amend any other term if such change or amendment would materially increase the obligations of the obligor or confer additional material rights on the holder of such Debt in a manner adverse to any Credit Party, any Subsidiaries, Agents or Lenders. Credit Parties shall, prior to entering into any such amendment or modification, deliver to Agent reasonably in advance of the execution thereof, any final or execution form copy thereof.

Section 5.6 Consolidations, Mergers and Sales of Assets; Change in Control. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) consolidate or merge or amalgamate with or into any other Person unless the surviving Person is such Credit Party (or if no Credit Party is a party thereto, the surviving person is a Guarantor, or if no Credit Party is a party thereto, the surviving Person is such Subsidiary), or (b) consummate any Asset Dispositions other than Permitted Asset Dispositions. No Credit Party will suffer or permit to occur any Change in Control.

Section 5.7 Purchase of Assets, Investments. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) acquire or enter into any agreement to acquire any assets other than in the Ordinary Course of Business or as permitted under the definition of

Permitted Investments; or (b) acquire or own or enter into any agreement to acquire or own any Investment in any Person other than Permitted Investments.

The Borrowers, in their sole discretion, may classify any Permitted Investment as being made in part under one of the clauses or subclauses of the definitions of “Permitted Distribution” and “Permitted Investments” and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section 5.7 to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (i), (k), (p) and (q) of the definition of “Permitted Investments.”

Section 5.8 Transactions with Affiliates. Except as otherwise disclosed on Schedule 5.8, and except for transactions which contain terms that are no less favorable to the applicable Credit Party or any Subsidiary, as the case may be, than those which might be obtained from a third party not an Affiliate of any Credit Party or that do not involve consideration in excess of \$5,000,000, no Credit Party will, or will permit any Subsidiary to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of any Credit Party (each, an “**Affiliate Transaction**”), other than:

(a) any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25,000,000, in connection with which the Credit Parties deliver to Agent (i) a resolution adopted in good faith by a majority of disinterested directors of the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions) approving such Affiliate Transaction and set forth in an officer’s certificate certifying that such Affiliate Transaction complies with the above requirements of this Section 5.8 or (ii) if there are no directors on the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions) that are disinterested with respect to such transaction(s), a letter from an independent financial advisor stating that such transaction is fair to the applicable Credit Party or such Subsidiary from a financial point of view;

(b) the Transactions, the payment of professional fees and expenses in connection therewith (*provided* that, with respect to the payment of professional fees and expenses of Cleary Gottlieb Steen & Hamilton LLP and Ropes & Gray LLP, such payment shall be made as follows and on the following dates: (i) on the Closing Date, each legal advisor shall be paid a sum equal to (x) one third of the estimated amount of such advisor’s professional fees and expenses as set forth on the funds flow delivered by the Borrower as of the Closing Date, *plus* (y) 50% of any amount that is in excess of \$25,900,000 retained by the Borrower on the Closing Date (provided that such excess amount shall not exceed \$1,000,000), (ii) on the date that is forty-five (45) days following the Closing Date, each legal advisor shall be paid a sum equal to 50% of the outstanding amount of such advisor’s total professional fees and expenses, and (iii) on the date that is ninety (90) days following the Closing Date, each legal advisor shall be paid a sum equal to the remaining 50% of each legal advisor’s total professional fees and expenses), the issuance of equity interests (other than disqualified stock) of the



Borrowers to any Person, and any Affiliate Transaction that constitutes a Permitted Distribution, a Permitted Investment or a Permitted Asset Disposition;

(c) any Affiliate Transaction the only parties thereto constitute Credit Parties;

(d) (i) sales or contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility amended and restated by that certain Exar Facility Amendment or (ii) the purchase of participation interests by any Credit Party in the B. Riley Credit Agreement;

(e) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the applicable Credit Party, any Subsidiary, or any direct or indirect parent of the Credit Parties in the ordinary course of business, provided that the payment of any such fees or reimbursements to, on behalf of, or for the account of, shareholders of Parent, Affiliates of Parent or any of their respective Affiliates (other than the Parent and its Subsidiaries) shall not be permitted other than payment or reimbursement of fees and expenses incurred by Ernst & Young in connection with Ernst & Young's determination or re-determination (if any) of the Transaction Tax Liability (as defined in the Plan of Reorganization), and provided, further, that no such payments shall be permitted under this clause (e) to any of ETI or its Affiliates (other than the Parent and its Subsidiaries) for, or in respect of, or as reimbursement for, any consultants;

(f) transactions between or among the Borrowers and/or any of their Subsidiaries (or an entity that becomes a Subsidiary as a result of such transaction) in the ordinary course of business and any merger, consolidation or amalgamation of the Borrowers and any direct parent of the Borrowers; provided, that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the capital stock of the Borrowers and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Agreement and effected for a bona fide business purpose;

(g) incurrence, transfer or assignment of loans in accordance with the terms of the Term Loan Agreement and performance of the obligations thereunder and issuance, transfer or assignment of Exit Notes in accordance with the terms of the Exit Notes Indenture and performance of the obligations thereunder;

(h) the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under the terms of, any stockholders or similar agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Closing Date and any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Closing Date shall only be permitted by



this clause (h) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the Lenders in any material respect than the original transaction, agreement or arrangement as in effect on the Closing Date, as determined in good faith by the Borrowers;

(i) intercompany transactions for the purpose of improving the consolidated tax efficiency of the Borrowers and their respective Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement; and

(j) the entering into of any tax sharing agreement or arrangement that complies with clause (e) of the definition of “Permitted Distributions” and the performance under any such agreement or arrangement.

Section 5.9 Modification of Organizational Documents. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, amend or otherwise modify any Organizational Documents of such Person, except for Permitted Modifications.

Section 5.10 Modification of Certain Agreements. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, amend or otherwise modify any Material Contract, which amendment or modification in any case: (a) is contrary to the terms of this agreement or any other Financing Document; or (b) could reasonably be expected to be materially adverse to the rights, interests or privileges of Agent or the Lenders or their ability to enforce the same. Each Credit Party shall, prior to entering into any material amendment or other modification of any of the foregoing documents, deliver to Agent reasonably in advance of the execution thereof, any final or execution form copy of amendments or other modifications to such documents.

Section 5.11 Conduct of Business. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, engage in any line of business other than those businesses engaged in on the Closing Date and described on Schedule 5.11 and businesses reasonably related thereto. No Credit Party will, or will permit any Subsidiary to, other than in the Ordinary Course of Business, change its normal billing payment and reimbursement policies and procedures with respect to its Accounts (including, without limitation, the amount and timing of finance charges, fees and write-offs).

Section 5.12 Lease Payments. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, incur or assume (whether pursuant to a guarantee or otherwise) any liability for rental payments except in the Ordinary Course of Business.

Section 5.13 Limitation on Sale and Leaseback Transactions. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, enter into any arrangement with any Person whereby, in a substantially contemporaneous transaction, any Credit Party or any Subsidiaries sells or transfers all or substantially all of its right, title and interest in an asset and, in connection therewith, acquires or leases back the right to use such asset.

Section 5.14 Deposit Accounts and Securities Accounts; Payroll and Benefits Accounts. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, establish

any new Deposit Account or Securities Account without prior written notice to Agent, and unless Agent, such Credit Party or such Subsidiary and the bank, financial institution or securities intermediary at which the account is to be opened enter into a Control Agreement prior to or concurrently with the establishment of such Deposit Account or Securities Account (except with respect to Excluded Accounts). As of the date such updated schedule is delivered pursuant to Section 7.4, each Credit Party represents and warrants that Schedule 5.14 lists all of the Deposit Accounts and Securities Accounts of each Credit Party as of the date such updated schedule is delivered pursuant to Section 7.4. The provisions of this Section requiring Control Agreements shall not apply to Deposit Accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Credit Party's employees and identified to Agent by each Credit Party as such (such Accounts, the "**Excluded Accounts**"); *provided, however*, that at all times that any Obligations remain outstanding, Credit Party shall maintain one or more separate Deposit Accounts to hold any and all amounts to be used for payroll, payroll taxes and other employee wage and benefit payments, and shall not commingle any monies allocated for such purposes with funds in any other Deposit Account.

Section 5.15 Compliance with Anti-Terrorism Laws. Agent hereby notifies Credit Parties that pursuant to the requirements of Anti-Terrorism Laws, and Agent's policies and practices, Agent is required to obtain, verify and record certain information and documentation that identifies Credit Parties and its principals, which information includes the name and address of each Credit Party and its principals and such other information that will allow Agent to identify such party in accordance with Anti-Terrorism Laws. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, knowingly enter into any Material Contracts with any Blocked Person or any Person listed on the OFAC Lists. Each Credit Party shall immediately notify Agent if such Credit Party has knowledge that any Credit Party, any Subsidiaries, any additional Credit Party or any of their respective Affiliates or agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement is or becomes a Blocked Person or (a) is convicted on, (b) pleads nolo contendere to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law. The foregoing will not apply to any Person that qualifies as a corporation that is registered or incorporated under the laws of Canada or any province or territory thereof and that carries on business in whole or in part in Canada within the meaning of Section 2 of the Foreign Extraterritorial Measures (United States) Order, 1992 passed under the Foreign Extraterritorial Measures Act (Canada) in so far as such representations would result in a violation of or conflict with the Foreign Extraterritorial Measures Act (Canada) or any similar law.

Section 5.16 Canadian Defined Benefit Plans. No Credit Party shall establish, sponsor, maintain, administer, contribute to or otherwise incur liability under any Canadian

Defined Benefit Plan or acquire an interest in any Person that sponsors, maintains, administers, contributes to or otherwise has incurred liability under any Canadian Defined Benefit Plan.

ARTICLE 6 - FINANCIAL COVENANTS

Section 6.1 **Fixed Charge Coverage Ratio.** Credit Parties shall not permit the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries, as follows: (i) to be tested quarterly until and including the Defined Period ending December 31, 2025, to be less than 0.85 to 1.00, (ii) to be tested monthly until and including (a) for the Defined Period beginning January 1, 2026 until and including June 30, 2026, to be less than 0.85 to 1.00, and (b) for the Defined Period beginning July 1, 2026, until and including the Termination Date, to be less than 1.00 to 1.00.

Section 6.2 **Minimum Excess Availability.** During the period commencing as of the Closing Date through and including ~~June 30, 2026~~the Third Amendment Effective Date, Excess Availability shall not be less than \$7,500,000 at any time for three (3) or more consecutive Business Days.

Section 6.3 **Evidence of Compliance.** Credit Parties shall furnish to Agent, together with the financial reporting required of Credit Parties in Section 4.1 hereof, a Compliance Certificate as evidence of Credit Parties' compliance with the covenants in this Article and evidence that no Event of Default specified in this Article has occurred. The Compliance Certificate shall include, without limitation, (a) a statement and report, on a form approved by Agent, detailing Borrower's' calculations, and (b) if requested by Agent, back-up documentation (including, without limitation, invoices, receipts and other evidence of costs incurred during such quarter as Agent shall reasonably require) evidencing the propriety of the calculations.

ARTICLE 7 - CONDITIONS

Section 7.1 **Conditions to Closing.** The obligation of each Lender to make the initial Loans on the Closing Date shall be subject to the receipt by Agent of each agreement, document and instrument set forth on the closing checklist prepared by Agent or its counsel, each in form and substance satisfactory to Agent, and such other closing deliverables reasonably requested by Agent and Lenders, and to the satisfaction of the following conditions precedent, each to the satisfaction of Agent and Lenders and their respective counsel in their sole discretion:

(a) **Consummation of Transactions.** Evidence of the consummation of the Transactions (other than the funding of the Loan and the closing of any acquisition for which the proceeds of the Loan are purchase money) contemplated by the Operative Documents including, without limitation, the funding of any and all investments contemplated by the Operative Documents;

(b) **Secretary Certificates; Corporate Deliverables.** Agent shall have received:

(i) copies of the certificate or articles of incorporation and by-laws (or other similar governing documents serving the purposes) of each Credit Party, certified as of the Closing Date as complete and correct copies



thereof by a Responsible Officer or another authorized representative of each Credit Party;

(ii) a copy of the resolutions or equivalent action, in form and substance reasonably satisfactory to Agent, of each Credit Party authorizing, as applicable, the execution and delivery of this Agreement and the other Financing Documents and the performance of this Agreement and the transactions contemplated hereby and thereby, certified by a Responsible Officer or another authorized representative of each Credit Party as of the Closing Date, which certificate shall state that the resolutions or other action thereby certified have not been amended, restated, amended and restated, modified (except as any later such resolution or other action may modify any earlier such resolution or other action), revoked or rescinded and are in full force and effect as of the Closing Date;

(iii) such certificates of good standing (to the extent such concept exists) from the applicable secretary of state of the state of organization of each Credit Party, certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Credit Party as Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Financing Documents to which such Credit Party is a party or is to be a party on the Closing Date;

(c) **Financing Documents.** Agent shall have received an executed Canadian Security Agreement, each dated as of the Closing Date, together with all other applicable Financing Documents;

(d) **Closing Certificate.** Agent shall have received a certificate of Credit Parties, dated as of the Closing Date, substantially in the form of **Exhibit E**;

(e) **Solvency Certificate.** Agent shall have received a solvency certificate signed by the chief financial officer on behalf of the Credit Parties, substantially in the form of **Exhibit G**, after giving effect to the Transactions or, at the Credit Parties' option, a solvency opinion from an independent investment bank or valuation firm of nationally recognized standing;

(f) **Representations and Warranties.** Each of the representations and warranties of each Credit Party contained in or pursuant to the Financing Documents shall be true, correct and complete on and as of the Closing Date, except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date;

(g) **Legal Opinions.** Agent shall have received an executed legal opinion of (i) Latham & Watkins LLP, special New York counsel to the Credit Parties, (ii) Gowling WLG (Canada) LLP, counsel to the Credit Parties in Ontario, Canada, and (iii) legal counsel of the Credit Parties in Iowa, Minnesota, South Carolina and each of



the other jurisdictions of organization or formation of the Credit Parties requested by the Agent, in each case in form and substance reasonably satisfactory to Agent;

(h) **Approvals.** Borrower and the other Credit Parties shall have received all governmental, shareholder and third-party approvals, consents, licenses and permits required in connection with this Agreement, the Transactions and the related financings and transactions contemplated thereby, which such approvals, consents, licenses and permits remain in full force and effect;

(i) **No Litigation.** Other than the Chapter 11 Cases, as of the Closing Date, there shall not be any litigation, action, suit, investigation or other arbitral, administrative or judicial proceeding pending or, to the knowledge of the Credit Parties, threatened against any Credit Party or any of their Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Operative Documents, or (b) that could reasonably be expected to have a Material Adverse Effect on the Credit Parties and their Subsidiaries, taken as a whole;

(j) **No Default.** Immediately before and after the Closing Date, no Default or Event of Default shall have occurred and be continuing;

(k) **Term Loan Facility.** Agent shall have received true and correct copies of the Term Loan Documents, which shall be in full force and effect;

(l) **Closing Date Debt.** In connection with the Transactions, as of the Closing Date, the Borrower and the other Credit Parties shall not have incurred more than (i) \$200,988,002 of Exit Notes and (ii) \$60,000,000 of term loans under the Term Loan Agreement;

(m) **Payoff Documentation.** Agent shall have received true and correct copies of the pay-off letters and other evidence (together with accompanying termination statements and lien releases) confirming the termination of all obligations and release of all Liens under each of the third party Debt for borrowed money described to be paid off on the Closing Date pursuant to the Confirmation Order;

(n) **Fees; Costs and Expenses.** Agent shall have received all fees due and payable on or prior to the Closing Date, to the extent invoiced at least two (2) Business Days prior to the Closing Date (or such later date as the Borrower may reasonably agree), shall have been reimbursed for all reasonable and documented expenses (including the reasonable fees, charges and disbursements of Proskauer Rose LLP, counsel to Agent, and Norton Rose Fulbright Canada LLP, Canadian counsel to Agent) required to be reimbursed or paid by Borrowers hereunder or under any other Financing Document;

(o) **Material Adverse Change.** Since the Petition Date, there shall not have occurred any changes, events, circumstances, effects, developments, occurrences or state of facts that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect;



(p) **Borrowing Base Certificate.** Agent shall have received the initial Borrowing Base Certificate, prepared as of the Closing Date.

(q) **Plan of Reorganization Effective Date; Confirmation Order**

(i) All conditions precedent to the confirmation and effect, shall have been satisfied or waived in accordance with the terms thereof;

(ii) Agent shall have received a docketed copy of the Confirmation Order, and the Confirmation Order shall not have been reversed, vacated, amended, supplemented or otherwise modified in any matter that could reasonably be expected to materially adversely affect the interests of Agent or the Lenders;

(iii) the effective date under the Plan of Reorganization shall have occurred (or occur contemporaneously with the Closing Date);

(iv) there shall not be any Bankruptcy Court order or any action, suit, investigation or proceeding pending or, to the knowledge of the Credit Parties, threatened in any court or before any arbitrator or governmental authority that could reasonably be expected to have a Material Adverse Effect or to prevent or restrain the consummation of this Agreement and the transactions contemplated hereby;

(r) **Emergence.** Debtors shall have successfully consummated the Plan of Reorganization and emerged from the Chapter 11 Cases in accordance with the terms of the Plan of Reorganization;

(s) **Insurance.** Except as set forth in Section 7.4, Agent shall have received evidence of all insurance required to be maintained, and evidence that Agent shall have been named as an additional insured and loss payee, as applicable, on all insurance policies covering loss or damage to Collateral and on all liability insurance policies as to which Agent has reasonably requested to be so named or, in the case of the Term Priority Collateral, the Term Agent, as applicable, as additional insured party or loss payee;

(t) **USA Patriot Act; Proceeds of Crime Act; Beneficial Ownership Certification.** Agent shall have received from Borrower and each of the other Credit Parties, at least three (3) Business Days prior to the Closing Date, (A) all documentation and other information reasonably requested by Agent or any Lender no less than ten (10) calendar days prior to the Closing Date that such Agent or Lender reasonably determines is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act and the Proceeds of Crime Act and (B) a Beneficial Ownership Certification in relation to Credit Parties and each Subsidiary that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation;

(u) **Filings.** Each Uniform Commercial Code financing statement, PPSA financings statement and each intellectual property security agreement required by the Security Documents to be filed with the U.S. Patent and Trademark Office, the U.S. Copyright Office or the Canadian Intellectual Property Office, as applicable, in order to create in favor of Agent, for the benefit of Lenders, a first priority perfected Lien (or, with respect to the Term Priority Collateral, a fully perfected Lien with the priority set forth in the ABL Intercreditor Agreement) on the Collateral described therein shall have been delivered to Agent in proper form for filing;

(v) **Capital Structure.** Agent shall have received and be satisfied with the business plan and shall be satisfied with the capital structure of Credit Parties;

(w) **Minimum Availability.** Evidence that, as of the Closing Date after consummation of the Transactions and payment of all current liabilities, Credit Parties have Excess Availability *plus* unrestricted cash and Cash Equivalents (exclusive of any cash or Cash Equivalents in Cash Collateral Accounts) of at least \$25,000,000; and

(x) **Due Diligence Review.** Agent shall have completed to its satisfaction its due diligence review of each Credit Party and its management, controlling owners, systems and operations.

Each Lender, by delivering its signature page to this Agreement, shall be deemed to have acknowledged receipt of, and consented to and approved, each Financing Document, each additional Operative Document and each other document, agreement and/or instrument required to be approved by Agent, Required Lenders or Lenders, as applicable, on the Closing Date.

Section 7.2 **Conditions to Each Loan.** The obligation of the Lenders to make a Loan or an advance in respect of any Loan, is subject to the satisfaction of the following additional conditions:

(a) **Borrowing Notice.** In the case of a Revolving Loan Borrowing, receipt by Agent of a Notice of Borrowing (or telephonic notice if permitted by this Agreement) and an updated “roll-forward” Borrowing Base Certificate as required pursuant to Exhibit D;

(b) **Revolving Loan Limit.** Immediately after such borrowing and after application of the proceeds thereof or after such issuance, the Revolving Loan Outstandings will not exceed the Revolving Loan Limit [\(after giving effect to any applicable Availability Block\)](#);

(c) **No Default.** Immediately before and after such advance or issuance, no Default or Event of Default shall have occurred and be continuing; and

(d) **Representations and Warranties.** Each of the representations and warranties of each Credit Party contained in this Agreement or pursuant to the Financing Documents shall be true and correct in all material respects on and as of the date of such borrowing or issuance, except to the extent that any such representation or



warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date; provided, however, in each case, such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof.

Each giving of a Notice of Borrowing hereunder and each acceptance by any Borrower of the proceeds of any Loan made hereunder shall be deemed to be (y) a representation and warranty by each Credit Party on the date of such notice or acceptance as to the facts specified in this Section, and (z) a restatement by each Credit Party that each and every one of the representations made by it in any of the Financing Documents is true and correct as of such date (except to the extent that such representations and warranties expressly relate solely to an earlier date).

Section 7.3 **Searches.** Before the Closing Date, and thereafter (as and when determined by Agent in its discretion), Agent shall have the right to perform, all at Credit Parties' expense, the searches described in clauses (a), (b), and (c) below against Borrowers and any other Credit Party, the results of which are to be consistent with Credit Parties' representations and warranties under this Agreement and the satisfactory results of which shall be a condition precedent to all advances of Loan proceeds: (a) UCC searches with the Secretary of State of the jurisdiction in which the applicable Person is organized, PPSA and Bank Act searches in the jurisdiction in which each Canadian Credit Party is organized and in the jurisdiction where each Person maintains tangible Collateral; (b) judgment, pending litigation, federal tax lien, personal property tax lien, and corporate and partnership tax lien searches, in each jurisdiction searched under clause (a) above; and (c) searches of applicable corporate, limited liability company, partnership and related records to confirm the continued existence, organization and good standing of the applicable Person and the exact legal name under which such Person is organized.

Section 7.4 **Post Closing Requirements.** Credit Parties shall complete each of the post closing obligations and/or provide to Agent each of the documents, instruments, agreements and information listed on Schedule 7.4 attached hereto on or before the date set forth for each such item thereon, each of which shall be completed or provided in form and substance satisfactory to Agent.

ARTICLE 8 - [RESERVED]

ARTICLE 9 - SECURITY AGREEMENT

Section 9.1 **Generally.** As security for the payment and performance of the Obligations, and without limiting any other grant of a Lien and security interest in any Security Document, Borrowers and each other Credit Party, in their capacity as a Guarantor, hereby assign and grant to Agent, for the benefit of itself and Lenders, a continuing first priority Lien on and security interest in (or, with respect to the Term Priority Collateral, a continuing Lien on and security interest in (with the priority set forth in the ABL Intercreditor Agreement)), upon, and to the personal property set forth on Schedule 9.1 attached hereto and made a part hereof.

Section 9.2 Representations and Warranties and Covenants Relating to Collateral.

(a) The security interest granted pursuant to this Agreement constitutes a valid and, to the extent such security interest is required to be perfected by this Agreement and any other Financing Document, continuing perfected security interest in favor of Agent in all Collateral subject, for the following Collateral, to the occurrence of the following: (i) in the case of all Collateral in which a security interest may be perfected by filing a financing statement under the UCC or the PPSA, as applicable, the completion of the filings and other actions specified on Schedule 9.2(b) (which, in the case of all filings and other documents referred to on such schedule, have been delivered to Agent in completed and duly authorized form), (ii) with respect to any Deposit Account domiciled in the United States, the execution of Control Agreements (except with respect to any Excluded Accounts), (iii) in the case of letter-of-credit rights that are not supporting obligations of Collateral, the execution of a contractual obligation granting control to Agent or to the Term Agent over such letter-of-credit rights, (iv) in the case of electronic chattel paper, the completion of all steps necessary to grant control to Agent or the Term Agent over such electronic chattel paper, (v) in the case of all certificated stock, debt instruments and investment property, the delivery thereof to Agent or the Term Agent of such certificated stock, debt instruments and investment property consisting of instruments and certificates, in each case properly endorsed for transfer to Agent or in blank, (vi) in the case of all investment property not in certificated form, the execution of control agreements with respect to such investment property and (vii) in the case of all other instruments and tangible chattel paper that are not certificated stock, debt instructions or investment property, the delivery thereof to Agent or the Term Agent of such instruments and tangible chattel paper. Such security interest shall be prior to all other Liens on the Collateral except for Permitted Liens and subject to the ABL Intercreditor Agreement. Except to the extent not required pursuant to the terms of this Agreement, all actions by each Credit Party necessary or desirable to protect and perfect the Lien granted hereunder on the Collateral have been duly taken.

(b) Schedule 9.2(b) sets forth (i) each chief executive office and principal place of business of each Credit Party and each of their respective Subsidiaries, and (ii) all of the addresses (including all warehouses) at which any of the Collateral is located and/or books and records of Credit Parties regarding any of the Collateral are kept, which such Schedule 9.2(b) indicates in each case which Credit Parties have Collateral and/or books and records located at such address, and, in the case of any such address not owned by one or more of the Credit Parties, indicates the nature of such location (e.g., leased business location operated by Credit Parties, third party warehouse, consignment location, processor location, etc.) and the name and address of the third party owning and/or operating such location.

(c) Without limiting the generality of Section 3.2, except as set forth in the ABL Intercreditor Agreement or as indicated on Schedule 3.19 with respect to any rights of any Credit Party as a licensee under any license of Intellectual Property owned by another Person, and except for the filing of financing statements under the UCC or the PPSA, as applicable, no authorization, approval or other action by, and no notice to or

filing with, any Governmental Authority or consent of any other Person is required for (i) the grant by each Credit Party to Agent of the security interests and Liens in the Collateral provided for under this Agreement and the other Security Documents (if any), or (ii) the exercise by Agent of its rights and remedies with respect to the Collateral provided for under this Agreement and the other Security Documents or under any applicable Law, including the UCC and the PPSA and neither any such grant of Liens in favor of Agent or exercise of rights by Agent shall violate or cause a default under any agreement between any Credit Party and any other Person relating to any such collateral, including any license to which a Credit Party is a party, whether as licensor or licensee, with respect to any Intellectual Property, whether owned by such Credit Party or any other Person.

(d) As of the Closing Date, except as set forth on Schedule 9.2(d), no Credit Party has any ownership interest in any Chattel Paper (as defined in Article 9 of the UCC or the PPSA, as applicable), letter of credit rights, commercial tort claims, Instruments, documents or investment property (other than equity interests in any Subsidiaries of such Credit Party disclosed on Schedule 3.4) and Credit Parties shall give notice to Agent promptly (but in any event not later than fifteen (15) Business Days thereafter (or such longer period as agreed to by the Agent in writing in its reasonable discretion)) upon the acquisition by any Credit Party of any such Chattel Paper, letter of credit rights, commercial tort claims, Instruments, documents, investment property. No Person other than Agent or the Term Agent or (if applicable) any Lender has “control” (as defined in Article 9 of the UCC or the STA) over any Deposit Account, investment property (including Securities Accounts, commodities accounts and futures accounts), letter of credit rights or electronic chattel paper in which any Credit Party has any interest (except for such control arising by operation of law in favor of any bank or securities intermediary or commodities intermediary with whom any Deposit Account, Securities Account, commodities account or futures account of Credit Parties is maintained).

(e) Credit Parties shall not, and shall not permit any Credit Party to, take any of the following actions or make any of the following changes unless such Credit Parties have given at least fifteen (15) days prior written notice to Agent of Credit Parties’ intention to take any such action (which such written notice shall include an updated version of any Schedule impacted by such change) and have executed any and all documents, instruments and agreements and taken any other actions which Agent may request after receiving such written notice in order to protect and preserve the Liens, rights and remedies of Agent with respect to the Collateral: (i) change the legal name or organizational identification number of any Credit Party as it appears in official filings in the jurisdiction of its organization, (ii) change the jurisdiction of incorporation or formation of any Borrower or Credit Party or allow any Borrower or Credit Party to designate any jurisdiction as an additional jurisdiction of incorporation for such Borrower or Credit Party, or change the type of entity that it is, or (iii) change its chief executive office, principal place of business, or the location of its records concerning the Collateral or move any Collateral to or place any Collateral on any location that is not then listed on the Schedules and/or establish any business location at any location that is not then listed on the Schedules.

(f) Credit Parties shall not adjust, settle or compromise the amount or payment of any Account, or release wholly or partly any Account Debtor, or allow any credit or discount thereon (other than adjustments, settlements, compromises, credits and discounts in the Ordinary Course of Business, made while no Default exists and in amounts which are not material, taking into consideration all Accounts, with respect to the Account and which, after giving effect thereto, do not cause the Borrowing Base to be less than the Revolving Loan Outstandings) without the prior written consent of Agent. Without limiting the generality of this Agreement or any other provisions of any of the Financing Documents relating to the rights of Agent after the occurrence and during the continuance of an Event of Default, Agent shall have the right at any time after the occurrence and during the continuance of an Event of Default to: (i) exercise the rights of Credit Parties with respect to the obligation of any Account Debtor to make payment or otherwise render performance to Credit Parties and with respect to any property that secures the obligations of any Account Debtor or any other Person obligated on the Collateral, and (ii) adjust, settle or compromise the amount or payment of such Accounts.

(g) Without limiting the generality of Sections 9.2(c) and 9.2(e) and in each case subject to the ABL Intercreditor Agreement:

(i) Credit Parties shall deliver to Agent or the Term Agent all tangible Chattel Paper and all Instruments and documents owned by any Credit Party and constituting part of the Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Agent. Credit Parties shall provide Agent or the Term Agent with “control” (as defined in Article 9 of the UCC or the PPSA, as applicable) of all electronic Chattel Paper owned by any Credit Party and constituting part of the Collateral by having Agent identified as the assignee on the records pertaining to the single authoritative copy thereof and otherwise complying with the applicable elements of control set forth in the UCC or the PPSA, as applicable. Credit Parties also shall deliver to Agent or the Term Agent all security agreements securing any such Chattel Paper and securing any such Instruments. Credit Parties will mark conspicuously all such Chattel Paper and all such Instruments and documents with a legend, in form and substance satisfactory to Agent or the Term Agent, indicating that such Chattel Paper and such instruments and documents are subject to the security interests and Liens in favor of Agent created pursuant to this Agreement and the Security Documents. Credit Parties shall comply with all the provisions of Section 5.14 with respect to the Deposit Accounts and Securities Accounts of Credit Parties.

(ii) Credit Parties shall deliver to Agent all letters of credit on which any Credit Party is the beneficiary and which give rise to letter of credit rights owned by such Credit Party which constitute part of the Collateral in each case duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Agent. Credit Parties shall take any and all actions as may be necessary or desirable, or that Agent may request, from time to time, to cause Agent or the Term Agent to obtain exclusive



“control” (as defined in Article 9 of the UCC) of any such letter of credit rights in a manner acceptable to Agent.

(iii) Credit Parties shall promptly advise Agent upon any Credit Party becoming aware that it has any interests in any commercial tort claim that constitutes part of the Collateral, which such notice shall include descriptions of the events and circumstances giving rise to such commercial tort claim and the dates such events and circumstances occurred, the potential defendants with respect such commercial tort claim and any court proceedings that have been instituted with respect to such commercial tort claims, and Credit Parties shall, with respect to any such commercial tort claim, execute and deliver to Agent or the Term Agent such documents as Agent shall request to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to any such commercial tort claim.

(iv) [reserved].

(v) [reserved].

(vi) Each Credit Party hereby authorizes Agent to file without the signature of such Credit Party one or more UCC financing statements or PPSA financing statements, or both, relating to liens on personal property relating to all or any part of the Collateral, which financing statements may list Agent as the “secured party” and such Credit Party as the “debtor” and which describe and indicate the collateral covered thereby as all or any part of the Collateral under the Financing Documents (including an indication of the collateral covered by any such financing statement as “all assets” of such Credit Party now owned or hereafter acquired), in such jurisdictions as Agent from time to time determines are appropriate, and to file without the signature of such Credit Party any continuations of or corrective amendments to any such financing statements, in any such case in order for Agent to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to the Collateral. Each Credit Party also ratifies its authorization for Agent to have filed in any jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(vii) After the Closing Date, Credit Parties shall promptly notify Agent in writing upon creation or acquisition by any Credit Party of, any Collateral which constitutes a claim against any Governmental Authority, including, without limitation, (A) the federal government of the United States or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the federal Assignment of Claims Act and any other comparable Law and (B) the federal government of Canada or any province or territory thereof, or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the Financial Administration Act (Canada) and any other comparable Law. Upon the request of Agent (including with respect to Collateral owned as of the Closing Date which constitutes a claim against any



Governmental Authority of the type described above), Credit Parties shall take such steps as may be necessary or desirable, or that Agent may request, to comply with any such applicable Law.

(viii) Credit Parties shall furnish to Agent from time to time any statements and schedules further identifying or describing the Collateral and any other information, reports or evidence concerning the Collateral as Agent may reasonably request from time to time.

Section 9.3 ULC Limitation. Notwithstanding any provisions to the contrary contained in this Agreement or any other Financing Document, with respect to each applicable Credit Party which is a registered and beneficial owner of Pledged ULC Shares, such Credit Party owns and will remain so until such time as such Pledged ULC Shares are fully and effectively transferred into the name of Agent or any other person on the books and records of such ULC. Nothing in this Agreement or any other Financing Document is intended to or shall constitute Agent or any person other than a Credit Party to be a member or shareholder of any ULC until such time as written notice is given to the applicable Credit Party and all further steps are taken so as to register Agent or other person as holder of the Pledged ULC Shares. The granting of the pledge and security interest pursuant to Section 9.1 or in any other Financing Document does not make Agent a successor to any Credit Party as a member or shareholder of any ULC, and neither Agent nor any of its respective successors or assigns hereunder shall be deemed to become a member or shareholder of any ULC by accepting this Agreement or any other Financing Document or exercising any right granted herein unless and until such time, if any, when Agent or any successor or assign expressly becomes a registered member or shareholder of any ULC. Each applicable Credit Party shall be entitled to receive and retain for its own account any dividends or other distributions if any, in respect of the Collateral, and shall have the right to vote such Pledged ULC Shares and to control the direction, management and policies of the ULC issuing such Pledged ULC Shares to the same extent as such Credit Party would if such Pledged ULC Shares were not pledged to Agent or to any other person pursuant hereto. To the extent any provision herein or in any other Financing Document would have the effect of constituting Agent to be a member or shareholder of any ULC prior to such time, such provision shall be severed herefrom and therefrom and ineffective with respect to the relevant Pledged ULC Shares without otherwise invalidating or rendering unenforceable this Agreement or any other Financing Document or invalidating or rendering unenforceable such provision insofar as it relates to Collateral other than Pledged ULC Shares. Notwithstanding anything herein or in any other Financing Document to the contrary (except to the extent, if any, that Agent or any of its successors or assigns hereafter expressly becomes a registered member or shareholder of any ULC), neither Agent nor any of its respective successors or assigns shall be deemed to have assumed or otherwise become liable for any debts or obligations of any ULC. Except upon the exercise by Agent or other persons of rights to sell or otherwise dispose of Pledged ULC Shares or other remedies following the occurrence and during the continuance of an Event of Default, each applicable Credit Party shall not cause or permit, or enable any ULC in which it holds Pledged ULC Shares to cause or permit, Agent to: (a) be registered as member or shareholder of such ULC; (b) have any notation entered in its favor in the share register of such ULC; (c) be held out as member or shareholder of such ULC; (d) receive, directly or indirectly, any dividends, property or other distributions from such ULC by reason of Agent or other person holding a security interest in the Pledged ULC Shares; or (e) act as a member or shareholder of



such ULC, or exercise any rights of a member or shareholder of such ULC, including the right to attend a meeting of such ULC or vote the shares of such ULC.

ARTICLE 10 - EVENTS OF DEFAULT

Section 10.1 **Events of Default.** For purposes of the Financing Documents, the occurrence of any of the following conditions and/or events, whether voluntary or involuntary, by operation of law or otherwise, shall constitute an “Event of Default”:

(a) (i) any Credit Party shall fail to pay when due any principal, interest, premium or fee under any Financing Document or any other amount payable under any Financing Document (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such default (other than with respect to failure to pay principal when due) shall continue uncured for three (3) Business Days, (ii) there shall occur any default in the performance of or compliance with Section 2.11, Section 4.2(b), Section 4.3, Section 4.4(c) or (d), Section 4.6, Article 5, Section 6.1 or Section 6.3, (iii) there shall occur any default in the performance of or compliance with Section 4.1 and such default shall continue uncured for five (5) Business Days after the earlier of notice from Agent or Required Lenders or knowledge by any Credit Party of such default, or (iv) there shall occur any default in the performance of or compliance with Section 6.2 and such default shall continue uncured for fifteen (15) calendar days after the earlier of notice from Agent or Required Lenders or knowledge by any Credit Party of such default;

(b) any Credit Party defaults in the performance of or compliance with any term contained in this Agreement or in any other Financing Document (other than occurrences described in other provisions of this Section 10.1 for which a different grace or cure period is specified or for which no grace or cure period is specified and thereby constitute immediate Events of Default) and such default is not remedied by the Credit Party or waived by Agent within fifteen (15) days after the earlier of (i) receipt by Borrower Representative of notice from Agent or Required Lenders of such default, or (ii) actual knowledge of any Borrower or any other Credit Party of such default;

(c) any representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to any Financing Document is incorrect in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality) when made (or deemed made);

(d) (i) failure of the Borrowers or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any principal, interest or other amount on the Exit Notes, the Term Loan Agreement, the B. Riley Credit Agreement, the Debt in respect of the Unsecured Cash Pool, or any other Debt (excluding Debt evidenced by this Agreement) having an aggregate principal amount in excess of \$25,000,000, and such failure shall continue



after the applicable grace period, if any, specified in the applicable agreement or instrument relating to such Debt, or any other default, condition, or event under any agreement or instrument relating to any such Debt, or any other event shall occur and shall continue after the applicable grace period, if any, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such Debt; or any such Debt shall be declared due and payable, or required to be prepaid, redeemed, purchased or defeased or an offer to prepay, redeem, purchase or defease such Debt shall be required to be made (other than by a regularly scheduled required prepayment), in each case, prior to the ~~state~~stated maturity thereof;

(e) any Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, monitor, receiver, interim receiver, receiver and manager, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

(f) an involuntary case or other proceeding shall be commenced against any Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, monitor, receiver, interim receiver, receiver and manager, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of thirty (30) days; or an order for relief shall be entered against any Credit Party or any other Significant Subsidiary under applicable federal bankruptcy, insolvency or other similar law in respect of (i) bankruptcy, liquidation, winding-up, dissolution or suspension of general operations, (ii) composition, rescheduling, reorganization, arrangement or readjustment of, or other relief from, or stay of proceedings to enforce, some or all of the debts or obligations, or (iii) possession, foreclosure, seizure or retention, sale or other disposition of, or other proceedings to enforce security over, all or any substantial part of the assets of such Borrower or such Significant Subsidiary;

(g) (i) institution of any steps by any Person to terminate a Pension Plan or Canadian Pension Plan if as a result of such termination any Credit Party or any member of the Controlled Group could be required to make a contribution to such Pension Plan or Canadian Pension Plan, or could incur a liability or obligation to such Pension Plan or Canadian Pension Plan, in excess of \$25,000,000, (ii) a contribution failure occurs with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA, (iii) there shall occur any withdrawal or partial withdrawal from a Multiemployer Plan and the withdrawal liability (without unaccrued interest) to



Multiemployer Plans as a result of such withdrawal (including any outstanding withdrawal liability that any Credit Party or any member of the Controlled Group have incurred on the date of such withdrawal) exceeds \$25,000,000, or (iv) a Canadian Pension Event shall occur which individually or in the aggregate results in or would reasonably be expected to result in liability in excess of the Threshold Amount;

(h) one or more judgments or orders for the payment of money (not paid or fully covered by insurance maintained in accordance with the requirements of this Agreement and as to which the relevant insurance company has acknowledged coverage) aggregating in excess of \$25,000,000 shall be rendered against any of the Parent, the Borrowers or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) and either (i) enforcement proceedings shall have been commenced by any creditor upon any such judgments or orders, or (ii) there shall be any period of ten (10) consecutive days during which a stay of enforcement of any such judgments or orders, by reason of a pending appeal, bond or otherwise, shall not be in effect;

(i) any Lien created by any of the Security Documents shall at any time fail to constitute a valid and perfected Lien on all of the Collateral purported to be encumbered thereby, subject to no prior or equal Lien except Permitted Liens, or any Credit Party shall so assert;

(j) [reserved];

(k) a default or event of default occurs under any Guarantee of any portion of the Obligations;

(l) any Credit Party makes any payment on account of any Debt that has been subordinated to any of the Obligations, other than payments specifically permitted by the terms of such subordination;

(m) if any Credit Party is or becomes an entity whose equity is registered with the SEC, and/or is publicly traded on and/or registered with a public securities exchange, such Credit Party's equity fails to remain registered with the SEC in good standing, and/or such equity fails to remain publicly traded on and registered with a public securities exchange;

(n) an event or development occurs which could reasonably be expected to have a Material Adverse Effect, which default shall have continued unremedied for a period of ten (10) days after written notice from Agent;

(o) any Borrower or any Significant Subsidiary is enjoined, restrained or in any way prevented by the order of any court or any Governmental Authority from conducting, or otherwise ceases to conduct for any reason whatsoever, all or any material part of its business for more than fifteen (15) days;

(p) the loss, suspension or revocation of, or failure to renew, any license or permit now held or hereafter acquired by any Borrower or any Significant



Subsidiary, if such loss, suspension, revocation or failure to renew could reasonably be expected to have a Material Adverse Effect;

(q) any material damage to, or loss, theft or destruction of, any Collateral, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of any Borrower, or any Significant Subsidiary, if any such event or circumstance could reasonably be expected to have a Material Adverse Effect;

(r) the indictment, or the threatened indictment of the Parent, any Borrower, or any Significant Subsidiary under any criminal statute, or commencement or threatened commencement of criminal or civil proceedings against the Parent, any Borrower or any Significant Subsidiary, pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture to any Governmental Authority of any material portion of the property of such Person;

(s) Any Credit Party fails to make timely and full payments of any and all Taxes required by, under or in connection with the Plan of Reorganization except (i) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization or otherwise satisfied in accordance with the Plan of Reorganization (provided, that, for the avoidance of doubt, the Credit Parties shall pay Taxes to the extent required under and in accordance with the Plan of Reorganization) and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP; or

(t) the ABL Intercreditor Agreement ceases to be in full force and effect (other than because all other Debt subject thereto is no longer outstanding).

All cure periods provided for in this Section 10.1 shall run concurrently with any cure period provided for in any applicable Financing Documents under which the default occurred.

Section 10.2 Acceleration and Suspension or Termination of Revolving Loan Commitment. Upon the occurrence and during the continuance of an Event of Default, Agent may, and shall if requested by Required Lenders, (a) by notice to Borrower Representative suspend or terminate the Revolving Loan Commitment and the obligations of Agent and the Lenders with respect thereto, in whole or in part (and, if in part, each Lender's Revolving Loan Commitment shall be reduced in accordance with its Pro Rata Share), and/or (b) by notice to Borrower Representative declare all or any portion of the Obligations to be, and the Obligations shall thereupon become, immediately due and payable, with accrued interest thereon, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Credit Party and Credit Parties will pay the same; *provided, however*, that in the case of any of the Events of Default specified in Section 10.1(e) or 10.1(f) above, without any notice to any Credit Party or any other act by Agent or the Lenders, the Revolving Loan Commitment and the obligations of Agent and the Lenders with respect thereto shall thereupon immediately and



automatically terminate and all of the Obligations shall become immediately and automatically due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Credit Party and Credit Parties will pay the same.

Section 10.3 UCC and PPSA Remedies.

(a) Upon the occurrence of and during the continuance of an Event of Default under this Agreement or the other Financing Documents, Agent, in addition to all other rights, options, and remedies granted to Agent under this Agreement or at law or in equity, may exercise, either directly or through one or more assignees or designees, all rights and remedies granted to it under all Financing Documents and under the UCC and PPSA in effect in the applicable jurisdiction(s) and under any other applicable law; including, without limitation:

(i) the right to take possession of, send notices regarding, and collect directly the Collateral, with or without judicial process;

(ii) the right to (by its own means or with judicial assistance) enter any of Credit Parties' premises and take possession of the Collateral, or render it unusable, or to render it usable or saleable, or dispose of the Collateral on such premises in compliance with subsection (iii) below and to take possession of any Credit Party's original books and records, to obtain access to such Credit Party's data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner Agent deems appropriate, without any liability for rent, storage, utilities, or other sums, and Credit Parties shall not resist or interfere with such action (if Credit Parties' books and records are prepared or maintained by an accounting service, contractor or other third party agent, Credit Parties hereby irrevocably authorize such service, contractor or other agent, upon notice by Agent to such Person that an Event of Default has occurred and is continuing, to deliver to Agent or its designees such books and records, and to follow Agent's instructions with respect to further services to be rendered);

(iii) the right to require any Credit Party at the Credit Parties' expense to assemble all or any part of the Collateral and make it available to Agent at any place designated by Lender;

(iv) the right to notify postal authorities to change the address for delivery of any Credit Party's mail to an address designated by Agent and to receive, open and dispose of all mail addressed to any Credit Party; and/or

(v) the right to enforce any Credit Party's rights against Account Debtors and other obligors, including, without limitation, (i) the right to collect Accounts directly in Agent's own name (as agent for Lenders) and to charge the collection costs and expenses, including attorneys' fees, to a Credit Party, and (ii) the right, in the name of Agent or any designee of Agent or Credit Parties, to verify the validity, amount or any other matter relating to any Accounts



by mail, telephone, telegraph or otherwise, including, without limitation, verification of Credit Parties' compliance with applicable Laws. Credit Parties shall cooperate fully with Agent in an effort to facilitate and promptly conclude such verification process. Such verification may include contacts between Agent and applicable federal, state and local regulatory authorities having jurisdiction over the Credit Parties' affairs, all of which contacts Credit Parties hereby irrevocably authorize.

(b) Each Credit Party agrees that a notice received by it at least ten (10) days before the time of any intended public sale, or the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. If permitted by applicable law, any perishable Collateral which threatens to speedily decline in value or which is sold on a recognized market may be sold immediately by Agent without prior notice to Credit Parties. At any sale or disposition of Collateral, Agent may (to the extent permitted by applicable law) purchase all or any part of the Collateral, free from any right of redemption by Credit Parties, which right is hereby waived and released. Each Credit Party covenants and agrees not to interfere with or impose any obstacle to Agent's exercise of its rights and remedies with respect to the Collateral. Agent shall have no obligation to clean-up or otherwise prepare the Collateral for sale. Agent may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. Agent may sell the Collateral without giving any warranties as to the Collateral. Agent may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If Agent sells any of the Collateral upon credit, Credit Parties will be credited only with payments actually made by the purchaser, received by Agent and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Agent may resell the Collateral and Credit Parties shall be credited with the proceeds of the sale. Credit Parties shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Obligations.

(c) Without restricting the generality of the foregoing and for the purposes aforesaid, each Credit Party hereby appoints and constitutes Agent its lawful attorney-in-fact with full power of substitution in the Collateral, upon the occurrence and during the continuance of an Event of Default, to (i) use unadvanced funds remaining under this Agreement or which may be reserved, escrowed or set aside for any purposes hereunder at any time, or to advance funds in excess of the face amount of the Notes, (ii) pay, settle or compromise all existing bills and claims, which may be Liens or security interests, or to avoid such bills and claims becoming Liens against the Collateral, (iii) execute all applications and certificates in the name of such Credit Party and to prosecute and defend all actions or proceedings in connection with the Collateral, and (iv) do any and every act which such Credit Party might do in its own behalf; it being understood and agreed that this power of attorney in this subsection (c) shall be a power coupled with an interest and cannot be revoked.

(d) Agent and each Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Credit Parties' labels, mask works, rights of use of any name, any other Intellectual Property and advertising matter, and any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Agent's exercise of its rights under this Article, Credit Parties' rights under all licenses (whether as licensor or licensee) and all franchise agreements inure to Agent's and each Lender's benefit.

Section 10.4 [Reserved].

Section 10.5 Default Rate of Interest. At the election of Agent or Required Lenders, after the occurrence of an Event of Default and for so long as it continues, the Loans and other Obligations shall bear interest at rates that are two percent (2.0%) per annum in excess of the rates otherwise payable under this Agreement; *provided, however*, that in the case of any Event of Default specified in Section 10.1(e) or 10.1(f) above, such default rates shall apply immediately and automatically without the need for any election or action of any kind on the part of Agent or any Lender.

Section 10.6 Setoff Rights. During the continuance of any Event of Default, each Lender is hereby authorized by each Credit Party at any time or from time to time, with reasonably prompt subsequent notice to such Credit Party (any prior or contemporaneous notice being hereby expressly waived) to set off and to appropriate and to apply any and all (a) balances held by such Lender or any of such Lender's Affiliates at any of its offices for the account of such Credit Party or any of its Subsidiaries (regardless of whether such balances are then due to such Credit Party or its Subsidiaries), and (b) other property at any time held or owing by such Lender to or for the credit or for the account of such Credit Party or any of its Subsidiaries, against and on account of any of the Obligations; except that no Lender shall exercise any such right without the prior written consent of Agent. Any Lender exercising a right to set off shall purchase for cash (and the other Lenders shall sell) interests in each of such other Lender's Pro Rata Share of the Obligations as would be necessary to cause all Lenders to share the amount so set off with each other Lender in accordance with their respective Pro Rata Share of the Obligations. Each Credit Party agrees, to the fullest extent permitted by law, that any Lender and any of such Lender's Affiliates may exercise its right to set off with respect to the Obligations as provided in this Section 10.6.

Section 10.7 Application of Proceeds.

(a) Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, each Credit Party irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Agent from or on behalf of such Credit Party or any Guarantor of all or any part of the Obligations, and, as between Credit Parties on the one hand and Agent and Lenders on the other, Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the

Obligations in such manner as Agent may deem advisable notwithstanding any previous application by Agent.

(b) Following the occurrence and continuance of an Event of Default, but absent the occurrence and continuance of an Acceleration Event, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in such order as Agent may from time to time elect.

(c) Notwithstanding anything to the contrary contained in this Agreement, if an Acceleration Event shall have occurred, and so long as it continues, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in the following order: *first*, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to Agent with respect to this Agreement, the other Financing Documents or the Collateral; *second*, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to any Lender with respect to this Agreement, the other Financing Documents or the Collateral; *third*, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of any applicable Debtor Relief Law, would have accrued on such amounts); *fourth*, to the principal amount of the Obligations outstanding; *fifth* to any other indebtedness or obligations of Credit Parties owing to Agent or any Lender under the Financing Documents; and *sixth*, to the Obligations owing to any Eligible Swap Counterparty in respect of any Swap Contracts. Any balance remaining shall be delivered to Borrowers or to whomever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. In carrying out the foregoing, (y) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (z) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its Pro Rata Share of amounts available to be applied pursuant thereto for such category.

Section 10.8 Waivers.

(a) Except as otherwise provided for in this Agreement and to the fullest extent permitted by applicable law, each Credit Party waives: (i) presentment, demand and protest, and notice of presentment, dishonor, intent to accelerate, acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all Financing Documents, the Notes or any other notes, commercial paper, accounts, contracts, documents, Instruments, Chattel Paper and guarantees at any time held by Lenders on which any Credit Party may in any way be liable, and hereby ratifies and confirms whatever Lenders may do in this regard; (ii) all rights to notice and a hearing prior to Agent's or any Lender's taking possession or control of, or to Agent's or any Lender's replevy, attachment or levy upon, any Collateral or any bond or security which might be required by any court prior to allowing Agent or any Lender to exercise any of its remedies; and (iii) the benefit of all valuation, appraisal and exemption Laws. Each Credit Party acknowledges that it has been advised by

counsel of its choices and decisions with respect to this Agreement, the other Financing Documents and the transactions evidenced hereby and thereby.

(b) Each Credit Party for itself and all its successors and assigns, (i) agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; (ii) consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Agent or any Lender with respect to the payment or other provisions of the Financing Documents, and to any substitution, exchange or release of the Collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any Credit Party, endorsers, guarantors, or sureties, or whether primarily or secondarily liable, without notice to any other Credit Party and without affecting its liability hereunder; (iii) agrees that its liability shall be unconditional and without regard to the liability of any other Credit Party, Agent or any Lender for any tax on the indebtedness; and (iv) to the fullest extent permitted by law, expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

(c) To the extent that Agent or any Lender may have acquiesced in any noncompliance with any requirements or conditions precedent to the closing of the Loans or to any subsequent disbursement of Loan proceeds, such acquiescence shall not be deemed to constitute a waiver by Agent or any Lender of such requirements with respect to any future disbursements of Loan proceeds and Agent may at any time after such acquiescence require Credit Parties to comply with all such requirements. Any forbearance by Agent or Lender in exercising any right or remedy under any of the Financing Documents, or otherwise afforded by applicable law, including any failure to accelerate the maturity date of the Loans, shall not be a waiver of or preclude the exercise of any right or remedy nor shall it serve as a novation of the Notes or as a reinstatement of the Loans or a waiver of such right of acceleration or the right to insist upon strict compliance of the terms of the Financing Documents. Agent's or any Lender's acceptance of payment of any sum secured by any of the Financing Documents after the due date of such payment shall not be a waiver of Agent's and such Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other Liens or charges by Agent as the result of an Event of Default shall not be a waiver of Agent's right to accelerate the maturity of the Loans, nor shall Agent's receipt of any condemnation awards, insurance proceeds, or damages under this Agreement operate to cure or waive any Credit Party's default in payment of sums secured by any of the Financing Documents.

(d) Without limiting the generality of anything contained in this Agreement or the other Financing Documents, each Credit Party agrees that if an Event of Default is continuing (i) Agent and Lenders shall not be subject to any "one action" or "election of remedies" law or rule, and (ii) all Liens and other rights, remedies or privileges provided to Agent or Lenders shall remain in full force and effect until Agent or Lenders have exhausted all remedies against the Collateral and any other properties owned by Credit Parties and the Financing Documents and other security instruments or



agreements securing the Loans have been foreclosed, sold and/or otherwise realized upon in satisfaction of Credit Parties' obligations under the Financing Documents.

(e) Nothing contained herein or in any other Financing Document shall be construed as requiring Agent or any Lender to resort to any part of the Collateral for the satisfaction of any of Credit Parties' obligations under the Financing Documents in preference or priority to any other Collateral, and Agent may seek satisfaction out of all of the Collateral or any part thereof, in its absolute discretion in respect of Credit Parties' obligations under the Financing Documents. In addition, Agent shall have the right from time to time to partially foreclose upon any Collateral in any manner and for any amounts secured by the Financing Documents then due and payable as determined by Agent in its sole discretion, including, without limitation, the following circumstances: (i) in the event any Credit Party defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and/or interest, Agent may foreclose upon all or any part of the Collateral to recover such delinquent payments, or (ii) in the event Agent elects to accelerate less than the entire outstanding principal balance of the Loans, Agent may foreclose all or any part of the Collateral to recover so much of the principal balance of the Loans as Lender may accelerate and such other sums secured by one or more of the Financing Documents as Agent may elect. Notwithstanding one or more partial foreclosures, any unforeclosed Collateral shall remain subject to the Financing Documents to secure payment of sums secured by the Financing Documents and not previously recovered.

(f) To the fullest extent permitted by law, each Credit Party, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Collateral any equitable right otherwise available to any Credit Party which would require the separate sale of any of the Collateral or require Agent or Lenders to exhaust their remedies against any part of the Collateral before proceeding against any other part of the Collateral; and further in the event of such foreclosure each Credit Party does hereby expressly consent to and authorize, at the option of Agent, the foreclosure and sale either separately or together of each part of the Collateral.

Section 10.9 Injunctive Relief. The parties acknowledge and agree that, in the event of a breach or threatened breach of any Credit Party's obligations under any Financing Documents, Agent and Lenders may have no adequate remedy in money damages and, accordingly, shall be entitled to an injunction (including, without limitation, a temporary restraining order, preliminary injunction, writ of attachment, or order compelling an audit) against such breach or threatened breach, including, without limitation, maintaining any cash management and collection procedure described herein. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach or threatened breach of any provision of this Agreement. Each Credit Party waives, to the fullest extent permitted by law, the requirement of the posting of any bond in connection with such injunctive relief. By joining in the Financing Documents as a Credit Party, each Credit Party specifically joins in this Section as if this Section were a part of each Financing Document executed by such Credit Party.

Section 10.10 **Marshalling; Payments Set Aside.** Neither Agent nor any Lender shall be under any obligation to marshal any assets in payment of any or all of the Obligations. To the extent that a Credit Party makes any payment or Agent enforces its Liens or Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such enforcement or set-off is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid by anyone, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set-off had not occurred.

ARTICLE 11 - AGENT

Section 11.1 **Appointment and Authorization.** Each Lender hereby irrevocably appoints and authorizes Agent to enter into each of the Financing Documents to which it is a party (other than this Agreement) on its behalf and to take such actions as Agent on its behalf and to exercise such powers under the Financing Documents as are delegated to Agent by the terms thereof, together with all such powers as are reasonably incidental thereto, including the authority to enter into any intercreditor agreement. Subject to the terms of Section 11.16 and Article 12 and to the terms of the other Financing Documents, Agent is authorized and empowered to enter into (or acknowledge and consent to) or amend, restate, amend and restate, extend, replace, supplement, modify, or waive any provisions of this Agreement or the other Financing Documents on behalf of Lenders and any intercreditor agreement with the collateral agent or other representatives of the holders of Debt that is permitted to be secured by a Lien on the Collateral that is not prohibited (including with respect to priority) under this Agreement and, to the extent applicable, the ABL Intercreditor Agreement, and to subject the Liens on the Collateral securing the Obligations to the provisions thereof. The provisions of this Article 11 and Article 12 are solely for the benefit of Agent and Lenders and neither any Borrower nor any other Credit Party shall have any rights as a third-party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement, Agent shall act solely as agent of Lenders and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Borrower or any other Credit Party. Agent may perform any of its duties hereunder, or under the Financing Documents, by or through its agents, servicers, trustees, investment managers or employees. The Lenders irrevocably agree that (x) Agents may rely exclusively on a certificate of a Responsible Officer of the Credit Parties as to whether any such other Liens are permitted and (y) the ABL Intercreditor Agreement and any junior intercreditor agreement entered into by Agent shall be binding on the Lenders, and each Lender hereby agrees that it will take no actions contrary to the provisions of any intercreditor agreement.

Section 11.2 **Agent and Affiliates.** Agent shall have the same rights and powers under the Financing Documents as any other Lender and may exercise or refrain from exercising the same as though it were not Agent, and Agent and its Affiliates may lend money to, invest in and generally engage in any kind of business with each Credit Party or Affiliate of any Credit Party as if it were not Agent hereunder.

Section 11.3 **Action by Agent.** The duties of Agent shall be mechanical and administrative in nature. Agent shall not have by reason of this Agreement a fiduciary

relationship in respect of any Lender. Nothing in this Agreement or any of the Financing Documents is intended to or shall be construed to impose upon Agent any obligations in respect of this Agreement or any of the Financing Documents except as expressly set forth herein or therein.

Section 11.4 Consultation with Experts. Agent may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 11.5 Liability of Agent. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be liable to any Lender for any action taken or not taken by it in connection with the Financing Documents, except that Agent shall be liable with respect to its specific duties set forth hereunder but only to the extent of its own gross negligence or willful misconduct in the discharge thereof as determined by a final non-appealable judgment of a court of competent jurisdiction. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be responsible for or have any duty to ascertain, inquire into or verify (a) any statement, warranty or representation made in connection with any Financing Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements specified in any Financing Document; (c) the satisfaction of any condition specified in any Financing Document; (d) the validity, effectiveness, sufficiency or genuineness of any Financing Document, any Lien purported to be created or perfected thereby or any other instrument or writing furnished in connection therewith; (e) the existence or non-existence of any Default or Event of Default; or (f) the financial condition of any Credit Party. Agent shall not incur any liability by acting in reliance upon any notice, consent, certificate, statement, or other writing (which may be a bank wire, facsimile or electronic transmission or similar writing) believed by it to be genuine or to be signed by the proper party or parties. Agent shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error the sole recourse of any Lender to whom payment was due but not made, shall be to recover from other Lenders any payment in excess of the amount to which they are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them).

Section 11.6 Indemnification. Each Lender shall, in accordance with its Pro Rata Share, indemnify Agent (to the extent not reimbursed by Credit Parties) upon demand against any cost, expense (including counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction) that Agent may suffer or incur in connection with the Financing Documents or any action taken or omitted by Agent hereunder or thereunder. If any indemnity furnished to Agent for any purpose shall, in the opinion of Agent, be insufficient or become impaired, Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against even if so directed by Required Lenders until such additional indemnity is furnished.

Section 11.7 Right to Request and Act on Instructions. Agent may at any time request instructions from Lenders with respect to any actions or approvals which by the terms of



this Agreement or of any of the Financing Documents, Agent is permitted or desires to take or to grant, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from any action or withholding any approval under any of the Financing Documents until it shall have received such instructions from Required Lenders or all or such other portion of the Lenders as shall be prescribed by this Agreement. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement or any of the other Financing Documents in accordance with the instructions of Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) and, notwithstanding the instructions of Required Lenders (or such other applicable portion of the Lenders), Agent shall have no obligation to take any action if it believes, in good faith, that such action would violate applicable Law or exposes Agent to any liability for which it has not received satisfactory indemnification in accordance with the provisions of Section 11.6.

Section 11.8 Credit Decision. Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking any action under the Financing Documents.

Section 11.9 Collateral Matters. Lenders irrevocably authorize Agent, at its option and in its discretion, to (a) release any Lien granted to or held by Agent under any Security Document (i) upon termination of the Revolving Loan Commitment and payment in full of all Obligations, and, to the extent required by Agent in its sole discretion, the expiration, termination or cash collateralization (to the satisfaction of Agent) of all Swap Contracts secured, in whole or in part, by any Collateral; or (ii) constituting property sold or disposed of as part of or in connection with any disposition permitted under any Financing Document (it being understood and agreed that Agent may conclusively rely without further inquiry on a certificate of a Responsible Officer as to the sale or other disposition of property being made in full compliance with the provisions of the Financing Documents); and (b) subordinate any Lien granted to or held by Agent under any Security Document to a Permitted Lien that is allowed to have priority over the Liens granted to or held by Agent pursuant to the definition of “Permitted Liens”. Upon request by Agent at any time, Lenders will confirm Agent’s authority to release and/or subordinate particular types or items of Collateral pursuant to this Section 11.9.

Section 11.10 Agency for Perfection. Agent and each Lender hereby appoint each other Lender as agent for the purpose of perfecting Agent’s security interest in assets which, in accordance with the Uniform Commercial Code in any applicable jurisdiction, can be perfected by possession or control. Should any Lender (other than Agent) obtain possession or control of any such assets, such Lender shall notify Agent thereof, and, promptly upon Agent’s request therefor, shall deliver such assets to Agent or in accordance with Agent’s instructions or transfer control to Agent in accordance with Agent’s instructions. Each Lender agrees that it will not have any right individually to enforce or seek to enforce any Security Document or to realize

upon any Collateral for the Loan unless instructed to do so by Agent (or consented to by Agent), it being understood and agreed that such rights and remedies may be exercised only by Agent.

Section 11.11 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default except with respect to defaults in the payment of principal, interest and fees required to be paid to Agent for the account of Lenders, unless Agent shall have received written notice from a Lender or a Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default”. Agent will notify each Lender of its receipt of any such notice. Agent shall take such action with respect to such Default or Event of Default as may be requested by Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) in accordance with the terms hereof. Unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interests of Lenders.

Section 11.12 Assignment by Agent; Resignation of Agent; Successor Agent.

(a) Agent may at any time assign its rights, powers, privileges and duties hereunder to (i) another Lender, or (ii) any Person to whom Agent, in its capacity as a Lender, has assigned (or will assign, in conjunction with such assignment of agency rights hereunder) 50% or more of its Loan, in each case without the consent of the Lenders or Borrowers. Following any such assignment, Agent shall give notice to the Lenders and Borrowers. An assignment by Agent pursuant to this subsection (a) shall not be deemed a resignation by Agent for purposes of subsection (b) below.

(b) Without limiting the rights of Agent to designate an assignee pursuant to subsection (a) above, Agent may at any time give notice of its resignation to the Lenders and Borrowers. Upon receipt of any such notice of resignation, Required Lenders shall have the right to appoint a successor Agent. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within ten (10) Business Days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent; *provided, however,* that if Agent shall notify Borrowers and the Lenders that no Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice from Agent that no Person has accepted such appointment and, from and following delivery of such notice, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Financing Documents, and (ii) all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time as Required Lenders appoint a successor Agent as provided for above in this paragraph.

(c) Upon (i) an assignment permitted by subsection (a) above, or (ii) the acceptance of a successor’s appointment as Agent pursuant to subsection (b) above, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder and under the other Financing



Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by Credit Parties to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrowers and such successor. After the retiring Agent's resignation hereunder and under the other Financing Documents, the provisions of this Article and Section 11.12 shall continue in effect for the benefit of such retiring Agent and its sub-agents in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting or was continuing to act as Agent.

Section 11.13 Payment and Sharing of Payment.

(a) Revolving Loan Advances, Payments and Settlements; Interest and Fee Payments.

(i) Agent shall have the right, on behalf of Revolving Lenders to disburse funds to Borrowers for all Revolving Loans requested or deemed requested by Borrowers pursuant to the terms of this Agreement. Agent shall be conclusively entitled to assume, for purposes of the preceding sentence, that each Revolving Lender, other than any Non-Funding Lenders, will fund its Pro Rata Share of all Revolving Loans requested by Borrowers. Each Revolving Lender shall reimburse Agent on demand, in accordance with the provisions of the immediately following paragraph, for all funds disbursed on its behalf by Agent pursuant to the first sentence of this clause (i), or if Agent so requests, each Revolving Lender will remit to Agent its Pro Rata Share of any Revolving Loan before Agent disburses the same to a Borrower. If Agent elects to require that each Revolving Lender make funds available to Agent, prior to a disbursement by Agent to a Borrower, Agent shall advise each Revolving Lender by telephone, facsimile or e-mail of the amount of such Revolving Lender's Pro Rata Share of the Revolving Loan requested by such Borrower no later than noon (Eastern time) on the date of funding of such Revolving Loan, and each such Revolving Lender shall pay Agent on such date such Revolving Lender's Pro Rata Share of such requested Revolving Loan, in same day funds, by wire transfer to the Payment Account, or such other account as may be identified by Agent to Revolving Lenders from time to time. If any Lender fails to pay the amount of its Pro Rata Share of any funds advanced by Agent pursuant to the first sentence of this clause (i) within one (1) Business Day after Agent's demand, Agent shall promptly notify Borrower Representative, and Borrowers shall immediately repay such amount to Agent. Any repayment required by Borrowers pursuant to this Section 11.13 shall be accompanied by accrued interest thereon from and including the date such amount is made available to a Borrower to but excluding the date of payment at the rate of interest then applicable to Revolving Loans. Nothing in this Section 11.13 or elsewhere in this Agreement or the other Financing Documents shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that Agent or any Borrower may have against any Lender as a result of any default by such Lender hereunder.

(ii) On a Business Day of each week as selected from time to time by Agent, or more frequently (including daily), if Agent so elects (each such day being a “**Settlement Date**”), Agent will advise each Revolving Lender by telephone, facsimile or e-mail of the amount of each such Revolving Lender’s percentage interest of the Revolving Loan balance as of the close of business of the Business Day immediately preceding the Settlement Date. In the event that payments are necessary to adjust the amount of such Revolving Lender’s actual percentage interest of the Revolving Loans to such Lender’s required percentage interest of the Revolving Loan balance as of any Settlement Date, the Revolving Lender from which such payment is due shall pay Agent, without setoff or discount, to the Payment Account before 1:00 p.m. (Eastern time) on the Business Day following the Settlement Date the full amount necessary to make such adjustment. Any obligation arising pursuant to the immediately preceding sentence shall be absolute and unconditional and shall not be affected by any circumstance whatsoever. In the event settlement shall not have occurred by the date and time specified in the second preceding sentence, interest shall accrue on the unsettled amount at the rate of interest then applicable to Revolving Loans.

(iii) On each Settlement Date, Agent shall advise each Revolving Lender by telephone, facsimile or e-mail of the amount of such Revolving Lender’s percentage interest of principal, interest and fees paid for the benefit of Revolving Lenders with respect to each applicable Revolving Loan, to the extent of such Revolving Lender’s Revolving Loan Exposure with respect thereto, and shall make payment to such Revolving Lender before 1:00 p.m. (Eastern time) on the Business Day following the Settlement Date of such amounts in accordance with wire instructions delivered by such Revolving Lender to Agent, as the same may be modified from time to time by written notice to Agent; *provided, however*, that, in the case such Revolving Lender is a Defaulted Lender, Agent shall be entitled to set off the funding short-fall against that Defaulted Lender’s respective share of all payments received from any Borrower.

(iv) On the Closing Date, Agent, on behalf of Lenders, may elect to advance to Borrowers the full amount of the initial Loans to be made on the Closing Date prior to receiving funds from Lenders, in reliance upon each Lender’s commitment to make its Pro Rata Share of such Loans to Borrowers in a timely manner on such date. If Agent elects to advance the initial Loans to Borrower in such manner, Agent shall be entitled to receive all interest that accrues on the Closing Date on each Lender’s Pro Rata Share of such Loans unless Agent receives such Lender’s Pro Rata Share of such Loans before 3:00 p.m. (Eastern time) on the Closing Date.

(v) It is understood that for purposes of advances to Borrowers made pursuant to this Section 11.13, Agent will be using the funds of Agent, and pending settlement, (A) all funds transferred from the Payment Account to the outstanding Revolving Loans shall be applied first to advances made by Agent to



Borrowers pursuant to this Section 11.13, and (B) all interest accruing on such advances shall be payable to Agent.

(vi) The provisions of this Section 11.13(a) shall be deemed to be binding upon Agent and Lenders notwithstanding the occurrence of any Default or Event of Default, or any insolvency or bankruptcy proceeding pertaining to any Borrower or any other Credit Party.

(b) [reserved].

(c) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from a Borrower and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind, together with interest accruing on a daily basis at the Federal Funds Rate.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to any Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to any Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

(d) Defaulted Lenders. The failure of any Defaulted Lender to make any payment required by it hereunder shall not relieve any other Lender of its obligations to make payment, but neither any other Lender nor Agent shall be responsible for the failure of any Defaulted Lender to make any payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Defaulted Lender shall not have any voting or consent rights under or with respect to any Financing Document or constitute a "Lender" (or be included in the calculation of "Required Lenders" hereunder) for any voting or consent rights under or with respect to any Financing Document.

(e) Sharing of Payments. If any Lender shall obtain any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Loan (other than pursuant to the terms of Section 2.8(d)) in excess of its Pro Rata Share of payments entitled pursuant to the other provisions of this Section 11.13, such Lender shall purchase from the other Lenders such participations in extensions of credit made by such other Lenders (without recourse, representation or warranty) as shall be necessary to cause such purchasing Lender to share the excess payment or other recovery ratably with each of them; *provided, however*, that if all or any



portion of the excess payment or other recovery is thereafter required to be returned or otherwise recovered from such purchasing Lender, such portion of such purchase shall be rescinded and each Lender which has sold a participation to the purchasing Lender shall repay to the purchasing Lender the purchase price to the ratable extent of such return or recovery, without interest. Each Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this clause (e) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 10.6) with respect to such participation as fully as if such Lender were the direct creditor of Borrowers in the amount of such participation. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this clause (e) applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this clause (e) to share in the benefits of any recovery on such secured claim.

Section 11.14 Right to Perform, Preserve and Protect. If any Credit Party fails to perform any obligation hereunder or under any other Financing Document, Agent itself may, but shall not be obligated to, cause such obligation to be performed at Credit Parties' expense. Agent is further authorized by Credit Parties and the Lenders to make expenditures from time to time which Agent, in its reasonable business judgment, deems necessary or desirable to (a) preserve or protect the business conducted by Credit Parties, the Collateral, or any portion thereof, and/or (b) enhance the likelihood of, or maximize the amount of, repayment of the Loan and other Obligations. Each Borrower hereby agrees to reimburse Agent on demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14. Each Lender hereby agrees to indemnify Agent upon demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14, in accordance with the provisions of Section 11.6.

Section 11.15 Additional Titled Agents. Except for rights and powers, if any, expressly reserved under this Agreement to any bookrunner, arranger or to any titled agent named on the cover page of this Agreement, other than Agent (collectively, the "Additional Titled Agents"), and except for obligations, liabilities, duties and responsibilities, if any, expressly assumed under this Agreement by any Additional Titled Agent, no Additional Titled Agent, in such capacity, has any rights, powers, liabilities, duties or responsibilities hereunder or under any of the other Financing Documents. Without limiting the foregoing, no Additional Titled Agent shall have nor be deemed to have a fiduciary relationship with any Lender. At any time that any Lender serving as an Additional Titled Agent shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loan, such Lender shall be deemed to have concurrently resigned as such Additional Titled Agent.

Section 11.16 Amendments and Waivers.

(a) No provision of this Agreement or any other Financing Document may be materially amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by Borrowers, the Required Lenders and any other Lender to the extent required under Section 11.16(b); *provided, however*, that Agent shall be entitled, in its sole and absolute

discretion, to provide its written consent to a proposed Swap Contract, in each case without the consent of any other Lender.

(b) In addition to the required signatures under Section 11.16(a), no provision of this Agreement or any other Financing Document may be amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by the following Persons:

(i) if any amendment, waiver or other modification would increase a Lender's funding obligations in respect of any Loan, by such Lender; and/or

(ii) if the rights or duties of Agent are affected thereby, by Agent;

provided, however, that, in each of (i) and (ii) above, no such amendment, waiver or other modification shall, unless signed or otherwise approved in writing by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Loan; (B) postpone the date fixed for, or waive, any payment (other than any mandatory prepayment pursuant to Section 2.1(b)(ii)) of principal of any Loan, or of interest on any Loan (other than default interest) or any fees provided for hereunder (other than late charges) or postpone the date of termination of any commitment of any Lender hereunder; (C) change the definition of the term Required Lenders or Supermajority Lenders or the percentage of Lenders which shall be required for Lenders to take any action hereunder; (D) release all or substantially all of the Collateral, authorize any Borrower to sell or otherwise dispose of all or substantially all of the Collateral or release any Guarantor of all or any portion of the Obligations or its Guarantee obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be provided in this Agreement or the other Financing Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 11.16(b) or the definitions of the terms used in this Section 11.16(b) insofar as the definitions affect the substance of this Section 11.16(b); (F) consent to the assignment, delegation or other transfer by any Credit Party of any of its rights and obligations under any Financing Document or release any Borrower of its payment obligations under any Financing Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; or (G) amend any of the provisions of Section 10.7 or amend any of the definitions Pro Rata Share, Revolving Loan Commitment, Revolving Loan Commitment Amount, Revolving Loan Commitment Percentage, or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder; and *provided, further*, that no such amendment, waiver or other modification shall, unless signed or otherwise approved in writing by the Supermajority Lenders, amend, supplement or otherwise modify or waive any of the terms and provisions (and related definitions) related to the Borrowing Base, any provisions (including advance rates) relating to eligibility, including, without limitation, Eligible Accounts, Eligible Billed Accounts, Eligible ~~Exar Billed Accounts, Eligible Unbilled Accounts, Eligible Exar~~ Unbilled Accounts, Eligible Investment Grade Billed Accounts and Eligible Cash, if the effect of such amendment, supplement, modification or waiver would be to increase the amount available to be borrowed by



the Borrowers hereunder. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F) and (G) of the preceding sentence.

(c) Without limitation of the provisions of the preceding clause (a) and (b), no waiver, amendment or other modification to this Agreement shall, unless signed by each Eligible Swap Counterparty then in existence, modify the provisions of Section 10.7 in any manner adverse to the interests of each such Eligible Swap Counterparty.

Section 11.17 Assignments and Participations.

(a) Assignments.

(i) Any Lender may at any time assign to one or more Eligible Assignees all or any portion of such Lender's Loan together with all related obligations of such Lender hereunder. Except as Agent may otherwise agree, the amount of any such assignment (determined as of the date of the applicable Assignment Agreement or, if a "Trade Date" is specified in such Assignment Agreement, as of such Trade Date) shall be in a minimum aggregate amount equal to the Threshold Amount or, if less, the assignor's entire interests in the outstanding Loan; *provided, however*, that, in connection with simultaneous assignments to two or more related Approved Funds, such Approved Funds shall be treated as one assignee for purposes of determining compliance with the minimum assignment size referred to above. Borrowers and Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned to an Eligible Assignee until Agent shall have received and accepted an effective Assignment Agreement executed, delivered and fully completed by the applicable parties thereto and a processing fee of \$3,500 to be paid by the assigning Lender; *provided, however*, that only one processing fee shall be payable in connection with simultaneous assignments to two or more related Approved Funds.

(ii) From and after the date on which the conditions described above have been met, (A) such Eligible Assignee shall be deemed automatically to have become a party hereto and, to the extent of the interests assigned to such Eligible Assignee pursuant to such Assignment Agreement, shall have the rights and obligations of a Lender hereunder, and (B) the assigning Lender, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, shall be released from its rights and obligations hereunder (other than those that survive termination pursuant to Section 13.1). Upon the request of the Eligible Assignee (and, as applicable, the assigning Lender) pursuant to an effective Assignment Agreement, each Borrower shall execute and deliver to Agent for delivery to the Eligible Assignee (and, as applicable, the assigning Lender) Notes in the aggregate principal amount of the Eligible Assignee's Loan (and, as applicable, Notes in the principal amount of that portion of the principal amount of the Loan retained by the assigning

Lender). Upon receipt by the assigning Lender of such Note, the assigning Lender shall return to Borrower Representative any prior Note held by it.

(iii) Agent, acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain at the office of its servicer located in Bethesda, Maryland a copy of each Assignment Agreement delivered to it and a register (the “**Register**”) for the recordation of the names and addresses of each Lender, and the commitments of, and principal amount and stated interest of the Loan owing to, such Lender pursuant to the terms hereof. The entries in such register shall be conclusive, and Borrower, Agent and Lenders may treat each Person whose name is recorded therein pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. Such register shall be available for inspection by Borrower and any Lender, at any reasonable time upon reasonable prior notice to Agent. Each Lender that sells a participation shall, acting solely for this purpose as an agent of Borrowers maintain a register on which it enters the name and address of each participant and the principal amounts (and stated interest) of each participant’s interest in the Obligations (each, a “**Participant Register**”). The entries in the Participant Registers shall be conclusive, absent manifest error. Each Participant Register shall be available for inspection by Borrowers and Agent at any reasonable time upon reasonable prior notice to the applicable Lender; *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 Financing Document) to any Person (including Borrowers) 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) and proposed Section 1.163-5(b) of the United States Treasury Regulations (and any amended or successor versions). For the avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a participant register. This Section 11.17(a)(iii) shall be construed so that all Obligations are at all times maintained in “registered form” within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related U.S. Treasury Regulations (or any other relevant or successor provisions of the Code or of such U.S. Treasury Regulations).

(iv) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided, however*, 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.

(v) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, Agent has the right,



but not the obligation, to effectuate assignments of Loan via an electronic settlement system acceptable to Agent as designated in writing from time to time to the Lenders by Agent (the “**Settlement Service**”). At any time when Agent elects, in its sole discretion, to implement such Settlement Service, each such assignment shall be effected by the assigning Lender and proposed assignee pursuant to the procedures then in effect under the Settlement Service, which procedures shall be consistent with the other provisions of this Section 11.17(a). Each assigning Lender and proposed Eligible Assignee shall comply with the requirements of the Settlement Service in connection with effecting any assignment of Loan pursuant to the Settlement Service. With the prior written approval of Agent, Agent’s approval of such Eligible Assignee shall be deemed to have been automatically granted with respect to any transfer effected through the Settlement Service. Assignments and assumptions of the Loan shall be effected by the provisions otherwise set forth herein until Agent notifies Lenders of the Settlement Service as set forth herein.

(b) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower or Agent, sell to one or more Persons (other than any Borrower or any Borrower’s Affiliates) participating interests in its Loan, commitments or other interests hereunder (any such Person, a “Participant”). In the event of a sale by a Lender of a participating interest to a Participant, (i) such Lender’s obligations hereunder shall remain unchanged for all purposes, (ii) Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations hereunder, and (iii) all amounts payable by each Borrower shall be determined as if such Lender had not sold such participation and shall be paid directly to such Lender. Each Borrower agrees that if amounts outstanding under this Agreement are due and payable (as a result of acceleration or otherwise), each Participant shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; *provided, however*, that such right of set-off shall be subject to the obligation of each Participant to share with Lenders, and Lenders agree to share with each Participant, as provided in Section 11.5.

(c) Replacement of Lenders. Within thirty (30) days after: (i) receipt by Agent of notice and demand from any Lender for payment of additional costs as provided in Section 2.8(d), which demand shall not have been revoked, (ii) any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8(a) through (h), (iii) any Lender is a Defaulted Lender, and the circumstances causing such status shall not have been cured or waived; or (iv) any failure by any Lender to consent to a requested amendment, waiver or modification to any Financing Document in which Required Lenders have already consented to such amendment, waiver or modification but the consent of each Lender, or each Lender affected thereby, is required with respect thereto (each relevant Lender in the foregoing clauses (i) through (iv) being an “Affected Lender”) each of Borrower Representative and Agent may, at its option, notify such Affected Lender and, in the case of Borrowers’ election, Agent, of such Person’s intention to obtain, at Borrowers’



expense, a replacement Lender (“Replacement Lender”) for such Lender, which Replacement Lender shall be an Eligible Assignee and, in the event the Replacement Lender is to replace an Affected Lender described in the preceding clause (iv), such Replacement Lender consents to the requested amendment, waiver or modification making the replaced Lender an Affected Lender. In the event Borrowers or Agent, as applicable, obtains a Replacement Lender within ninety (90) days following notice of its intention to do so, the Affected Lender shall sell, at par, and assign all of its Loan and funding commitments hereunder to such Replacement Lender in accordance with the procedures set forth in Section 11.17(a); *provided, however*, that (A) Borrowers shall have reimbursed such Lender for its increased costs and additional payments for which it is entitled to reimbursement under Section 2.8(a) through (h), as applicable, of this Agreement through the date of such sale and assignment, and (B) Borrowers shall pay to Agent the \$3,500 processing fee in respect of such assignment. In the event that a replaced Lender does not execute an Assignment Agreement pursuant to Section 11.17(a) within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 11.17(c) and presentation to such replaced Lender of an Assignment Agreement evidencing an assignment pursuant to this Section 11.17(c), such replaced Lender shall be deemed to have consented to the terms of such Assignment Agreement, and any such Assignment Agreement executed by Agent, the Replacement Lender and, to the extent required pursuant to Section 11.17(a), Borrowers, shall be effective for purposes of this Section 11.17(c) and Section 11.17(a). Upon any such assignment and payment, such replaced Lender shall no longer constitute a “Lender” for purposes hereof, other than with respect to such rights and obligations that survive termination as set forth in Section 13.1.

(d) Credit Party Assignments. No Credit Party may assign, delegate or otherwise transfer any of its rights or other obligations hereunder or under any other Financing Document without the prior written consent of Agent and each Lender.

Section 11.18 Funding and Settlement Provisions Applicable When Non-Funding Lenders Exist.

So long as Agent has not waived the conditions to the funding of Revolving Loans set forth in Section 7.2, any Lender may deliver a notice to Agent stating that such Lender shall cease making Revolving Loans due to the non-satisfaction of one or more conditions to funding Loans set forth in Section 7.2, and specifying any such non-satisfied conditions. Any Lender delivering any such notice shall become a non-funding Lender (a “**Non-Funding Lender**”) for purposes of this Agreement commencing on the Business Day following receipt by Agent of such notice, and shall cease to be a Non-Funding Lender on the date on which such Lender has either revoked the effectiveness of such notice or acknowledged in writing to each of Agent the satisfaction of the condition(s) specified in such notice, or Required Lenders waive the conditions to the funding of such Loans giving rise to such notice by Non-Funding Lender. Each Non-Funding Lender shall remain a Lender for purposes of this Agreement to the extent that such Non-Funding Lender has Revolving Loan Outstandings in excess of \$0; *provided, however*, that during any period of time that any Non-Funding Lender exists, and notwithstanding any provision to the contrary set forth herein, the following provisions shall apply:

(a) For purposes of determining the Pro Rata Share of each Revolving Lender under clause (c) of the definition of such term, each Non-Funding Lender shall be deemed to have a Revolving Loan Commitment Amount as in effect immediately before such Lender became a Non-Funding Lender.

(b) Except as provided in clause (a) above, the Revolving Loan Commitment Amount of each Non-Funding Lender shall be deemed to be \$0.

(c) The Revolving Loan Commitment at any date of determination during such period shall be deemed to be equal to the sum of (i) the aggregate Revolving Loan Commitment Amounts of all Lenders, other than the Non-Funding Lenders as of such date plus (ii) the aggregate Revolving Loan Outstandings of all Non-Funding Lenders as of such date.

(d) [reserved].

(e) Agent shall have no right to make or disburse Revolving Loans for the account of any Non-Funding Lender pursuant to Section 2.1(b)(i) to pay interest, fees, expenses and other charges of any Credit Party.

(f) To the extent that Agent applies proceeds of Collateral or other payments received by Agent to repayment of Revolving Loans pursuant to Section 10.7, such payments and proceeds shall be applied first in respect of Revolving Loans made at the time any Non-Funding Lenders exist, and second in respect of all other outstanding Revolving Loans.

Section 11.19 Buy-Out Upon Refinancing. MidCap Financial Trust shall have the right to purchase from the other Lenders all of their respective interests in the Loan at par in connection with any refinancing of the Loan upon one or more new economic terms, but which refinancing is structured as an amendment and restatement of the Loan rather than a payoff of the Loan.

Section 11.20 Erroneous Payments.

(a) Each Lender and any other party hereto hereby severally agrees that if (i) Agent notifies (which such notice shall be conclusive absent manifest error) such Lender (or the Lender which is an Affiliate of a Lender) or any other Person that has received funds from Agent or any of its Affiliates, either for its own account or on behalf of a Lender (each such recipient, but in any event excluding the Credit Parties and their Affiliates, a “**Payment Recipient**”) that 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 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 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 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 11.20(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 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 Agent for the return of any Erroneous Payments, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(b) Without limiting the immediately preceding clause (a), each Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly notify Agent in writing of such occurrence.

(c) In the case of either clause (a)(i) or (a)(ii) above, such Erroneous Payment shall at all times remain the property of Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of Agent, and upon demand from 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 one Business Day thereafter, return to 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 Agent at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by Agent for any reason, after demand therefor by 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 Agent and upon 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 Revolving Loan Commitment Amount) with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Loans**”) to Agent or, at the option of Agent, Agent’s applicable lending affiliate (such assignee, the “**Agent Assignee**”) in an amount that is equal to the Erroneous Payment Return Deficiency (or such lesser amount as Agent may specify) (such assignment of the Loans (but not its Revolving Loan Commitment Amount) of the Erroneous Payment Impacted Loans, 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 Agent Assignee as the assignee of such Erroneous Payment Deficiency Assignment. Without limitation of its rights hereunder, following the effectiveness of the Erroneous Payment Deficiency Assignment, Agent may make a cashless reassignment to the applicable assigning Lender of any Erroneous Payment Deficiency Assignment at any time by written notice to the applicable assigning Lender and upon such reassignment all of the Loans assigned pursuant to such Erroneous Payment Deficiency Assignment shall be reassigned to such Lender without any requirement for payment or other consideration. 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 11.17 and (3) Agent may reflect such assignments in the Register without further consent or action by any other Person.

(e) 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, Agent (1) shall be subrogated to all the rights of such Payment Recipient and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Financing Document, or otherwise payable or distributable by Agent to such Payment Recipient from any source, against any amount due to Agent under this Section 11.20 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 Agent from the Borrower or any other Credit Party for the purpose of making for 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.

(f) Each party's obligations under this Section 11.20 shall survive the resignation or replacement of Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Revolving Loan Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Financing Document.

(g) The provisions of this Section 11.20 to the contrary notwithstanding, (i) nothing in this Section 11.20 will constitute a waiver or release of any claim of any party hereunder arising from any Payment Recipient's receipt of an Erroneous Payment and (ii) there will only be deemed to be a recovery of the Erroneous Payment to the extent that Agent has received payment from the Payment Recipient in immediately available funds the Erroneous Payment Return Deficiency, whether directly from the Payment Recipient, as a result of the exercise by Agent of its rights of



subrogation or set off as set forth above in clause (e) or as a result of the receipt by Agent Assignee of a payment of the outstanding principal balance of the Loans assigned to Agent Assignee pursuant to an Erroneous Payment Deficiency Assignment, but excluding any other amounts in respect thereof (it being agreed that any payments of interest, fees, expenses or other amounts (other than principal) received by Agent Assignee in respect of the Loans assigned to Agent Assignee pursuant to an Erroneous Payment Deficiency Assignment shall be the sole property of Agent Assignee and shall not constitute a recovery of the Erroneous Payment).

Section 11.21 Definitions. As used in this Article 11, the following terms have the following meanings:

“Approved Fund” means any (a) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the Ordinary Course of Business, or (b) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (a) and that, with respect to each of the preceding clauses (a) and (b), is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

“Assignment Agreement” means an assignment agreement in form and substance acceptable to Agent substantially in the form of Exhibit A hereto.

“Defaulted Lender” means, so long as such failure shall remain in existence and uncured, any Lender which shall have failed to make any Loan or other credit accommodation, disbursement, settlement or reimbursement required pursuant to the terms of any Financing Document.

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by Agent and (other than in the case of any assignment by Midcap Financial Trust and its Affiliates), so long as no Event of Default has occurred and is continuing, the Borrower Representative (such consent not to be unreasonably withheld or delayed); *provided, however*, that notwithstanding the foregoing, (x) **“Eligible Assignee”** shall not include any Borrower or any of a Borrower’s Affiliates, and (y) no proposed assignee intending to assume all or any portion of the Revolving Loan Commitment shall be an Eligible Assignee unless such proposed assignee either already holds a portion of such Revolving Loan Commitment, or has been approved as an Eligible Assignee by Agent.

“Federal Funds Rate” means, for any day, the rate of interest per annum (rounded upwards, if necessary, to the nearest whole multiple of 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, *provided, however*, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day, and (b) if no such rate is so published

on such next preceding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to Agent on such day on such transactions as determined by Agent.

Section 11.22 Appointment as Hypothecary Representative. Without limiting the powers of Agent, for the purposes of holding any hypothec granted to the Attorney (as defined below) pursuant to the laws of the Province of Quebec to secure the prompt payment and performance of any and all Obligations by any Credit Party, each of the Lenders hereby irrevocably appoints and authorizes Agent and, to the extent necessary, ratifies the appointment and authorization of Agent, to act as the hypothecary representative of the creditors as contemplated under Article 2692 of the Civil Code of Quebec (in such capacity, the “Attorney”), and to enter into, to take and to hold on their behalf, and for their benefit, any hypothec, and to exercise such powers and duties that are conferred upon the Attorney under any related deed of hypothec. The Attorney shall: (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Attorney pursuant to any such deed of hypothec and applicable law, and (b) benefit from and be subject to all provisions hereof with respect to Agent mutatis mutandis, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Lenders and Credit Parties. Any person who becomes a Lender shall, by its execution of an Assignment Agreement, be deemed to have consented to and confirmed the Attorney as the person acting as hypothecary representative holding the aforesaid hypothecs as aforesaid and to have ratified, as of the date it becomes a Lender, all actions taken by the Attorney in such capacity. The substitution of Agent pursuant to the provisions of this Section 11 also constitutes the substitution of the Attorney.

ARTICLE 12 - GUARANTEE

Section 12.1 [Reserved].

Section 12.2 Guarantee; Limitation of Liability.

(a) Each Guarantor, jointly and severally, hereby absolutely, unconditionally and irrevocably guarantees the punctual payment when due, whether at scheduled maturity or on any date of a required prepayment or by acceleration, demand or otherwise, of all Obligations of each other Credit Party now or hereafter existing under or in respect of the Financing Documents (including, without limitation, any extensions, modifications, substitutions, amendments or renewals of any or all of the foregoing Obligations), whether for principal, interest, premiums, fees, indemnities, or reasonable and documented out-of-pocket expenses (such Obligations being the “**Guaranteed Obligations**”), including, without limitation, reasonable and documented out-of-pocket fees and expenses of counsel incurred by Agent in enforcing any rights under the Guarantee under this Section 12 or under any other Financing Document. Without limiting the generality of the foregoing, each Guarantor’s liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by any other Credit Party to Agent or any Lender under or in respect of the Financing Documents but for the fact that they are unenforceable or not allowed due to the

existence of a bankruptcy, reorganization or similar proceeding involving such other Credit Party.

(b) [Reserved].

Section 12.3 Guarantee Absolute. Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Financing Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of Agent or any Lender with respect thereto. The liability of each Guarantor under the Guarantee under this Section 12 shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses (other than payment of the Obligations to the extent of such payment) it may now have or hereafter acquire in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any Financing Documents or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other Obligations of any other Credit Party under or in respect of the Financing Documents, or any other amendment or waiver of or any consent to departure from any Financing Document, including, without limitation, any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Credit Party;

(c) any taking, exchange, release or non-perfection of any Collateral or any other collateral, or any taking, release or amendment or waiver of, or consent to departure from, any other guarantee, for all or any of the Guaranteed Obligations;

(d) any manner of application of Collateral or any other collateral, or proceeds thereof, to all or any of the Guaranteed Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Guaranteed Obligations or any other Obligations of any Credit Party under the Financing Documents or any other assets of any Credit Party;

(e) any change, restructuring or termination of the corporate structure or existence of any Credit Party;

(f) any failure of Agent or any Lender to disclose to any Credit Party any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Credit Party now or hereafter known to Agent or such Lender (each Guarantor waiving any duty on the part of Agent or Lenders to disclose such information) provided that each Guarantor shall have any contractual defenses that the applicable Credit Party has under any Financing Document including payment in full of the Obligations;

(g) the failure of any other Person to execute or deliver any Guarantee Supplement or any other guarantee or agreement or the release or reduction of liability of any Guarantor or other guarantor or surety with respect to the Guaranteed Obligations; or

(h) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by Agent or any Lender that might otherwise constitute a defense available to, or a discharge of, any Credit Party or any other guarantor or surety other than payment in full of the Guaranteed Obligations; provided that each Guarantor shall have any contractual defenses that the applicable Credit Party has under any Financing Document.

The Guarantee under this Section 12 shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by any Lender or any other Person upon the insolvency, bankruptcy or reorganization of Borrowers or any other Credit Party or otherwise, all as though such payment had not been made.

Section 12.4 Waivers and Acknowledgments.

(a) To the extent allowed under applicable Law, each Guarantor hereby unconditionally and irrevocably waives promptness, diligence, notice of acceptance, presentment, demand for performance, notice of non-performance, default, acceleration, protest or dishonor and any other notice with respect to any of the Guaranteed Obligations and the Guarantee under this Section 12 and any requirement that Agent or any Lender protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any Credit Party or any other Person or any Collateral.

(b) Each Guarantor hereby unconditionally and irrevocably waives any right to revoke the Guarantee under this Section 12 and acknowledges that the Guarantee under this Section 12 is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

(c) Each Guarantor hereby unconditionally and irrevocably waives (i) any defense arising by reason of any claim or defense based upon an election of remedies by Agent or any Lender that in any manner impairs, reduces, releases or otherwise adversely affects the subrogation, reimbursement, exoneration, contribution or indemnification rights of such Guarantor or other rights of such Guarantor to proceed against any of the other Credit Parties, any other guarantor or any other Person or any Collateral and (ii) any defense based on any right of set-off or counterclaim against or in respect of the Guaranteed Obligations of such Guarantor hereunder.

(d) Each Guarantor acknowledges that Agent may, without notice to or demand upon such Guarantor and without affecting the liability of such Guarantor under the Guarantee under this Section 12, foreclose under any mortgage by nonjudicial sale, and each Guarantor hereby waives any defense to the recovery by Agent and the

other Lenders against such Guarantor of any deficiency after such nonjudicial sale and any defense or benefits that may be afforded by applicable Law.

(e) Each Guarantor hereby unconditionally and irrevocably waives any duty on the part of Agent or any Lender to disclose to such Guarantor any matter, fact or thing relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Credit Party now or hereafter known by Agent or such Lender.

(f) Each Guarantor acknowledges that it will receive substantial direct and indirect benefits from the financing arrangements contemplated by the Financing Documents and that the waivers set forth in Section 12.3 and this Section 12.4 are knowingly made in contemplation of such benefits.

Section 12.5 Subrogation. Each Guarantor hereby unconditionally and irrevocably agrees not to exercise any rights that it may now have or hereafter acquire against the Borrowers, any other Credit Party or any other insider guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's Obligations under or in respect of the Guarantee under this Section 12 or any other Financing Document, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent or any Lender against the Borrowers, any other Credit Party or any other insider guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from the Borrowers, any other Credit Party or any other insider guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 shall have been paid in full in cash. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the payment in full in cash of the Guaranteed Obligations (other than unasserted contingent indemnification obligations) and all other amounts payable under the Guarantee under this Section 12, such amount shall be received and held in trust for the benefit of Agent and the Lenders, shall be segregated from other property and funds of such Guarantor and shall forthwith be paid or delivered to Agent in the same form as so received (with any necessary endorsement or assignment) to be credited and applied to the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12, whether matured or unmatured, in accordance with the terms of the Financing Documents, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under the Guarantee under this Section 12 thereafter arising. If (a) any Guarantor shall make payment to Agent or any Lender of all or any part of the Guaranteed Obligations, (b) all of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 shall have been paid in full in cash and (c) the Termination Date shall have occurred, Agent or the Lenders will, at such Guarantor's request and expense, execute and deliver to such Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment made by such Guarantor pursuant to the Guarantee under this Section 12.

Section 12.6 [Reserved].

Section 12.7 Subordination. Each Guarantor hereby subordinates any and all debts, liabilities and other Obligations owed to such Guarantor by each other Credit Party, except for any Obligations otherwise set forth hereunder (the “**Subordinated Obligations**”) to the Guaranteed Obligations to the extent and in the manner hereinafter set forth in this Section 12.7:

(a) **Prohibited Payments, Etc.** Unless Agent otherwise agrees, upon a Default or the occurrence and during the continuance of an Event of Default, no Guarantor shall demand, accept or take any action to collect any payment on account of the Subordinated Obligations.

(b) **Prior Payment of Guaranteed Obligations.** In any proceeding under Debtor Relief Laws relating to any other Credit Party, each Guarantor agrees that Agent and the Lenders shall be entitled to receive payment in full in cash of all Guaranteed Obligations before such Guarantor receives payment of any Subordinated Obligations.

(c) **Turn-Over.** After the occurrence and during the continuance of any Event of Default, each Guarantor shall, if Agent so requests, collect, enforce and receive payments on account of the Subordinated Obligations as trustee for Agent and the Lenders and deliver such payments to Agent on account of the Guaranteed Obligations, together with any necessary endorsements or other instruments of transfer.

(d) **Agent Authorization.** After the occurrence and during the continuance of any Event of Default, Agent is authorized and empowered (but without any obligation to so do), in its discretion, (i) in the name of each Guarantor, to collect and enforce, and to submit claims in respect of, the Subordinated Obligations and to apply any amounts received thereon to the Guaranteed Obligations, and (ii) to require each Guarantor (A) to collect and enforce, and to submit claims in respect of, the Subordinated Obligations, and (B) to pay any amounts received on such obligations to Agent for application to the Guaranteed Obligations.

Section 12.8 Continuing Guarantee; Assignments. The Guarantee under this Section 12 is a continuing guarantee and shall (a) remain in full force and effect until the payment in full in cash of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 and termination of all other Obligations hereunder, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by Agent, the Lenders and their respective successors, transferees and assigns. No Guarantor shall have the right to assign its rights hereunder or any interest herein without the prior written consent of Agent.

ARTICLE 13 - MISCELLANEOUS

Section 13.1 Survival. All agreements, representations and warranties made herein and in every other Financing Document shall survive the execution and delivery of this Agreement and the other Financing Documents and the other Operative Documents. The provisions of Section 2.9 and Articles 11 and 12 shall survive the payment of the Obligations



(both with respect to any Lender and all Lenders collectively) and any termination of this Agreement and any judgment with respect to any Obligations, including any final foreclosure judgment with respect to any Security Document, and no unpaid or unperformed, current or future, Obligations will merge into any such judgment.

Section 13.2 No Waivers. No failure or delay by Agent or any Lender in exercising any right, power or privilege under any Financing Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein and therein provided shall be cumulative and not exclusive of any rights or remedies provided by law. Any reference in any Financing Document to the “continuing” nature of any Event of Default shall not be construed as establishing or otherwise indicating that any Borrower or any other Credit Party has the independent right to cure any such Event of Default, but is rather presented merely for convenience should such Event of Default be waived in accordance with the terms of the applicable Financing Documents.

Section 13.3 Notices.

(a) All notices, requests and other communications to any party hereunder shall be in writing (including prepaid overnight courier, e-mail or similar writing) and shall be given to such party at its address or e-mail address set forth on the signature pages hereof (or, in the case of any such Lender who becomes a Lender after the date hereof, in an assignment agreement or in a notice delivered to Borrower Representative and Agent by the assignee Lender forthwith upon such assignment) or at such other address or e-mail address as such party may hereafter specify for the purpose by notice to Agent and Borrower Representative; *provided*, however, that notices, requests or other communications shall be permitted by electronic means only in accordance with the provisions of Section 13.3(b) and (c). Each such notice, request or other communication shall be effective (i) if given by electronic means, in accordance with the provisions of Section 13.3(b) and (c), or (ii) if given by mail, prepaid overnight courier or any other means, when received or when receipt is refused at the applicable address specified by this Section 13.3(a).

(b) Notices and other communications to the parties hereto may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved from time to time by Agent, provided, however, that the foregoing shall not apply to notices sent directly to any Lender if such Lender has notified Agent that it is incapable of receiving notices by electronic communication. Agent or Borrower Representative may, in their discretion, agree to accept notices and other communications to them hereunder by electronic communications pursuant to procedures approved by it, *provided, however*, that approval of such procedures may be limited to particular notices or communications.

(c) Unless 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 acknowledgment from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgment), and

(ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor, provided, however, that if any such notice or other communication is not sent or posted during normal business hours, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day.

Section 13.4 Severability. In case any provision of or obligation under this Agreement or any other Financing Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 13.5 Headings. Headings and captions used in the Financing Documents (including the Exhibits, Schedules and Annexes hereto and thereto) are included for convenience of reference only and shall not be given any substantive effect.

Section 13.6 Confidentiality.

(a) Each Credit Party agrees (i) not to transmit or disclose provisions of any Financing Document to any Person (other than to Borrowers' advisors and officers on a need-to-know basis or as otherwise may be required by Law) without Agent's prior written consent, (ii) to inform all Persons of the confidential nature of the Financing Documents and to direct them not to disclose the same to any other Person and to require each of them to be bound by these provisions.

(b) Agent and each Lender shall hold all non-public information regarding the Credit Parties and their respective businesses identified as such by Borrowers and obtained by Agent or any Lender pursuant to the requirements hereof in accordance with such Person's customary procedures for handling information of such nature, except that disclosure of such information may be made (i) to their respective agents, employees, Subsidiaries, Affiliates, attorneys, auditors, professional consultants, rating agencies, insurance industry associations and portfolio management services, (ii) to prospective transferees or purchasers of any interest in the Loans, Agent or a Lender, and to prospective contractual counterparties (or the professional advisors thereto) in Swap Contracts permitted hereby, *provided, however*, that any such Persons are bound by obligations of confidentiality, (iii) as required by Law, subpoena, judicial order or similar order and in connection with any litigation, (iv) as may be required in connection with the examination, audit or similar investigation of such Person, and (v) as Agent or any Lender considers appropriate in exercising remedies under the Financing Documents or at any time an Event of Default exists hereunder, and (vi) to a Person that is a trustee, investment advisor or investment manager, collateral manager, servicer, noteholder or secured party in a Securitization (as hereinafter defined) in connection with the administration, servicing and reporting on the assets serving as collateral for such Securitization. For the purposes of this Section, "Securitization" shall mean (A) the pledge of the Loans as collateral security for loans to a Lender, or (B) a public or private



offering by a Lender or any of its Affiliates or their respective successors and assigns, of securities which represent an interest in, or which are collateralized, in whole or in part, by the Loans. Confidential information shall include only such information identified as such at the time provided to Agent and shall not include information that either: (y) is in the public domain, or becomes part of the public domain after disclosure to such Person through no fault of such Person, or (z) is disclosed to such Person by a Person other than a Credit Party, *provided, however*, Agent does not have actual knowledge that such Person is prohibited from disclosing such information. The obligations of Agent and Lenders under this Section 13.6 shall supersede and replace the obligations of Agent and Lenders under any confidentiality agreement in respect of this financing executed and delivered by Agent or any Lender prior to the date hereof.

Section 13.7 Waiver of Consequential and Other Damages. To the fullest extent permitted by applicable law, no Borrower shall assert, and each Borrower hereby waives, any claim against any Indemnitee (as defined below), 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 Financing Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Financing Documents or the transactions contemplated hereby or thereby, except for any such damages resulting from the gross negligence or willful misconduct of such Indemnitee or any of such Indemnitee's related parties, as determined by a final non-appealable court of competent jurisdiction.

Section 13.8 GOVERNING LAW; SUBMISSION TO JURISDICTION.

(a) THIS AGREEMENT, EACH NOTE AND EACH OTHER FINANCING DOCUMENT, AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR THERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), OR THE PERFORMANCE BY AGENT OR ANY OF ITS AFFILIATE'S OF THE SERVICES CONTEMPLATED THEREBY, SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

(b) ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING HERETO MAY BE BROUGHT IN THE FEDERAL COURTS SITTING IN THE SOUTHERN DISTRICT OF NEW YORK IN THE STATE OF NEW YORK, OR IF SUCH FEDERAL COURTS DO NOT HAVE JURISDICTION, THEN TO THE COMMERCIAL DIVISION OF THE STATE COURTS RESIDING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK, OR, TO THE EXTENT THAT ANY ACTION IS NOT ELIGIBLE FOR FILING IN THE COMMERCIAL DIVISION, THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY. EACH CREDIT



PARTY EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF SUCH COURTS AND WAIVES ANY DEFENSE OF OR OBJECTION TO THE LAYING OF VENUE IN SUCH COURTS, INCLUDING ANY DEFENSE BASED ON FORUM NON CONVENIENS. EACH CREDIT PARTY HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON SUCH CREDIT PARTY BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH CREDIT PARTY AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

(c) Each Borrower, Agent and each Lender agree that each Loan (including those made on the Closing Date) shall be deemed to be made in, and the transactions contemplated hereunder and in any other Financing Document shall be deemed to have been performed in, the State of New York.

Section 13.9 **WAIVER OF JURY TRIAL.** EACH CREDIT PARTY, AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE FINANCING DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH CREDIT PARTY, AGENT AND EACH LENDER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH CREDIT PARTY, AGENT AND EACH LENDER WARRANTS AND REPRESENTS THAT IT HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

Section 13.10 **Publication; Advertisement.**

(a) Publication. No Credit Party will directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of MCF or any of its Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except (i) as required by Law, subpoena or judicial or similar order, in which case the applicable Credit Party shall give Agent prior written notice of such publication or other disclosure, or (ii) with MCF's prior written consent.

(b) Advertisement. Each Lender and each Credit Party hereby authorizes MCF to publish the name of such Lender and Credit Party, the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing evidenced hereby in any "tombstone", comparable advertisement or press release which

MCF elects to submit for publication. In addition, each Lender and each Credit Party agrees that MCF may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect to any of the foregoing, MCF shall provide Credit Parties with an opportunity to review and confer with MCF regarding the contents of any such tombstone, advertisement or information, as applicable, prior to its submission for publication and, following such review period, MCF may, from time to time, publish such information in any media form desired by MCF, until such time that Credit Parties shall have requested MCF cease any such further publication.

Section 13.11 Counterparts; Integration. This Agreement and the other Financing Documents may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. As used herein, “**Electronic Signature**” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Agreement and the other Financing Documents constitute the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

Section 13.12 **No Strict Construction**. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

Section 13.13 **Lender Approvals**. Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Agent or Lenders with respect to any matter that is the subject of this Agreement, the other Financing Documents may be granted or withheld by Agent and Lenders in their sole and absolute discretion and credit judgment.

Section 13.14 **Expenses; Indemnity.**

(a) Credit Parties hereby agree to promptly pay (i) all costs and expenses of Agent (including, without limitation, the fees, costs and expenses of counsel to, and independent appraisers and consultants retained by Agent) in connection with the examination, review, due diligence investigation, documentation, negotiation, closing

and syndication of the transactions contemplated by the Financing Documents, in connection with the performance by Agent of its rights and remedies under the Financing Documents and in connection with the continued administration of the Financing Documents including (A) any amendments, modifications, consents and waivers to and/or under any and all Financing Documents, and (B) any periodic public record searches conducted by or at the request of Agent (including, without limitation, title investigations, UCC searches, PPSA searches, searches under the Bank Act (Canada), fixture filing searches, judgment, pending litigation and tax lien searches and searches of applicable corporate, limited liability, partnership and related records concerning the continued existence, organization and good standing of certain Persons); (ii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with the creation, perfection and maintenance of Liens pursuant to the Financing Documents; (iii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with (A) protecting, storing, insuring, handling, maintaining or selling any Collateral, (B) any litigation, dispute, suit or proceeding relating to any Financing Document, and (C) any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Financing Documents; (iv) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with Agent's reservation of funds in anticipation of the funding of the initial Loans to be made hereunder; and (v) all costs and expenses incurred by Lenders in connection with any litigation, dispute, suit or proceeding relating to any Financing Document and in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all Financing Documents, whether or not Agent or Lenders are a party thereto. If Agent or any Lender uses in-house counsel for any of these purposes, Credit Parties further agree that the Obligations include reasonable charges for such work commensurate with the fees that would otherwise be charged by outside legal counsel selected by Agent or such Lender for the work performed.

(b) Each Credit Party hereby agrees to indemnify, pay and hold harmless Agent and Lenders and the officers, directors, employees, trustees, agents, investment advisors and investment managers, collateral managers, servicers, and counsel of Agent and Lenders (collectively called the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnatee) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnatee shall be designated a party thereto and including any such proceeding initiated by or on behalf of a Credit Party, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Agent or Lenders) asserting any right to payment for the transactions contemplated hereby, which may be imposed on, incurred by or asserted against such Indemnatee as a result of or in connection with the transactions contemplated hereby or by the other Operative Documents (including (i)(A) as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from, any property now or previously owned, leased or operated by each Credit Party, any Subsidiary or any other Person of any Hazardous Materials, (B) arising out of



or relating to the offsite disposal of any materials generated or present on any such property, or (C) arising out of or resulting from the environmental condition of any such property or the applicability of any governmental requirements relating to Hazardous Materials, whether or not occasioned wholly or in part by any condition, accident or event caused by any act or omission of Credit Party or any Subsidiary, and (ii) proposed and actual extensions of credit under this Agreement) and the use or intended use of the proceeds of the Loans, except that Credit Party shall have no obligation hereunder to an Indemnatee with respect to any liability resulting from the gross negligence or willful misconduct of such Indemnatee or any of such Indemnatee's related parties, as determined by a final non-appealable judgment of a court of competent jurisdiction. To the extent that the undertaking set forth in the immediately preceding sentence may be unenforceable, Credit Parties shall contribute the maximum portion which it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all such indemnified liabilities incurred by the Indemnitees or any of them. This Section 13.14 shall not apply with respect to Taxes other than any Taxes that represent losses, damages, liabilities, actions, suits, judgments, obligations, penalties, fees, claims or reasonable costs and expenses arising from any non-Tax claim.

(c) Notwithstanding any contrary provision in this Agreement, the obligations of Credit Parties under this Section 13.14 shall survive the payment in full of the Obligations and the termination of this Agreement. NO INDEMNITEE SHALL BE RESPONSIBLE OR LIABLE TO THE CREDIT PARTIES OR TO ANY OTHER PARTY TO ANY FINANCING DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

Section 13.15 Confession of Judgment. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, EACH CREDIT PARTY AUTHORIZES ANY ATTORNEY ADMITTED TO PRACTICE BEFORE ANY COURT OF RECORD IN THE UNITED STATES OR THE CLERK OF SUCH COURT TO APPEAR ON BEHALF OF SUCH CREDIT PARTY IN ANY COURT IN ONE OR MORE PROCEEDINGS, OR BEFORE ANY CLERK THEREOF OR PROTHONOTARY OR OTHER COURT OFFICIAL, AND TO CONFESS JUDGMENT AGAINST CREDIT PARTY IN FAVOR OF AGENT (FOR THE BENEFIT OF ALL LENDERS) IN THE FULL AMOUNT DUE ON THIS AGREEMENT (INCLUDING PRINCIPAL, ACCRUED INTEREST AND ANY AND ALL CHARGES, FEES AND COSTS) *PLUS* ATTORNEYS' FEES EQUAL TO FIFTEEN PERCENT (15%) OF THE AMOUNT DUE (EXCEPT THAT AGENT SHALL NOT SEEK TO COLLECT AN AMOUNT IN EXCESS OF ITS ACTUAL ATTORNEYS' FEES), *PLUS* COURT COSTS, ALL WITHOUT PRIOR NOTICE OR OPPORTUNITY OF SUCH CREDIT PARTY FOR PRIOR HEARING. EACH CREDIT PARTY AGREES AND CONSENTS THAT VENUE AND JURISDICTION SHALL BE PROPER IN THE SOUTHERN DISTRICT OF NEW YORK IN THE STATE OF NEW YORK, OR IN THE COMMERCIAL DIVISION OF THE STATE COURTS RESIDING



IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK. THE AUTHORITY AND POWER TO APPEAR FOR AND ENTER JUDGMENT AGAINST A CREDIT PARTY SHALL NOT BE EXHAUSTED BY ONE OR MORE EXERCISES THEREOF, OR BY ANY IMPERFECT EXERCISE THEREOF, AND SHALL NOT BE EXTINGUISHED BY ANY JUDGMENT ENTERED PURSUANT THERETO; SUCH AUTHORITY AND POWER MAY BE EXERCISED ON ONE OR MORE OCCASIONS FROM TIME TO TIME, IN THE SAME OR DIFFERENT JURISDICTIONS, AS OFTEN AS AGENT SHALL DEEM NECESSARY, CONVENIENT, OR PROPER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THIS SECTION 13.15 SHALL APPLY ONLY TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.

Section 13.16 Reinstatement. This Agreement shall remain in full force and effect and continue to be effective should any petition or other proceeding be filed by or against any Credit Party for liquidation or reorganization, should any Credit Party become insolvent or make an assignment for the benefit of any creditor or creditors or should an interim receiver, receiver, receiver and manager, monitor or trustee be appointed for all or any significant part of any Credit Party's assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a fraudulent preference reviewable transaction or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

Section 13.17 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Credit Parties and Agent and each Lender and their respective successors and permitted assigns.

Section 13.18 USA PATRIOT Act Notification. Agent (for itself and not on behalf of any Lender) and each Lender hereby notifies Credit Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record certain information and documentation that identifies Credit Parties, which information includes the name and address of Credit Parties and such other information that will allow Agent or such Lender, as applicable, to identify any Credit Party in accordance with the USA PATRIOT Act.

Section 13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Financing Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures 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 each Credit Party in respect of any such sum due from it to Agent or any Lender hereunder or under the other Financing 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 Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, 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 Agent or any Lender from any Credit Party in the Agreement Currency, such Credit Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify Agent or such 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 Agent or any Lender in such currency, Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Credit Party (or to any other Person who may be entitled thereto under applicable Law).

Section 13.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Financing 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 Financing 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:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing 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 13.21 Canadian Anti-Money Laundering Legislation.

(a) Each Credit Party acknowledges that, pursuant to Anti-Terrorism Laws and other applicable anti-money laundering, anti-terrorist financing, government sanction and “know your client” Laws (collectively, including any guidelines or orders thereunder, “**AML Legislation**”), the Lenders may be required to obtain, verify and record information regarding the Credit Parties and their respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Credit Parties, and the transactions contemplated hereby. Each Credit Party shall promptly provide all such information, including supporting documentation and other evidence, as



may be reasonably requested by any Lender or any prospective assignee or participant of a Lender or Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If Agent has ascertained the identity of any Credit Party or any authorized signatories of the Credit Parties for the purposes of applicable AML Legislation, then Agent:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a “written agreement” in such regard between each Lender and Agent within the meaning of the applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that neither Agent nor any other agent has any obligation to ascertain the identity of the Credit Parties or any authorized signatories of the Credit Parties on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from any Credit Party or any such authorized signatory in doing so.

Section 13.22 Parent.. The parties hereto acknowledge and agree that the Parent is not a party to this Agreement or any other Financing Document and shall not be deemed a Borrower, Guarantor or other obligor with respect to the Obligations.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

ANNEX II

Amended Exhibit B

EXHIBIT B TO CREDIT AGREEMENT (COMPLIANCE CERTIFICATE)

COMPLIANCE CERTIFICATE

Date: _____, 20__

This Compliance Certificate is given by _____, a Responsible Officer of _____ (the “**Borrower Representative**”), pursuant to that certain Credit and Security Agreement dated as of _____, 20__ among the Borrower Representative, _____ and any additional Borrower that may hereafter be added thereto (collectively, “**Borrowers**”), MidCap Funding IV Trust, as Agent, and the financial institutions or other entities from time to time parties hereto, each as a Lender (as such agreement may have been amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”). Capitalized terms used herein without definition shall have the meanings set forth in the Credit Agreement.

The undersigned Responsible Officer hereby certifies to Agent and Lenders that:

- (a) the financial statements delivered with this certificate in accordance with Section 4.1(a) of the Credit Agreement fairly present in all material respects the results of operations and financial condition of Borrowers and their Consolidated Subsidiaries as of the dates and the accounting period covered by such financial statements;
- (b) the representations and warranties of each Credit Party contained in the Financing Documents are true, correct and complete in all material respects on and as of the date hereof, except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct in all material respects as of such earlier date; provided, however, in each case, such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof;
- (c) I have reviewed the terms of the Credit Agreement and have made, or caused to be made under my supervision, a review in reasonable detail of the transactions and conditions of Borrowers and their Consolidated Subsidiaries during the accounting period covered by such financial statements and such review has not disclosed the existence during or at the end of such accounting period, and I have no knowledge of the existence as of the date hereof, of any condition or event that constitutes a Default or an Event of Default, except as set forth in Schedule 1 hereto, which includes a description of the nature and period of existence of such Default or an Event of Default and what action Borrowers have taken, are undertaking and propose to take with respect thereto;
- (d) [except as noted on Schedule 2 attached hereto, the Credit Agreement contains a complete and accurate list of all business locations of Borrowers and Guarantors and all names under which Borrowers and Guarantors currently conduct business; Schedule 2 specifically notes any changes in the names under which any Borrower or Guarantor conduct business;]
- (e) The amount of Eligible Cash on deposit in the Cash Collateral Account is equal to \$ [•];

(f) [except as noted on Schedule 3 attached hereto, the undersigned has no knowledge of (i) any material federal or state tax liens having been filed against any Borrower, Guarantor or any Collateral or (ii) any failure of any Borrower or Guarantors to make required payments of material withholding or other material tax obligations of any Borrower or Guarantors during the accounting period to which the attached statements pertain or any subsequent period;]

(g) [Schedule 5.14 to the Credit Agreement contains a complete and accurate statement of all deposit accounts and investment accounts maintained by Borrowers and Guarantors;]

(h) [except as noted on Schedule 4 attached hereto and Schedule 3.6 to the Credit Agreement, the undersigned has no knowledge of any current, pending or threatened: (i) material litigation against any Borrower or Guarantor; (ii) material inquiries, investigations or proceedings concerning the business affairs, practices, licensing or reimbursement entitlements of any Borrower or Guarantor; or (iii) any material default by any Borrower or Guarantor under any Material Contract to which it is a party;]¹

(i) except as noted on Schedule 5 attached hereto, no Borrower or Guarantor has acquired, by purchase, by the approval or granting of any application for registration (whether or not such application was previously disclosed to Agent by Borrowers) or otherwise, any Intellectual Property that is registered with any United States or foreign Governmental Authority, or has filed with any such United States or foreign Governmental Authority, any new application for the registration of any Intellectual Property, or acquired rights under a license as a licensee with respect to any such registered Intellectual Property (or any such application for the registration of Intellectual Property) owned by another Person, that has not previously been reported to Agent on Schedule 3.17 to the Credit Agreement or any Schedule 5 to any previous Compliance Certificate delivered by Borrower to Agent;

(j) except as noted on Schedule 6 attached hereto, no Borrower or Guarantor has acquired, by purchase or otherwise, any Chattel Paper, Letter of Credit Rights, Instruments, Documents or Investment Property that has not previously been reported to Agent on any Schedule 6 to any previous Compliance Certificate delivered by Borrower Representative to Agent;

(k) except as noted on Schedule 7 attached hereto, no Borrower or Guarantor is aware of any commercial tort claim that has not previously been reported to Agent on any Schedule 7 to any previous Compliance Certificate delivered by Borrower Representative to Agent; and

(l) Borrowers and Guarantors are in compliance with the covenants contained in Article 6 of the Credit Agreement, and in any Guarantee constituting a part of the Financing Documents, as demonstrated by the calculation of such covenants below, except as set forth below; in determining such compliance, the following calculations have been made: [See

¹ This clause (h) and clauses (d), (f) and (g) above to be included only in Compliance Certificates delivered together with the monthly financial statements for the months ended March, June, September and December.

attached worksheets]. Such calculations and the certifications contained therein are true, correct and complete.

The foregoing certifications and computations are made as of _____, 20__ (end of month) and as of _____, 20 __.

Sincerely,

[BORROWER REPRESENTATIVE]

By: _____
Name: _____
Title: _____

Fixed Charge Coverage Ratio Worksheet (Attachment to Compliance Certificate)

Fixed Charges for the applicable Defined Period is calculated as follows:

- Fixed Charges: \$ _____
- Pro Forma Adjustments: \$ _____

Adjusted Fixed Charges for the applicable Defined Period: \$ _____

EBITDA for the applicable Defined Period is calculated as follows:

- EBITDA: \$ _____
- Unfinanced Capital Expenditures: \$ _____
- Capitalized Software Expenditures \$ _____
- Pro Forma Adjustments: \$ _____

Adjusted EBITDA for the Defined Period: \$ _____

FCCR Compliance:

Fixed Charge Coverage Ratio (Adjusted EBITDA/Adjusted Fixed Charges) for the Defined Period _____ to 1.0

Minimum Fixed Charge Coverage for the Defined Period _____ to 1.0

In Compliance Yes/No

[Availability Block:

Is the Fixed Charge Coverage Ratio less than 1.00 to 1.00 Yes/No

Availability Block Triggered Yes/No]²

² NTD: Availability Block is triggered if FCCR is less than 1.00 to 1.00.

Availability Block test to be included for the Availability Block Period commencing on the Third Amendment Effective Date through June 30, 2026.

[Minimum Excess Availability:

Has Excess Availability been less than \$7,5000,000 at any time during the test period for three (3) or more consecutive Business Days?

Yes/No

In Compliance

Yes/No]³

³ NTD: To be included for each Defined Period from the Closing Date through June 30, 2026.

FIRST AMENDMENT TO FINANCING AGREEMENT

This FIRST AMENDMENT TO FINANCING AGREEMENT, dated as of January 21, 2026 (this “Amendment”), by and among XBP Americas, LLC, a Delaware limited liability company (f/k/a Exela Technologies BPA, LLC) (the “Lead Borrower” and “Administrative Borrower”) on behalf of the Borrowers (as defined below) and Ankura Trust Company, LLC, a New Hampshire limited liability company (“Ankura”), as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the “Collateral Agent”), and Ankura, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the “Administrative Agent” and together with the Collateral Agent, each an “Agent” and collectively, the “Agents”) which amends that certain Financing Agreement, dated as of July 29, 2025 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the date hereof, the “Financing Agreement”, and as amended by this Amendment, the “Amended Financing Agreement”) by and among the Lead Borrower, Exela Finance Inc., a Delaware corporation (“Exela Finance” and together with the Lead Borrower, each a “Borrower” and collectively, the “Borrowers”), each subsidiary of the Lead Borrower listed as a “Guarantor” on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a “Guarantor” thereunder, each a “Guarantor” and collectively, the “Guarantors”), the lenders from time to time party thereto (each a “Lender” and collectively, the “Lenders”), and the Agents. Terms defined in the Financing Agreement or the Amended Financing Agreement, as applicable, shall be used in this Amendment with their defined meanings therein unless otherwise defined herein.

WITNESSETH:

WHEREAS, the Lead Borrower and the Agents are parties to the Financing Agreement;

WHEREAS, in accordance with the provisions of Section 12.02(a)(x) of the Financing Agreement, the Lead Borrower has requested, and the Agents have agreed, to amend the Financing Agreement as set forth below;

WHEREAS, subject to the terms and conditions of this Amendment, the parties hereto wish to amend the Financing Agreement as herein provided;

WHEREAS, in accordance with the provisions of Section 12.02(a)(y) of the Financing Agreement, the Lead Borrower has requested, and the Required Lenders under the Financing Agreement have agreed, to waive the Specified Events of Default (as defined below) subject to the conditions set forth in this Amendment;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the parties hereto agree as follows:

Amendments to the Financing Agreement. As of the First Amendment Effective Date (as defined below), Section 1.01 of the Financing Agreement is amended by:

(1) amending and restating the definition of “Permitted Disposition” in its entirety as follows:

“Permitted Disposition” means:

(a) sale of Inventory in the ordinary course of business of the Borrowers or any Subsidiary of the Borrowers;

(b) licensing, on a non-exclusive basis, Intellectual Property rights in the ordinary course of business of the Borrowers or any Subsidiary of the Borrowers;

(c) leasing or subleasing assets in the ordinary course of business of the Borrowers or any Subsidiary of the Borrowers;

(d) (i) the lapse of Registered Intellectual Property of the Borrowers or any Subsidiary of the Borrowers to the extent not economically desirable in the conduct of their business or (ii) the abandonment of Intellectual Property rights in the ordinary course of their business so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Secured Parties;

(e) any involuntary loss, damage or destruction of property;

(f) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(g) so long as no Event of Default has occurred and is continuing or would result therefrom, transfers of assets (i) from the Borrowers or any Subsidiary of the Borrowers (other than the Borrowers) to a Loan Party (other than the Lead Borrower), and (ii) from any Subsidiary of the Lead Borrower that is not a Loan Party to any other Subsidiary of the Lead Borrower; and

(h) any disposition occurring in accordance with the terms of the Tax Funding Agreement;

(i) sales and contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility in effect as of the date hereof; provided that certain of the proceeds from such sale and contribution are used to repay the B. Riley Credit Agreement (which may be by way of a purchase of a participation interest, so long as such participation interest is purchased by a Loan Party or immediately transferred to a Loan Party) in accordance with the terms of the Exar Facility as in effect as of the date hereof; and

(j) any disposition consisting of Securitization Assets in connection with a Permitted Securitization Financing or arising as a result of a Permitted Securitization Financing.

(2) amending and restating the definition of “Permitted Securitization Financing” in its entirety as follows:

“Permitted Securitization Financing” means one or more transactions pursuant to which (a) Securitization Assets or interests therein are sold or transferred to or financed by one or more Special Purpose Securitization Subsidiaries, and (b) such

Special Purpose Securitization Subsidiaries finance (or refinance) their acquisition of such Securitization Assets or interests therein, or the financing thereof, by selling or borrowing against Securitization Assets, and any Hedging Obligations entered into in connection with such Securitization Assets; provided, that, recourse to the Borrowers or any Subsidiary (other than the Special Purpose Securitization Subsidiaries) in connection with such transactions shall be limited to the extent customary (as determined by the Borrowers in good faith) for similar transactions in the applicable jurisdictions (including, to the extent applicable, in a manner consistent with the delivery of a “true sale”/“absolute transfer” opinion with respect to any transfer by the Borrowers or any Subsidiary (other than a Special Purpose

Securitization Subsidiary)), it being understood and agreed that such transactions may be either on-balance sheet or off-balance sheet arrangements; provided, further, that, Permitted Securitization Financings shall be limited such that, at the time of incurrence of such securitization financings, the sum of the maximum amount of indebtedness that could be outstanding at any time under the ABL Facility, the B. Riley Credit Agreement, the Exar Facility and all Permitted Securitization Financings then in effect shall not exceed 90% of the Receivables Assets as of the most recent date for which financial statements have been delivered to the Administrative Agent immediately preceding the date on which such securitization financings Incurred; provided, further, that Permitted Securitization Financings incurred on or after the First Amendment Effective Date shall be limited to \$10,000,000 in the aggregate, provided that such financings are incurred prior to March 31, 2026.

(3) adding the definition of “First Amendment” in alphabetical order as follows:

“First Amendment” means that certain First Amendment to Financing Agreement, dated as of the First Amendment Effective Date, by and among XBP Americas, LLC, a Delaware limited liability company (f/k/a Exela Technologies BPA, LLC) as the Lead Borrower on behalf of the Borrowers, the Required Lenders party thereto and the Agents.

(4) adding the definition of “First Amendment Effective Date” in alphabetical order as follows:

“First Amendment Effective Date” has the meaning set forth in the First Amendment.

SECTION 1. Conditions to Effectiveness. The effectiveness of this Amendment is subject solely to the satisfaction (or waiver) of each of the following conditions (the date of the satisfaction (or waiver) of all such conditions, the “First Amendment Effective Date”):

(a) the Agents shall have received from the Lead Borrower as Administrative Borrower and the Agents, a counterpart of this Amendment signed on behalf of such party; and

(b) The Agents shall have received all reasonable and documented out-of-pocket expenses (including the reasonable and documented out-of-pocket fees and expenses of legal counsels) to the extent due and payable under Section 12.04 of the Financing Agreement and for which invoices have been presented at least three Business Days (or such later date as agreed to by the Lead Borrower) prior to the First Amendment Effective Date.

SECTION 2. Continuing Effect; No Other Amendments or Consents.

(a) Except as expressly provided herein, all of the terms and provisions of the Financing Agreement and the other Loan Documents are and shall remain in full force and effect. The amendments provided for herein are limited to the specific provisions of the Financing Agreement specified herein and shall not constitute a consent, waiver or amendment of, or an indication of the Agents’ or the Lenders’ willingness to consent to any action requiring consent under any other

provisions of the Financing Agreement or any other Loan Document or the same provision for any other date or time period. Upon the effectiveness of the amendments set forth herein, on and after the First Amendment Effective Date, each reference in the Amended Financing Agreement to “this Agreement,” “the Agreement,” “hereunder,” “hereof” or words of like import referring to the Amended Financing Agreement, and each reference in the other Loan Documents to “Financing Agreement,” “thereunder,” “thereof” or words of like import referring

to the Amended Financing Agreement, shall mean and be a reference to the Amended Financing Agreement.

(b) The Lead Borrower and the Agents acknowledge and agree that this Amendment shall constitute a Loan Document.

(c) Nothing contained herein shall be construed as a substitution or novation of the obligations outstanding under the Financing Agreement or the other Loan Documents, which shall remain in full force and effect, except to any extent expressly modified hereby or by instruments executed concurrently herewith.

SECTION 3. Expenses. The Lead Borrower agrees to pay and reimburse the Agents and the Required Supermajority Lenders for all their reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation and delivery of this Amendment, and any other documents prepared in connection herewith and the transactions contemplated hereby, including, without limitation, the reasonable and documented out-of-pocket fees and disbursements of legal counsel to the Agents and the Required Supermajority Lenders, in accordance with and to the extent required by the terms in the Financing Agreement.

SECTION 4. **GOVERNING LAW; WAIVER OF JURY TRIAL; MISCELLANEOUS:**

(a) **GOVERNING LAW.** THIS AMENDMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.

(b) **WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AMENDMENT OR THE OTHER LOAN DOCUMENTS, OR UNDER ANY AMENDMENT, WAIVER, CONSENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION THEREWITH, OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AMENDMENT, AND AGREES THAT ANY SUCH ACTION, PROCEEDINGS OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE LEAD BORROWER CERTIFIES THAT NO OFFICER, REPRESENTATIVE, AGENT OR ATTORNEY OF ANY AGENT OR ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ANY AGENT OR ANY LENDER WOULD NOT, IN THE EVENT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM, SEEK TO ENFORCE THE FOREGOING WAIVERS. THE LEAD BORROWER HEREBY ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE AGENTS ENTERING INTO THIS AMENDMENT.

(c) Submission to Jurisdiction. The submission to jurisdiction provision of Sections 12.09 and 12.10 of the Financing Agreement is hereby incorporated by reference, *mutatis mutandis*.

(d) Waiver of Venue. The waiver of venue provision of Section 12.10 of the Financing Agreement is hereby incorporated by reference, *mutatis mutandis*.

(e) Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Each party hereto acknowledges and agrees that its submission of a signature page to this Amendment is irrevocable and binding on such party and its respective successors and assigns even if such signature page is submitted prior to the effectiveness of any amendment contained herein.

(f) Severability. Any provision of any Amendment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

(g) Miscellaneous. Section 12.08 of the Financing Agreement is hereby incorporated by reference, *mutatis mutandis*.

(h) Direction. The Lenders (which constitute the Required Lenders under the Financing Agreement) hereby (i) consent to the execution, delivery, and performance by the Agents of this Amendment, (ii) authorize and direct the Agents to execute and deliver this Amendment and to take or forbear from taking any and all actions as set forth herein, and (iii) acknowledge and agree that (x) the foregoing directed action constitutes a direction from the Required Lenders under Article X of the Financing Agreement, (y) Article X and Section 12.04 of the Financing Agreement and any other rights, privileges, protections, immunities, exculpations, and indemnities in favor of the Agents thereunder apply to any and all actions taken or not taken by the Agents in accordance with such direction, and (z) the Agents may conclusively rely upon (and shall be fully protected in relying upon) the Register in determining the Lenders' ownership of the Loans and unused Commitments on and as of the date hereof. The undersigned Lenders hereby severally represent and warrant to the Agents that, on and as of the date hereof, they are duly authorized to give the foregoing direction to the Agents.

SECTION 5. Limited Waiver.

(a) Subject to the satisfaction of the conditions precedent set forth in Section 1 hereof, the Lenders hereby waive any Default or Event of Default, solely to the extent arising prior to the First Amendment Effective Date, arising under:

(i) Section 9.1(c) of the Financing Agreement resulting from the Borrower's failure to comply with the covenant set forth in Section 7.01(a)(ix) of the Financing Agreement as a result of the Borrower failing to deliver a written statement of an Authorized Officer of the Borrower setting forth the details of the Defaults or Event of Defaults set forth in this Section 5;

(ii) Section 9.1(c) of the Financing Agreement resulting from the Borrower's failure to comply with the covenant set forth in Section 6(j)(ii) of the Security Agreement as a result of the Borrower amending, modifying, or otherwise changing its name without fifteen (15) Business Days' prior written notice to the Collateral Agent ;

(iii) Section 9.1(e) of the Financing Agreement resulting from (i) any “Specified Event of Default” identified in the Limited Waiver and Second Amendment to Credit and Security Agreement attached hereto as **Exhibit A** and (ii) any “Specified Event of Default” identified in the Limited Waiver and Second Amendment to Amended and Restated Credit and Security Agreement

attached hereto as **Exhibit B** (the Defaults and Events of Default described in the foregoing clauses (i) through (iii), collectively, the “Specified Events of Default”).

The waiver provided in this Section 5 is limited and (i) shall only be relied upon and used for the express purposes set forth herein and shall be limited precisely as written, (ii) shall not constitute nor be deemed to be a consent, waiver, amendment or other modification of any other term or condition of the Financing Agreement, the Amended Financing Agreement or any other Loan Document, and shall not prejudice any right or remedy which the Agents or any Lender may now have or may have in the future under or in connection with the Financing Agreement or any other Loan Document (except as expressly set forth herein with respect to the Specified Events of Default), (iii) shall not constitute nor be deemed to constitute a waiver by the Agents or any Lender of anything other than for the specific purposes set forth herein, (iv) shall not constitute a custom or course of dealing among the parties hereto and (v) does not allow for any other or further departure from the terms and conditions of the Financing Agreement or any other Loan Document, which terms and conditions shall continue in full force and effect. The Agents and the Lenders hereby reserve all of their respective rights and remedies available under the Financing Agreement, the other Loan Documents and applicable law as a result of any Defaults or Events of Default (other than the Specified Events of Default) occurring at any time. Nothing contained herein, and no delay on the part of the Agents or any Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

SECTION 6. Acknowledgment and Reaffirmation.

(a) Acknowledgment of Obligations. All Obligations are unconditionally owing by the Loan Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

(b) Acknowledgment of Liens. Each of the Loan Parties hereby acknowledges, confirms and agrees that the Collateral Agent on behalf of the Secured Parties has and shall continue to have valid, enforceable and perfected Liens (subject to certain Permitted Liens) upon and security interests in the Collateral heretofore granted by the Loan Parties to the Collateral Agent on behalf of the Secured Parties pursuant to the Loan Documents.

(c) Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Loan Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Loan Parties grant Liens or security interests in their properties, in each case under the Loan Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Loan Document to which it is a party, and (B) to the extent such Loan Party granted Liens on or security interests in any of its property pursuant to any such Loan Document (including, but not limited to, the Security Agreement), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

[Signature Pages Follow]

Each of the parties hereto has caused a counterpart of this Amendment to be duly executed and delivered as of the date first above written.

XBP AMERICAS, LLC,
as the Lead Borrower and Administrative Borrower
(on behalf of the Borrowers)

By/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

Exela - Gates - First Amendment to Financing Agreement

COLLATERAL AGENT AND
ADMINISTRATIVE AGENT:

ANKURA TRUST COMPANY, LLC

By/s/ Beth Micena

Name: Beth Micena

Title: Managing Director

[SIGNATURE PAGE TO FIRST AMENDMENT TO FINANCING AGREEMENT]

REQUIRED LENDERS

ECF Value Fund, L.P.

By: Gates Capital Partners, LLC, its general partner

By: Gates Capital Management, Inc., its managing member

By/s/ Marc Blatter

Name: Marc Blatter

Title: Chief Financial Officer

ECF Value Fund II, L.P.

By: Gates Capital Partners, LLC, its general partner

By: Gates Capital Management, Inc., its managing member

By/s/ Marc Blatter

Name: Marc Blatter

Title: Chief Financial Officer

ECF Value Fund International Master, L.P.

By: Gates Capital Partners, LLC, its general partner

By: Gates Capital Management, Inc., its managing member

By/s/ Marc Blatter

Name: Marc Blatter

Title: Chief Financial Officer

AVENUE GLOBAL DISLOCATION
OPPORTUNITIES FUND, L.P.

By: Avenue Global Dislocation Opportunities
GenPar, LLC, its general partner

By: GL Global Dislocation Opportunities Partners,
LLC, its managing member

By: /s/ Sonia Gardner
Name: Sonia Gardner
Title: Member

AVENUE RP OPPORTUNITIES FUND, L.P.

By: Avenue RP Opportunities Fund GenPar, LLC,
its general partner

By: GL RP Partners, LLC, its managing member

By: /s/ Sonia Gardner
Name: Sonia Gardner
Title: Member

AVENUE GLOBAL OPPORTUNITIES MASTER
FUND LP

By: Avenue Global Opportunities GenPar Holdings
Ltd, its general partner

By: /s/ Sonia Gardner
Name: Sonia Gardner
Title: Director

[Signature Page to First Amendment]

Exhibit A

Limited Waiver and Second Amendment to Credit and Security Agreement

[Attached is the Limited Waiver and Second Amendment to Credit and Security Agreement, dated January 21, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), Midcap Funding IV Trust and the lenders party thereto.]

Exhibit B

Limited Waiver and Second Amendment to Amended and Restated Credit and Security Agreement

[Attached is the Limited Waiver and Second Amendment to Amended and Restated Credit and Security Agreement, dated January 21, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), BRF Finance Co. LLC and the lenders party thereto.]

SECOND AMENDMENT TO FINANCING AGREEMENT

This SECOND AMENDMENT TO FINANCING AGREEMENT, dated as of February 13, 2026 (this “Amendment”), by and among XBP Americas, LLC, a Delaware limited liability company (f/k/a Exela Technologies BPA, LLC) (the “Lead Borrower” and “Administrative Borrower”) on behalf of the Borrowers (as defined below), Exela Finance Inc., a Delaware corporation (“Exela Finance” and together with the Lead Borrower, each a “Borrower” and collectively, the “Borrowers”), the Guarantors (as defined below) and Ankura Trust Company, LLC, a New Hampshire limited liability company (“Ankura”), as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the “Collateral Agent”), and Ankura, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the “Administrative Agent” and together with the Collateral Agent, each an “Agent” and collectively, the “Agents”) which amends that certain Financing Agreement, dated as of July 29, 2025 (as amended by that certain First Amendment to Financing Agreement, dated as of January 21, 2026, and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the date hereof, the “Financing Agreement”, and as amended by this Amendment, the “Amended Financing Agreement”) by and among the Lead Borrower, Exela Finance, each subsidiary of the Lead Borrower listed as a “Guarantor” on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a “Guarantor” thereunder, each a “Guarantor” and collectively, the “Guarantors”), the lenders from time to time party thereto (each a “Lender” and collectively, the “Lenders”), and the Agents. Terms defined in the Financing Agreement or the Amended Financing Agreement, as applicable, shall be used in this Amendment with their defined meanings therein unless otherwise defined herein.

WITNESSETH:

WHEREAS, the Loan Parties and the Agents are parties to the Financing Agreement;

WHEREAS, in accordance with the provisions in Section 2.14 of the Financing Agreement, the Borrowers have requested that each 2026 Incremental Term Lender extend credit to the Borrowers in the form of Incremental Term Loans on the Second Amendment Effective Date (as defined below) in an aggregate principal amount of \$4,000,000 (the “2026 Incremental Term Loan” and the Incremental Term Loan Commitments under this Amendment of such 2026 Incremental Term Lender, the “2026 Incremental Term Loan Commitment”), which will be used to pay fees and expenses in connection with this Amendment, for working capital and for general corporate purposes;

WHEREAS, subject to the terms and conditions of this Amendment, the parties hereto wish to amend the Financing Agreement as herein provided;

WHEREAS, as contemplated by Section 2.14 of the Financing Agreement, (x) the parties hereto have agreed, subject to the satisfaction of the conditions precedent to effectiveness set forth in such Section 2.14 and Section 3 hereof, to amend certain terms of the Financing Agreement as hereinafter provided to give effect to the incurrence of the 2026 Incremental Term Loan and (y) this Amendment shall constitute an Incremental Facility Amendment;

WHEREAS, each lender providing the 2026 Incremental Term Loan Commitment and the 2026 Incremental Term Loan set forth on Schedule I hereto (each, a “2026 Incremental Term Lender” and together the “2026 Incremental Term Lenders”) is prepared to provide the 2026 Incremental Term Loan in an amount equal to the 2026 Incremental Term Commitment of such 2026 Incremental Term Lender set forth on Schedule 1 hereto subject to the terms and conditions set forth herein;

WHEREAS, in accordance with the provisions in Section 12.02(a)(x) of the Financing Agreement, the Borrowers have requested, and the Agents and the Required Lenders have agreed, to amend the Financing Agreement as set forth below;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the parties hereto agree as follows:

SECTION 1. Amendments to the Financing Agreement. The Borrowers, the Agents, the Lenders party hereto and the other parties party hereto agree that on the Second Amendment Effective Date, the Financing Agreement shall be amended to delete the stricken text (indicated textually in the same as the following example: ~~stricken-text~~) and to add the underlined text (indicated textually in the same manner as the following example: underlined text) as set forth in the pages of the Financing Agreement attached as Exhibit A hereto.

SECTION 2. 2026 Incremental Term Loan. Pursuant to Section 2.14 of the Financing Agreement, and subject solely to the satisfaction of the conditions precedent set forth in such Section 2.14 and Section 3 hereof, on and as of the Second Amendment Effective Date:

(a) Each 2026 Incremental Term Lender hereby agrees to make a term loan denominated in Dollars to the Borrowers on the Second Amendment Effective Date in an aggregate principal amount not to exceed the amount of the 2026 Incremental Term Commitment of such 2026 Incremental Term Lender. The full amount of the 2026 Incremental Term Loan shall be drawn by the Borrowers in a single drawing on the Second Amendment Effective Date and amounts borrowed pursuant to this Amendment and repaid or prepaid may not be re-borrowed. The 2026 Incremental Term Loan (x) shall constitute an increase in the Term Loans, (y) shall be secured on a *pari passu* basis with, and by identical collateral and guaranteed on identical terms as, the other Loans outstanding and commitments existing on the Second Amendment Effective Date and (z) shall participate on a pro rata basis in any mandatory prepayment with the Initial Term Loans;

(b) Each 2026 Incremental Term Lender and the Loan Parties party hereto agree that this Amendment shall constitute an Incremental Facility Amendment pursuant to and in accordance with Section 2.14 of the Financing Agreement;

(c) The 2026 Incremental Term Commitment of each 2026 Incremental Term Lender shall be automatically and permanently reduced to \$0 upon the funding of the 2026 Incremental Term Loan to be made by such 2026 Incremental Term Lender on the Second Amendment Effective Date; and

(d) The proceeds of the 2026 Incremental Term Loan shall be used by the Borrowers to pay fees and expenses in connection with this Amendment, for working capital and for general corporate purposes.

SECTION 3. Conditions to Effectiveness. The effectiveness of this Amendment is subject solely to the satisfaction (or waiver) of (x) the conditions set forth in Section 2.14(c) of the Financing Agreement and (y) each of the following conditions (the date of the satisfaction (or waiver) of all such conditions, the "Second Amendment Effective Date");

(a) the Agents shall have received from the Loan Parties, the 2026 Incremental Lenders, the Required Lenders and the Agents, a counterpart of this Amendment signed on behalf of such party;

- (b) no Default or Event of Default shall have occurred or be continuing;
- (c) the Loan Parties shall be in pro forma compliance with the financial covenants set forth in Section 7.03 of the Financing Agreement determined as of the last day of the fiscal quarter of the Borrowers most recently ended for which annual or quarterly reports, as applicable, have been delivered pursuant to Section 7.01(a) of the Financing Agreement.;
- (d) the Administrative Borrower shall have submitted a Notice of Borrowing with respect to the 2026 Incremental Term Loan in the same form contemplated by Section 2.02 of the Financing Agreement;
- (e) the representations and warranties contained in Article VI of the Financing Agreement and in each other Loan Document, certificate or other writing delivered to any Secured Party pursuant hereto or thereto on or prior to the date of such Loan are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to materiality or "Material Adverse Effect" in the text thereof, which representations and warranties shall be true and correct in all respects subject to such qualification) on and as of such date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct on and as of such earlier date),
- (f) the Borrowers shall have paid all fees, costs and expenses and taxes then payable by the Borrowers pursuant to the Financing Agreement and the other Loan Documents; and
- (g) the Administrative Agent shall have received a certificate of an Authorized Officer of the Borrowers certifying as to satisfaction of the conditions set forth in clauses (b), (c) and (e), and with respect to clause (c), attaching supporting calculations.

SECTION 4. Continuing Effect; No Other Amendments or Consents.

(a) Except as expressly provided herein, all of the terms and provisions of the Financing Agreement and the other Loan Documents are and shall remain in full force and effect. The amendments provided for herein are limited to the specific provisions of the Financing Agreement specified herein and shall not constitute a consent, waiver or amendment of, or an indication of the Agents' or the Lenders' willingness to consent to any action requiring consent under any other provisions of the Financing Agreement or any other Loan Document or the same provision for any other date or time period. Upon the effectiveness of the amendments set forth herein, on and after the Second Amendment Effective Date, each reference in the Amended Financing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof" or words of like import referring to the Amended Financing Agreement, and each reference in the other Loan Documents to "Financing Agreement," "thereunder," "thereof" or words of like import referring to the Amended Financing Agreement, shall mean and be a reference to the Amended Financing Agreement.

(b) The Borrowers and the Agents acknowledge and agree that this Amendment shall constitute a Loan Document.

(c) Nothing contained herein shall be construed as a substitution or novation of the obligations outstanding under the Financing Agreement or the other Loan Documents, which shall remain in full force and effect, except to any extent expressly modified hereby or by instruments executed concurrently herewith.

SECTION 5. Expenses. The Borrowers agree to pay and reimburse the Agents and the consenting Lenders party hereto for all their reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation and delivery of this Amendment, and any other documents prepared in connection herewith and the transactions contemplated hereby, including, without limitation, the reasonable and documented out-of-pocket fees and disbursements of legal counsel to the Agents and the consenting Lenders party hereto, in accordance with and to the extent required by the terms in the Financing Agreement.

SECTION 6. **GOVERNING LAW; WAIVER OF JURY TRIAL; MISCELLANEOUS:**

(a) **GOVERNING LAW**. THIS AMENDMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.

(b) **WAIVER OF JURY TRIAL**. EACH PARTY HERETO HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AMENDMENT OR THE OTHER LOAN DOCUMENTS, OR UNDER ANY AMENDMENT, WAIVER, CONSENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION THEREWITH, OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AMENDMENT, AND AGREES THAT ANY SUCH ACTION, PROCEEDINGS OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE BORROWERS CERTIFY THAT NO OFFICER, REPRESENTATIVE, AGENT OR ATTORNEY OF ANY AGENT OR ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ANY AGENT OR ANY LENDER WOULD NOT, IN THE EVENT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM, SEEK TO ENFORCE THE FOREGOING WAIVERS. THE BORROWERS HEREBY ACKNOWLEDGE THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE AGENTS ENTERING INTO THIS AMENDMENT.

(c) **Submission to Jurisdiction**. The submission to jurisdiction provision of Sections 12.09 and 12.10 of the Financing Agreement is hereby incorporated by reference, *mutatis mutandis*.

(d) **Waiver of Venue**. The waiver of venue provision of Section 12.10 of the Financing Agreement is hereby incorporated by reference, *mutatis mutandis*.

(e) Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Each party hereto acknowledges and agrees that its submission of a signature page to this Amendment is irrevocable and binding on such party and its respective successors and assigns even if such signature page is submitted prior to the effectiveness of any amendment contained herein.

(f) Severability. Any provision of any Amendment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

(g) Miscellaneous. Section 12.08 of the Financing Agreement is hereby incorporated by reference, *mutatis mutandis*.

(h) Direction. The Lenders (which constitute the Required Lenders under the Financing Agreement) hereby (i) consent to the execution, delivery, and performance by the Agents of this Amendment, (ii) authorize and direct the Agents to execute and deliver this Amendment and to take or forbear from taking any and all actions as set forth herein, and (iii) acknowledge and agree that (x) the foregoing directed action constitutes a direction from the Required Lenders under Article X of the Financing Agreement, (y) Article X and Section 12.04 of the Financing Agreement and any other rights, privileges, protections, immunities, exculpations, and indemnities in favor of the Agents thereunder apply to any and all actions taken or not taken by the Agents in accordance with such direction, and (z) the Agents may conclusively rely upon (and shall be fully protected in relying upon) the Register in determining the Lenders' ownership of the Loans and unused Commitments on and as of the date hereof. The undersigned Lenders hereby severally represent and warrant to the Agents that, on and as of the date hereof, they are duly authorized to give the foregoing direction to the Agents.

SECTION 7. Acknowledgment and Reaffirmation.

(a) Acknowledgment of Obligations. All Obligations are unconditionally owing by the Loan Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

(b) Acknowledgment of Liens. Each of the Loan Parties hereby acknowledges, confirms and agrees that the Collateral Agent on behalf of the Secured Parties has and shall continue to have valid, enforceable and perfected Liens (subject to certain Permitted Liens) upon and security interests in the Collateral heretofore granted by the Loan Parties to the Collateral Agent on behalf of the Secured Parties pursuant to the Loan Documents.

(c) Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Loan Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Loan Parties grant Liens or security interests in their properties, in each case under the Loan Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Loan Document to which it is a party, and (B) to the extent such Loan Party granted Liens on or security interests in any of its property pursuant to any such Loan Document (including, but not limited to, the Security Agreement), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

[Signature Pages Follow]

Each of the parties hereto has caused a counterpart of this Amendment to be duly executed and delivered as of the date first above written.

XBP AMERICAS, LLC,

as the Lead Borrower and Administrative Borrower
(on behalf of the Borrowers)

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

EXELA FINANCE INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

GUARANTORS:

EXELA INTERMEDIATE LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

EXELA FINANCE, INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

SOURCEHOV HOLDINGS, INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

SOURCEHOV LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

SOURCEHOV CANADA COMPANY

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

CORPSOURCE HOLDINGS, LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

SOURCECORP, INCORPORATED

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

SOURCECORP BPS INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

DELIVEREX, LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

UNITED INFORMATION SERVICES, INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

ECONOMIC RESEARCH SERVICES, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

SOURCECORP LEGAL INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

RUST CONSULTING, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

SOURCEHOV HEALTHCARE, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

KINSELLA MEDIA LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

HOV SERVICES, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

HOV ENTERPRISE SERVICES, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

MERIDIAN CONSULTING GROUP, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

RUSTIC CANYON III, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

HOV SERVICES, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

CHARTER LASON, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

LASON INTERNATIONAL, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

SOURCECORP MANAGEMENT, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

PANGAEA ACQUISITIONS INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

BANCTEC GROUP LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

BANCTEC, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

BANCTEC (PUERTO RICO), INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

DOCUDATA SOLUTIONS, L.C.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

BTC VENTURES, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

RECOGNITION MEXICO HOLDING INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

BANCTEC INTERMEDIATE HOLDING, INC.

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

RC4 CAPITAL, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

DFG2 HOLDINGS, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

DFG2, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

PLEXUS GLOBAL FINANCE, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

HOVG, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

TRAC HOLDINGS, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

MANAGED CARE PROFESSIONALS, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

FTS PARENT INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

TRANSCENTRA, INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

J & B SOFTWARE, INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

REGULUS HOLDING INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

REGULUS GROUP LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

REGULUS GROUP II LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

REGULUS AMERICA LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

REGULUS INTEGRATED SOLUTIONS LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

EXELA RE LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

REGULUS WEST LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

NOVITEX INTERMEDIATE, LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

**NOVITEX GOVERNMENT SOLUTIONS,
LLC**

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

EXELA XBP, LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

BANCTEC (CANADA), INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

EXELA RECEIVABLES 3 HOLDCO, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

EXELA RECEIVABLES 3, LLC

By/s/ Andrej Jonovic

Name Andrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

AFFILIATED
GUARANTORS:

NEON ACQUISITION, LLC

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

**NOVITEX ENTERPRISE SOLUTIONS
CANADA, INC.**

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

EXELA ENTERPRISE SOLUTIONS, INC.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

SERVICES INTEGRATION GROUP, L.P.

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

**SIG - GP L.L.C., A LIMITED LIABILITY
COMPANY**

By/s/ Andrej Jonovic

NameAndrej Jonovic

Title: Authorized Signatory

[Signature Page to Second Amendment to Financing Agreement]

COLLATERAL AGENT AND
ADMINISTRATIVE AGENT:

ANKURA TRUST COMPANY, LLC

By/s/ Beth Micena

Name: Beth Micena

Title: Managing Director

2026 INCREMENTAL TERM LOAN
LENDERS:

**AVENUE GLOBAL DISLOCATION
OPPORTUNITIES FUND, L.P.**

**BY: AVENUE GLOBAL DISLOCATION
OPPORTUNITIES GENPAR, LLC, ITS
GENERAL
PARTNER**

**BY: GL GLOBAL DISLOCATION
OPPORTUNITIES
PARTNERS, LLC, ITS MANAGING
MEMBER**

By/s/ Sonia Gardner

NameSonia Gardner

Title: Member

[SIGNATURE PAGE TO SECOND AMENDMENT]

2026 INCREMENTAL TERM LOAN

LENDERS:

**AVENUE GLOBAL OPPORTUNITIES
MASTER FUND LP**

**BY: AVENUE GLOBAL OPPORTUNITIES
GENPAR
HOLDINGS LTD, ITS GENERAL PARTNER**

By/s/ Sonia Gardner

Name Sonia Gardner

Title: Director

[SIGNATURE PAGE TO SECOND AMENDMENT]

2026 INCREMENTAL TERM LOAN

LENDERS:

AVENUE RP OPPORTUNITIES FUND, L.P.

**BY: AVENUE RP OPPORTUNITIES FUND
GENPAR, LLC, ITS GENERAL PARTNER**

**BY: GL RP PARTNERS, LLC, ITS
MANAGING MEMBER**

By/s/ Sonia Gardner

Name: Sonia Gardner

Title: Member

[SIGNATURE PAGE TO SECOND AMENDMENT]

REQUIRED LENDERS:

ECF VALUE FUND, L.P.

By: Gates Capital Partners, LLC, its
general partner

By: Gates Capital Management, Inc., its
managing member

By/s/ Marc Blatter

Name Marc Blatter

Title: Chief Financial Officer

ECF VALUE FUND II, L.P.

By: Gates Capital Partners, LLC, its
general partner

By: Gates Capital Management, Inc., its
managing member

By/s/ Marc Blatter

Name Marc Blatter

Title: Chief Financial Officer

ECF VALUE FUND INTERNATIONAL
MASTER, L.P.

By: Gates Capital Partners, LLC, its
general partner

By: Gates Capital Management, Inc., its
managing member

By/s/ Marc Blatter

Name Marc Blatter

Title: Chief Financial Officer

[SIGNATURE PAGE TO SECOND AMENDMENT]

Exhibit A

Financing Agreement (Conformed through the Second Amendment to Financing Agreement)

[See Attached]

Conformed through ~~First~~Second Amendment

FINANCING AGREEMENT

Dated as of July 29, 2025,

as amended as of January 21, 2026,

and as further amended as of February 13, 2026

by and among

EXELA TECHNOLOGIES BPA, LLC and

EXELA FINANCE INC.,

as Borrowers,

EACH SUBSIDIARY OF BORROWERS

LISTED AS A GUARANTOR ON THE SIGNATURE PAGES HERETO,

as Guarantors,

THE LENDERS FROM TIME TO TIME PARTY HERETO,

as Lenders,

and

ANKURA TRUST COMPANY, LLC,

as Administrative Agent and Collateral Agent

Table of Contents

	<u>Page</u>
ARTICLE I DEFINITIONS; CERTAIN TERMS	2
Section 1.01 Definitions	2
Section 1.02 Terms Generally	72
Section 1.03 Certain Matters of Construction	72
Section 1.04 Accounting and Other Terms	73
Section 1.05 Time References	74
Section 1.06 Obligation to Make Payments in Dollars	74
Section 1.07 Rates	75
Section 1.08 Exchange Rates	75
Section 1.09 Quebec Interpretation	76
ARTICLE II THE LOANS	76
Section 2.01 Commitments	77
Section 2.02 Making the Loans	77
Section 2.03 Repayment of Loans; Evidence of Debt	79
Section 2.04 Interest	79
Section 2.05 Reduction of Commitment; Prepayment of Loans	81
Section 2.06 Fees	84
Section 2.07 SOFR Option	85
Section 2.08 Funding Losses	86
Section 2.09 Taxes	87
Section 2.10 Increased Costs and Reduced Return	91
Section 2.11 Inability to Determine Rates	92
Section 2.12 Illegality	93
Section 2.13 Benchmark Replacement Setting	93
Section 2.14 Incremental Facility	95
ARTICLE III [RESERVED]	98
ARTICLE IV APPLICATION OF PAYMENTS; DEFAULTING LENDERS; JOINT AND SEVERAL LIABILITY OF BORROWERS	98
Section 4.01 Payments; Computations and Statements	98
Section 4.02 Sharing of Payments	98
Section 4.03 Apportionment of Payments	99
Section 4.04 Defaulting Lenders	100
Section 4.05 Administrative Borrower; Joint and Several Liability of the Borrowers	101
ARTICLE V CONDITIONS TO LOANS	103
Section 5.01 Conditions Precedent to Effectiveness	103
ARTICLE VI REPRESENTATIONS AND WARRANTIES	107
Section 6.01 Representations and Warranties	107

ARTICLE VII COVENANTS OF THE LOAN PARTIES AND OTHER COLLATERAL MATTERS	116
Section 7.01 Affirmative Covenants	116
Section 7.02 Negative Covenants	127
Section 7.03 Financial Covenants	149
ARTICLE VIII [RESERVED]	150
ARTICLE IX EVENTS OF DEFAULT	150
Section 9.01 Events of Default	150
Section 9.02 Cure Right	154
ARTICLE X AGENTS	155
Section 10.01 Appointment	155
Section 10.02 Nature of Duties; Delegation	156
Section 10.03 Rights, Exculpation, Etc.	158
Section 10.04 Reliance	160
Section 10.05 Indemnification	161
Section 10.06 [Reserved].	162
Section 10.07 Successor Agent	162
Section 10.08 Collateral Matters	162
Section 10.09 Agency for Perfection	165
Section 10.10 No Reliance on any Agent's Customer Identification Program	165
Section 10.11 No Third-Party Beneficiaries	165
Section 10.12 No Fiduciary Relationship	166
Section 10.13 Reports; Confidentiality; Disclaimers	166
Section 10.14 Collateral Custodian	166
Intercreditor Agreements; Authorization to Execute Other Loan	
Section 10.15 Documents	167
Section 10.16 [Reserved]	167
Section 10.17 Administrative Agent May File Proofs of Claim	167
Section 10.18 Erroneous Payment	168
Section 10.19 Appointment as Hypothecary Representative	171
Section 10.20 Survival	
ARTICLE XI GUARANTY	171
Section 11.01 Guaranty	171
Section 11.02 Guaranty Absolute	172
Section 11.03 Waiver	173
Section 11.04 Continuing Guaranty; Assignments	173
Section 11.05 Subrogation	174
Section 11.06 Contribution	174
ARTICLE XII MISCELLANEOUS	175
Section 12.01 Notices, Etc.	175
Section 12.02 Amendments, Etc.	177

Section 12.03 No Waiver; Remedies, Etc.	179
Section 12.04 Expenses; Attorneys' Fees	180

Section 12.05 Right of Set-off	181
Section 12.06 Severability	181
Section 12.07 Assignments and Participations	182
Section 12.08 Counterparts	186
Section 12.09 GOVERNING LAW	186
CONSENT TO JURISDICTION; SERVICE OF PROCESS AND	
Section 12.10 VENUE	186
Section 12.11 WAIVER OF JURY TRIAL, ETC.	187
Section 12.12 Consent by the Agents and Lenders	188
Section 12.13 No Party Deemed Drafter	188
Section 12.14 Reinstatement; Certain Payments	188
Section 12.15 Indemnification; Limitation of Liability for Certain Damages	188
Section 12.16 Records	190
Section 12.17 Binding Effect	190
Section 12.18 Highest Lawful Rate	191
Section 12.19 Confidentiality	192
Section 12.20 Platform; Borrower Materials	193
Section 12.21 Public Disclosure	195
Section 12.22 Integration	195
Section 12.23 USA PATRIOT Act	195
Section 12.24 Judgment Currency	195
Section 12.25 Waiver of Immunity	196
Section 12.26 English Language	196
Section 12.27 Parent	197

SCHEDULE AND EXHIBITS

Schedule 1.01(A)	Lenders and Lenders' Commitments
Schedule 1.01(B)	Facilities
Schedule 1.01(C)	Investments
Schedule 6.01(e)	Capitalization; Subsidiaries
Schedule 6.01(f)	Litigation
Schedule 6.01(i)	ERISA
Schedule 6.01(l)	Nature of Business
Schedule 6.01(q)	Labor Matters
Schedule 6.01(q)	Environmental Matters
Schedule 6.01(r)	Insurance
Schedule 6.01(u)	Intellectual Property
Schedule 7.01(r)	Post-Effective Date
Schedule 7.02(a)	Existing Liens
Schedule 7.02(h)	Intellectual Property Licenses
Schedule 7.02(k)(iii)	
(1)	Contractual Encumbrances or Restrictions
Schedule 7.02(v)	Existing Indebtedness
Exhibit A	Form of Joinder Agreement
Exhibit B	Form of Assignment and Acceptance
Exhibit C	Restructuring Plan
Exhibit D	Form of Notice of Borrowing
Exhibit E	Form of SOFR Notice
Exhibit F	Form of Compliance Certificate
Exhibit G	Form of ABL Intercreditor Agreement
Exhibit H	Form of Super Senior Intercreditor Agreement
Exhibit 2.09(d)	Forms of U.S. Tax Compliance Certificate

FINANCING AGREEMENT

Financing Agreement, dated as of July 29, 2025, by and among Exela Technologies BPA, LLC, a Delaware limited liability company (the “Lead Borrower”), Exela Finance Inc., a Delaware corporation (“Exela Finance” and together with the Lead Borrower, each a “Borrower” and collectively, the “Borrowers”), each subsidiary of the Lead Borrower listed as a “Guarantor” on the signature pages hereto (together with each other Person that executes a joinder agreement and becomes a “Guarantor” hereunder, each a “Guarantor” and collectively, the “Guarantors”), the lenders from time to time party hereto (each a “Lender” and collectively, the “Lenders”), Ankura Trust Company, LLC, a New Hampshire limited liability company (“Ankura”), as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the “Collateral Agent”), and Ankura, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the “Administrative Agent” and together with the Collateral Agent, each an “Agent” and collectively, the “Agents”).

RECITALS

WHEREAS, the Loan Parties (as defined herein) have commenced voluntary cases (the “Chapter 11 Cases”) under Chapter 11 of the Bankruptcy Code (as defined herein) in the United States Bankruptcy Court for the Southern District of Texas (Houston Division) (the “Bankruptcy Court”), and the Loan Parties continue to operate their businesses and manage their properties as debtors and debtors-in-possession (collectively, the “Debtors”) pursuant to Sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 23, 2025 the Bankruptcy Court entered the Confirmation Order (as defined herein) approving the Restructuring Plan (as defined herein) of the Debtors, and concurrently with the making (and/or deemed making) of the Loans (as defined herein) hereunder, the effective date with respect to the Restructuring Plan has occurred;

WHEREAS, the Borrowers have asked the Lenders to extend credit to the Borrowers in the form of a new money term loan in the aggregate principal amount of \$40,000,000, the proceeds of which shall be used to repay in full all obligations under the Prepetition Financing Agreement (as defined herein) and to pay fees and expenses related in connection therewith;

WHEREAS, pursuant to the terms of the Restructuring Plan, the Sub-Group DIP Lenders (as defined herein) holding DIP Claims (as defined herein) are entitled to receive on a pro rata basis on account of the aggregate principal amount of such claims, Loans provided for hereunder in the aggregate principal amount of \$6,000,000, and upon the deemed funding of such Loans in accordance with Section 2.01(a)(i), DIP Claims held by the Sub-Group DIP Lenders in an aggregate amount equal to \$10,000,000 will automatically be deemed satisfied, compromised, settled, released and discharged in full pursuant to and in accordance with the Restructuring Plan; and

WHEREAS, the Lenders are severally, and not jointly, willing to extend such credit to the Borrowers subject to the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS; CERTAIN TERMS

Section 1.01 Definitions. As used in this Agreement, the following terms shall have the respective meanings indicated below:

“2026 Incremental Term Loan” has the meaning provided in the Second Amendment.

“2026 Incremental Term Loan Commitment” has the meaning provided in the Second Amendment.

“2026 Incremental Term Loan Lender” has the meaning provided in the Second Amendment.

“ABL Agent” means MidCap Funding IV Trust, as administrative agent and collateral agent under the ABL Facility or any Person who acts as administrative agent and/or collateral agent under the ABL Facility.

“ABL Credit Agreement” means that certain Credit and Security Agreement, dated as of July 29, 2025, by and among the Lead Borrower, as borrower, the ABL Agent and the lenders from time to time party thereto.

“ABL Facility” means indebtedness incurred pursuant to the ABL Credit Agreement, and any other asset-based revolving credit facility (a) made available to the Loan Parties by commercial banks and other financial institutions that customarily provide asset-based revolving loan financing in the ordinary course of business, (b) providing for revolving credit loans in the ordinary course of business with availability based upon a customary borrowing base formula calculated by the value of ABL Priority Collateral, (c) secured by Liens only on the Collateral (which Liens may be senior in priority to the Liens securing the Obligations with respect to Collateral that constitutes ABL Priority Collateral and shall be junior in priority as to all other Collateral) and subject to the ABL Intercreditor Agreement, and (d) subject to terms, conditions, covenants and events of default that are (x) not materially more restrictive than those set forth in this Agreement, taken as a whole (other than with respect to provisions customarily included in an asset-based revolving credit facility, including borrowing base formulas representations and warranties, grace periods, cross-default instead of cross-acceleration, financial covenants and other provisions that are customarily more restricted in asset-based lending facilities or that are customarily absent in high yield debt securities) or (y) on customary market terms and conditions for asset-based lending facilities for comparable borrowers.

“ABL Intercreditor Agreement” means that certain Intercreditor Agreement, dated as of the date hereof, by and among the ABL Agent, B. Riley Agent, the Agents, the Trustee, the

Exit Notes Collateral Agent, or any other intercreditor agreement in substantially the same form attached hereto as Exhibit G.

“ABL Priority Collateral” has the meaning set forth in the ABL Intercreditor Agreement.

“Account” means an account (as that term is defined in the UCC or in the PPSA, as applicable).

“Account Debtor” means, with respect to any Person, each debtor, customer or obligor in any way obligated on or in connection with any Account of such Person.

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

(1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Subsidiary of such specified Person, so long as no such Indebtedness was created or incurred in connection with, or in contemplation of, such merger, consolidated or amalgamation, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person, so long as such Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the asset being acquired on the date of acquisition.

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

“Action” has the meaning specified therefor in Section 12.12.

“Additional Amount” has the meaning specified therefor in Section 2.09(a).

“Additional Lender” shall have the meaning set forth in Section 2.14(b).

“Additional Notes” means the Notes issued under the terms of the Exit Notes Indenture subsequent to the Effective Date.

“Additional Refinancing Amount” means, in connection with the Incurrence of any Refinancing Indebtedness, the aggregate principal amount of additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay accrued and unpaid interest, premiums (including tender premiums), expenses, defeasance costs and fees in respect thereof.

“Administrative Agent” has the meaning specified therefor in the preamble hereto.

“Administrative Agent’s Accounts” means one or more accounts designated by the Administrative Agent at a bank designated by the Administrative Agent from time to time as



the accounts into which the Loan Parties shall make all payments to the Administrative Agent for the benefit of the Secured Parties under this Agreement and the other Loan Documents.

“Administrative Borrower” has the meaning specified therefor in Section 4.05.

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

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the Equity Interests having ordinary voting power for the election of members of the Board of Directors of such Person or (b) direct or cause the direction of the management and policies of such Person whether by contract or otherwise. Notwithstanding anything herein to the contrary, in no event shall any Agent or any Lender that is a Lender on the Effective Date (in each of such Lender’s capacities) be considered an “Affiliate” of any Loan Party.

“Affiliate Transaction” shall have the meaning set forth in Section 7.02(j).

“After-Acquired Property” means any property or assets (other than Excluded Property) of the Borrowers or any Guarantor that secures or is required to secure any Obligations (including any Funded Debt) that is not already subject to the Lien under the Collateral Documents.

“Agent” and “Agents” have the respective meanings specified therefor in the preamble hereto.

“Agreement” means this Financing Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to the Agreement as the same may be in effect at the time such reference becomes operative.

“Ankura” has the meaning specified therefor in the preamble hereto.

“Anti-Corruption Laws” means all Requirements of Law concerning or relating to bribery or corruption, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended (the “FCPA”), the UK Bribery Act of 2010, Canadian Economic Sanctions and Export Control Laws, and the anti-bribery and anti-corruption laws and regulations of those jurisdictions in which the Loan Parties do business.

“Anti-Money Laundering Laws” means all Requirements of Law concerning or relating to terrorism or money laundering, including, without limitation, the Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956-1957), the USA PATRIOT Act and the Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5332 and 12 U.S.C. §§ 1818(s), 1820(b) and §§ 1951-1959) and the rules and regulations thereunder, Canadian Anti-Money Laundering & Anti-Terrorism Legislation, and any law



prohibiting or directed against the financing or support of terrorist activities (*e.g.*, 18 U.S.C. §§ 2339A and 2339B).

“Applicable Margin” means, as of any date of determination, with respect to the interest rate of (a) any Reference Rate Loan or any portion thereof, (x) prior to the date any Incremental Facility ([excluding the 2026 Incremental Term Loan and the 2026 Incremental Term Loan Commitment](#)) is established in accordance with Section 2.14 hereof, 10.65161% per annum and (y) from and after the date any Incremental Facility ([excluding the 2026 Incremental Term Loan and the 2026 Incremental Term Loan Commitment](#)) is established in accordance with Section 2.14 hereof, 7.26161% per annum and (b) any SOFR Rate Loan or any portion thereof, (x) prior to the date any Incremental Facility ([excluding the 2026 Incremental Term Loan and the 2026 Incremental Term Loan Commitment](#)) is established in accordance with Section 2.14 hereof, 11.65161% per annum and (y) from and after the date any Incremental Facility ([excluding the 2026 Incremental Term Loan and the 2026 Incremental Term Loan Commitment](#)) is established in accordance with Section 2.14 hereof, 8.26161% per annum.

“Applicable Premium” means, as of the date of the occurrence of an Applicable Premium Trigger Event:

(a) during the period from and including the Effective Date up to and including the date that is the one-year anniversary of the Effective Date (the “First Period”), an amount equal to 2.00% times the aggregate principal amount of the Term Loan outstanding on the date of such Applicable Premium Trigger Event;

(b) during the period from and including the first day immediately following the First Period up to and including the date that is the two-year anniversary of the Effective Date, an amount equal to 1.00% times the aggregate principal amount of the Term Loan outstanding on the date of such Applicable Premium Trigger Event; and

(c) thereafter, zero.

“Applicable Premium Trigger Event” means

(a) any payment by any Loan Party of all, or any part, of the principal balance of any Term Loan for any reason (including, without limitation, any optional prepayment or mandatory prepayment other than any mandatory prepayment pursuant to Section 2.05(c)(i)) whether before or after (i) the occurrence of an Event of Default, or (ii) the commencement of any Insolvency Proceeding, and notwithstanding any acceleration (for any reason) of the Obligations;

(b) the acceleration of the Obligations for any reason, including, without limitation, acceleration in accordance with Section 9.01, including as a result of the commencement of an Insolvency Proceeding;

(c) the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or compromise of any of the Obligations in any Insolvency Proceeding, foreclosure (whether by power of judicial proceeding or otherwise) or deed in lieu of foreclosure or the making of a distribution of any kind in any Insolvency

Proceeding to any Agent, for the account of the Secured Parties in full or partial satisfaction of the Obligations; or

(d) the termination of this Agreement for any reason.

“Assignment and Acceptance” means an assignment and acceptance entered into by an assigning Lender and an assignee, and accepted by the Administrative Agent, in accordance with Section 12.07 hereof and substantially in the form of Exhibit B hereto or such other form acceptable to the Administrative Agent.

“Authorized Officer” means, with respect to any Person, the chief executive officer, chief operating officer, chief financial officer, treasurer or other financial officer performing similar functions, president or executive vice president of such Person.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) 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 (y) otherwise, any payment period for interest 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 2.13(d).

“B. Riley Credit Agreement” means that certain Amended and Restated Credit Agreement, dated July 29, 2025 among BRF Finance Co. LLC, as administrative agent (the “B. Riley Agent”), the lenders party thereto from time to time, the Company and other entities party thereto, as borrowers, and the guarantors party thereto from time to time, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Bank Indebtedness” means any and all amounts payable under or in respect of one or more (a) debt facilities or commercial paper facilities, providing for revolving credit loans, term loans, reserve-based loans, securitization or receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (b) debt securities, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers’ acceptances), or (c) instruments or agreements evidencing any other Indebtedness, in each case, with the same or different borrowers or issuers and, in each case, as amended, supplemented, modified, extended, restructured, renewed, refinanced, restated, replaced or refunded in whole or in part from time to time.

“Bankruptcy Code” means, as applicable, Title 11 of the U.S. Code (11 U.S.C. § 101 *et seq.*), as now and hereafter in effect, or any successor statute, and any rule or regulation issued thereunder.

“Bankruptcy Court” has the meaning specified therefor in the recitals hereto.



“Benchmark” means, initially, the Term SOFR Reference Rate; provided, that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.13(a).

“Benchmark Replacement” means with respect to any Benchmark Transition Event, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Administrative Borrower 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 to the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment; provided, that, if such Benchmark Replacement as so determined would be less than 4.00%, such Benchmark Replacement will be deemed to be 4.00% for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment for each applicable Interest Period, 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 Administrative Borrower giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

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

(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 no longer 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 the occurrence of one or more of the following events with respect to the then-current Benchmark:

- (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 Federal Reserve Board, the Federal Reserve Bank of New York, 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 such component thereof) announcing that all Available Tenors of such Benchmark (or the published component used in the calculation) 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 Unavailability Period” means, the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.13 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.13.

“Board” means the Board of Governors of the Federal Reserve System of the United States (or any successor).



“Board of Directors” means with respect to (a) any corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) a partnership, the board of directors of the general partner of the partnership, (c) a limited liability company, the managing member or members or any controlling committee or board of directors of such company or the sole member or the managing member thereof, and (d) any other Person, the board or committee of such Person serving a similar function.

“Borrower” and “Borrowers” have the respective meanings specified therefor in the preamble hereto.

“Borrower Materials” has the meaning specified therefor in Section 12.20.

“Business Day” means any day that is not a Saturday, Sunday or any day which is a federal holiday or any other day on which banks are authorized or required by any Requirement of Law to close in New York, except that, if a determination of a Business Day shall relate to a SOFR Rate Loan, the term “Business Day” also shall exclude any 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.

“Canadian Anti-Money Laundering & Anti-Terrorism Legislation” means, collectively, the Criminal Code, R.S.C. 1985, c. C-46, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) and the United Nations Act, R.S.C. 1985, c. U-2 or any similar Canadian legislation, together with all rules, regulations and interpretations thereunder or related thereto including, without limitation, the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism and the United Nations Al Qaida and Taliban Regulations promulgated under the United Nations Act.

“Canadian Defined Benefit Plan” means a Canadian Pension Plan which contains a “defined benefit provision,” as defined in subsection 147.1(1) of the Income Tax Act (Canada).

“Canadian Economic Sanctions and Export Control Laws” means any Canadian Laws, regulations or orders governing transactions in controlled goods or technologies or dealings with countries, entities, organizations, or individuals subject to economic sanctions and similar measures, including the Special Economic Measures Act (Canada), the United Nations Act (Canada), the Freezing Assets of Corrupt Foreign Officials Act (Canada), the Corruption of Foreign Public Officials Act (Canada), Part II.1 of the Criminal Code (Canada), and the Export and Import Permits Act (Canada), and the Foreign Extraterritorial Measures Act (Canada), and any related regulations.

“Canadian Loan Party” means each Loan Party which is incorporated, formed or organized under the laws of Canada or any province or territory thereof.

“Canadian Pension Event” means the earlier of (a) the whole or partial withdrawal of a Loan Party from a Canadian Pension Plan during a plan year; (b) the filing of a notice of intent to terminate in whole or in part a Canadian Pension Plan or the treatment of a Canadian Pension Plan amendment as a termination or partial termination; (c) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee

appointed to administer a Canadian Pension Plan; (d) any statutory deemed trust or Lien, other than a Permitted Lien, arises in connection with a Canadian Pension Plan; or (e) any other event or condition which might constitute grounds for the termination of, winding up or partial termination of winding up or the appointment of trustee to administer, any Canadian Pension Plan.

“Canadian Pension Plan” means a pension plan that is covered by the applicable pension standards laws of any jurisdiction in Canada including the Pension Benefits Act (Ontario) and the Income Tax Act (Canada) and that is maintained or sponsored by a Loan Party for employees or former employees.

“Canadian Security Agreement” means the Canadian Pledge and Security Agreement, dated as of the date hereof, made by each Canadian Loan Party in favor of the Collateral Agent, for the benefit of the Secured Parties securing the Obligations in accordance with the terms thereof.

“Cancellation Condition” shall have the meaning set forth in Section 2.01(c).

“Capital Expenditures” means, with respect to any Person for any period, any expenditure in respect of the purchase or other acquisition of any fixed or capital asset (excluding normal replacements and maintenance that are properly charged to current operations).

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock or shares;
- (2) in the case of an association or business entity, any and all shares,
- (3) interests, participations, rights or other equivalents (however designated) of corporate stock;
- (4) in the case of a partnership or limited liability company, partnership or
- (5) membership interests (whether general or limited); and
- (6) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Capitalized Lease Obligations” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP; provided, that obligations of the Borrowers or their Subsidiaries, or of a special purpose or other entity not consolidated with the Borrowers or their Subsidiaries, either existing on the Effective Date or created thereafter that (a) initially were not included on the consolidated balance sheet of the Borrowers as capital lease obligations and were



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

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

“Cash Equivalents” means:

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

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

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances, in each case with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of \$250,000,000 and whose long-term debt is rated “A” or the equivalent thereof by Moody’s or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency);

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

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

(6) readily marketable direct obligations issued by any state of the United States of America or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody’s or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

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

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

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

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

“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, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any 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 concerning capital adequacy 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 shall, in each case, be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

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

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Borrowers and their respective Subsidiaries, taken as a whole, to a Person;

(2) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the direct or indirect acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule

13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the Voting Stock of the Lead Borrower or the Parent; or

(3) a Change in Control (as defined in the ABL Credit Agreement) under the ABL Credit Agreement.

“Chapter 11 Cases” has the meaning specified therefor in the recitals hereto.

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

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

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

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

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

“Collateral” means all of the property and assets and all interests therein and proceeds thereof now owned or hereafter acquired by any Person upon which a Lien is granted or purported to be granted by such Person as security for all or any part of the Obligations pursuant to the Collateral Documents.

“Collateral Agent” has the meaning specified therefor in the preamble hereto.

“Collateral Agent Advances” has the meaning specified therefor in Section 10.08(a).

“Collateral Document” has the meaning specified therefor in Section 12.02(b)(iii).

“Collections” means all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, proceeds of cash sales, rental proceeds, and tax refunds).

“Commitments” means, with respect to each Lender, such Lender’s Term Loan Commitment.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Compliance Certificate” means a Compliance Certificate, substantially in the form of Exhibit F, duly executed by an Authorized Officer of the Lead Borrower.

“Confirmation Order” means the Order (I) Approving Debtors’ Disclosure Statement and (II) Confirming Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code [Docket No. 834] entered by the Bankruptcy Court on June 23, 2025.

“Conforming Changes” means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Reference Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities 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 2.08 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).

“Consolidated Current Assets” means, as of any date of determination, the total assets of the Borrowers and their Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments, and excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.

“Consolidated Current Liabilities” means, as at any date of determination, the total liabilities of the Borrowers and their Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding (a) the current portion of any Funded Debt, (b) the current portion of interest, (c) accruals for current or deferred taxes based on income or profits, (d) accruals of any costs or expenses related to restructuring reserves, (e) without duplication of clause (a), all obligations owing with respect to the ABL Facility, any other revolving facility, the B. Riley Credit Agreement or any Permitted Securitization Financing to the extent such Permitted Securitization Financing is a liability of the Borrowers and/or their Subsidiaries, (f) the current portion of any Capitalized Lease Obligation, (g) deferred revenue arising from cash receipts that are earmarked for specific projects, (h) liabilities in respect of unpaid earn-outs and (i) the current portion of any other long-term liabilities, and, furthermore, excluding the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transactions or any consummated acquisition.

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

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

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



New Project, disposition, loan origination, recapitalization or the incurrence, modification or repayment of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful) or (ii) incurred in connection with the Transactions, including (A) such fees, expenses or charges related to the Obligations or any Bank Indebtedness, (B) any amendment or other modification of the Obligations or other Indebtedness and (C) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Permitted Securitization Financing; *plus*

(6) business optimization expenses and other restructuring charges, reserves or expenses not related to the Transactions (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges) and Pre-Opening Expenses; *plus*

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

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

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

(10) [reserved]; *plus*

(11) with respect to any joint venture that is not a Subsidiary and solely to the extent relating to any net income referred to in clause (7) of the definition of “Consolidated Net Income” an amount equal to the proportion of those items described in clauses (1) and (2) above relating to such joint venture corresponding to the Borrower’s and the Subsidiaries’ proportionate share of such joint venture’s Consolidated Net Income (determined as if such joint venture were a Subsidiary); *plus*

(12) [reserved]; *plus*

(13) [reserved]; and



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

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

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

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

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

(3) interest income for such period.

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

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

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



expenses, and transaction expenses incurred before, on or after the Effective Date), in each case, shall be excluded;

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

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

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

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

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

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

(8) [reserved];

(9) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with Section 7.02(h)(ii) (L) shall be included as though such amounts had been paid as income taxes directly by such Person for such period;

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



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

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

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

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

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

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

(17) Capitalized Software Expenditures shall be excluded;



- (18) non-cash charges for deferred tax asset valuation allowances shall be excluded;
- (19) any other costs, expenses or charges resulting from facility closures or sales, including income (or losses) from such facility closures or sales, shall be excluded;
- (20) any deductions attributable to minority interests shall be excluded; and
- (21) any gain, loss, income, expense or charge resulting from the application of any LIFO shall be excluded.

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

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

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

“Consolidated Working Capital” means, as of any date of determination, the excess of Consolidated Current Assets over Consolidated Current Liabilities.

“Contingent Indemnity Obligations” means any Obligation constituting a contingent, unliquidated indemnification obligation of any Loan Party, in each case, to the extent (a) such obligation has not accrued and is not yet due and payable and (b) no claim has been made or is reasonably anticipated to be made with respect thereto.



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

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

(2) to advance or supply funds:

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

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

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

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control Agreement” means, with respect to any deposit account, any securities account, commodity account, futures account, securities entitlement, commodity contract or futures entitlement, an agreement, in form and substance satisfactory to the Collateral Agent and the Required Lenders, among the Collateral Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Loan Party maintaining such account, effective to grant “control” (as defined under the applicable UCC or PPSA) over such account, or otherwise providing for administrative control, to the Collateral Agent.

“Covenant Consolidated EBITDA” means, with respect to any Person for any period:

(a) the Consolidated Net Income of such Person for such period,

plus

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

(i) any provision for United States federal income taxes or other taxes measured by net income,

(ii) Consolidated Net Interest Expense,

(iii) any expenses or charges incurred in connection with the Transactions on or prior to December 31, 2025,

- (iv) any depreciation and amortization expense,
- (v) any aggregate net loss on any Disposition (other than accounts and Inventory) outside the ordinary course of business, and
- (vi) any other non-cash expenditure, charge or loss for such period (other than any non-cash expenditure, charge or loss relating to write-offs, write-downs or reserves with respect to accounts and Inventory),

minus

(c) without duplication, the sum of the following amounts for such period to the extent included in the calculation of such Consolidated Net Income for such period:

- (i) any credit for United States federal income taxes or other taxes measured by net income,
 - (ii) any gain from extraordinary items,
 - (iii) any aggregate net gain from Dispositions (other than accounts and Inventory) outside the ordinary course of business, and
 - (iv) any other non-cash gain, including any reversal of a charge referred to in clause (b)(vi) above by reason of a decrease in the value of any Equity Interest;
- in each case, determined on a consolidated basis in accordance with GAAP.

Notwithstanding the foregoing, for purposes of determining Covenant Consolidated EBITDA for the fiscal quarters ended September 30, 2024, December 31, 2024, March 31, 2025, and June 30, 2025, Covenant Consolidated EBITDA for such quarters shall be deemed to be \$18,173,000, \$28,359,000, \$21,916,000 and \$17,724,000, respectively.

“Cure Right” has the meaning specified in Section 9.02.

“Debtor Relief Law” means the Bankruptcy Code, the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-up and Restructuring Act* (Canada), any corporate statute which is used by a Person to propose an arrangement in connection with a compromise of such Person’s debt obligations each as now and hereafter in effect, any successors to such statutes, and any other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief law of the United States, Canada or other applicable jurisdiction from time to time in effect.

“Debtors” has the meaning specified in the recitals hereto.

“Deemed Date” has the meaning specified in Section 7.02(v)(iii)(C).



“Default” means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed to (i) fund all or any portion of its Loans within 2 Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Administrative 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 or any other Lender any other amount required to be paid by it hereunder within 2 Business Days of the date when due, (b) has notified the Administrative Borrower and the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such 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 (3) Business Days after written request by the Administrative Agent or the Administrative Borrower, to confirm in writing to the Administrative Agent and the Administrative 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 Administrative Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity. Notwithstanding anything to the contrary herein, 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 permits 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 clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to the Administrative Borrower and each Lender.

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



“DIP Claims” has the meaning specified in the Restructuring Plan.

“Disbursement Letter” means the disbursement letter, in form and substance reasonably satisfactory to the Required Lenders and the Agents, by and among the Loan Parties, the Agents, and the other Persons party thereto, and the related funds flow memorandum describing the sources and uses of all cash payments in connection with the transactions contemplated to occur on the Effective Date.

“Discharge of the ABL Priority Obligations” has the meaning specified in the ABL Intercreditor Agreement.

“Disclosure Statement Date” means the date of approval by the Bankruptcy Court of the disclosure statement delivered in connection with the Restructuring Plan, which date is May 8, 2025.

“Disposition” means any transaction, or series of related transactions, pursuant to which any Person or any of its Subsidiaries sells, assigns, transfers, leases, licenses (as licensor) or otherwise disposes of any property or assets (whether now owned or hereafter acquired) to any other Person, in each case, whether or not the consideration therefor consists of cash, securities or other assets owned by the acquiring Person. For purposes of clarification, “Disposition” shall include (a) the sale or other disposition for value of any contracts, (b) the early termination or modification of any contract resulting in the receipt by any Loan Party of a cash payment or other consideration in exchange for such event (other than payments in the ordinary course for accrued and unpaid amounts due through the date of termination or modification) or (c), any sale of merchant accounts (or any rights thereto (including, without limitation, any rights to any residual payment stream with respect thereto)) by any Loan Party.

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

(1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than as a result of a change of control or asset sale),

(2) is convertible or exchangeable for Indebtedness or Disqualified Stock of such Person or any of its Subsidiaries, or

(3) is redeemable at the option of the holder thereof, in whole or in part (other than solely as a result of a change of control or asset sale),

in each case prior to 91 days after the earlier of the Final Maturity Date or the date the Obligations are no longer outstanding; provided, however, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; provided, further, however, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Borrowers or their Subsidiaries or by any such plan to such employees, such Capital Stock shall not

constitute Disqualified Stock solely because it may be required to be repurchased by such Person in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or

disability; provided, further, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock.

“Dollar,” “Dollars” and the symbol “\$” each means lawful money of the United States of America.

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

“ECF Due Date” has the meaning specified therefor in Section 2.05(c)(i).

“ECF Prepayment Period” means the applicable fiscal year and the period following the end of such fiscal year and prior to the date of such prepayment pursuant to Section 2.05(c)(i) (provided that, with respect to any such amount following the end of such fiscal year, such amount is not included in any calculation pursuant to the definition of Excess Cash Flow or Section 2.05(c)(i) for the subsequent ECF Prepayment Period).

“Effective Date” has the meaning specified therefor in Section 5.01.

“Effective Date Term Loan” has the meaning specified therefor in the definition of “Term Loan”.

“Employee Plan” means an employee benefit plan within the meaning of Section 3(3) of ERISA (other than a Multiemployer Plan), regardless of whether subject to ERISA, that any Loan Party or any of its ERISA Affiliates maintains, sponsors or contributes to or is obligated to contribute to.

“Environmental Claim” means any action, suit, complaint, summons, citation, notice, directive, order, claim, litigation, investigation, judicial or administrative proceeding, judgment, letter or other communication, from any Person or Governmental Authority relating to or arising out of any threatened, alleged or actual (a) violation of, non-compliance with, or liability under, any Environmental Law, or (b) the manufacture, use, handling, processing, distribution, labeling, generation, transportation, storage, treatment, Release, threatened Release, disposal or arranging for the disposal of, or exposure to, any Hazardous Materials.

“Environmental Law” means any Requirement of Law relating to, regulating or governing (i) the pollution or protection of the environment, any environmental media, natural resources, human health or safety, or (ii) the manufacture, use, handling, processing, distribution, labeling, generation, transportation, storage, treatment, Release, threatened Release, disposal or arranging for the disposal of, or exposure to, any Hazardous Materials.

“Environmental Liability” means all liabilities (contingent or otherwise, known or unknown), monetary obligations, losses (including monies paid in settlement), damages, natural resource damages, costs and expenses (including all reasonable fees, costs, client charges and expenses of counsel, experts and consultants), fines, penalties, sanctions and interest arising directly or indirectly as a result of, from, or based upon (a) any Environmental Claim, (b) any actual, alleged or threatened violation of or non-compliance with any Environmental Law or Environmental Permit, (c) any actual, alleged or threatened Release of, or exposure to,



Hazardous Materials, (d) any Remedial Action, (e) any adverse environmental condition or (f) any contract, agreement or other arrangement pursuant to which liability is assumed or imposed contractually or by operation of law with respect to any of the foregoing (a)-(f).

“Environmental Lien” means any Lien in favor of any Governmental Authority arising out of any Environmental Liability.

“Environmental Permit” means any permit, license, authorization, approval, registration or entitlement required by or issued pursuant to any Environmental Law or by any Governmental Authority pursuant to Environmental Law.

“Equity and Debt Prepayment Percentage” means (i) until the Discharge of Riley Priority Obligations (as defined in the ABL Intercreditor Agreement), 80% and (ii) after the Discharge of Riley Priority Obligations (as defined in the ABL Intercreditor Agreement), 100%.

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

“Equity Issuance” means either (a) the sale or issuance by any Loan Party or any of its Subsidiaries of any shares of its Equity Interests or (b) the receipt by the Lead Borrower of any cash capital contributions.

“Equivalent Amount” means, on any date of determination, with respect to obligations or valuations denominated in one currency (the “first currency”), the amount of another currency (the “second currency”) which would result from the Administrative Agent converting the first currency into the second currency at the Spot Rate on the applicable date of determination, or at such other rate as the Administrative Agent may determine in its sole discretion.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case, as in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

“ERISA Affiliate” means, with respect to any Person, any trade or business (whether or not incorporated) which is a member of a group of which such Person is a member and which would be deemed to be a “controlled group” or under “common control” within the meaning of Sections 414(b), (c), (m) or (o) of the Internal Revenue Code or Sections 4001(a)(14) or 4001(b)(1) of ERISA.

“ERISA Event” means (a) the occurrence of a Reportable Event with respect to any Pension Plan; (b) the failure to meet the minimum funding standards of Section 412 or 430 of the Internal Revenue Code or Section 302 or 303 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Internal Revenue Code or Section 302(c) of ERISA) or the failure to make a contribution or installment required under Section 412 or Section 430(j) of the Internal Revenue Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (c) a determination that

any Pension Plan is, or is expected to be, in “at risk” status (as defined in Section 430 of the Internal Revenue Code or Section 303 of ERISA); (d) a determination that any Multiemployer Plan is, or is expected to be, in “critical” or “endangered” status under Section 432 of the Internal Revenue Code or Section 305 of ERISA; (e) the filing of a notice of intent to terminate a Pension Plan or the treatment of an amendment to a Pension Plan as a termination under Section 4041 of ERISA; (f) the withdrawal by any Loan Party or any of its ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to any Loan Party or any of its ERISA Affiliates pursuant to Section 4063 or 4064 of ERISA; (g) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition that might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (h) the imposition of liability on any Loan Party or any of its ERISA Affiliates pursuant to Section 4062(e) or 4069(a) of ERISA or by reason of the application of Section 4212(c) of ERISA; (i) the withdrawal of any Loan Party or any of its ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan or the receipt by any Loan Party or any of its ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (j) the occurrence of an act or omission which could give rise to the imposition on any Loan Party or any of its ERISA Affiliates of fines, penalties, taxes or related charges under Sections 4975 or 4971 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Employee Plan; (k) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent, upon any Loan Party or any of its ERISA Affiliates; (l) the assertion of a claim (other than routine claims for benefits) against any Employee Plan or the assets thereof, or against any Loan Party or any of its ERISA Affiliates in connection with any Employee Plan or Multiemployer Plan; (m) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Plan intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any such Pension Plan (or such other Employee Plan) to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code; (n) the imposition on any Loan Party of any material fine, excise tax or penalty with respect to any Employee Plan or Multiemployer Plan resulting from any noncompliance with any Requirements of Law; (o) the imposition of a Lien pursuant to Section 430(k) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan; or (p) the occurrence of any Foreign Plan Event.

“Erroneous Payment” has the meaning specified therefor in Section 10.18.

“Erroneous Payment Subrogation Rights” has the meaning specified therefor in Section 10.18.

“ETI” means Exela Technologies, Inc.

“ETI Funding Obligation” has the meaning assigned to it in the Restructuring Plan.



“ETI Litigation Extraordinary Receipts” means the net proceeds received by ETI or any of its affiliates arising out of or in connection with the claims made under that certain litigation pending in the Superior Court of the State of Delaware captioned *Exela Technologies, Inc. v. Columbia Casualty Co., et al.*, C.A. No. N24C-04-162 SKR CCLD.

“Event of Default” has the meaning specified therefor in Section 9.01.

“Exar Facility” means the receivables purchase facility established pursuant to that certain Receivables Purchase Agreement, dated as of February 12, 2024, among Exela BR SPV LLC, a Delaware limited liability company (“Exar SPV”), as seller, BR EXAR, LLC, a Delaware limited liability company (as successor by assignment to B. Riley Securities, Inc., as buyer (the “Exar Buyer”), and the originators party thereto as of the Effective Date (the “Exar Originators”), as amended, restated, amended and restated, supplemented or otherwise modified from time to time (for the avoidance of doubt, other than with respect to amendments, restatements amendments and restatements, supplements or modifications which change the identities of the Exar Originators).

“Excess Cash Flow” means, for any period, an amount equal to the excess of:

- (a) the sum, without duplication, of:
 - (i) Consolidated Net Income of the Borrowers and their Subsidiaries for such period, plus
 - (ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) for such period to the extent deducted in arriving at such Consolidated Net Income, but excluding any such non-cash charges representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period, plus
 - (iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions or Dispositions by the Borrowers and their Subsidiaries completed during such period, the application of purchase accounting or the reclassification of items from short term to long term or vice versa), plus
 - (iv) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrowers and their Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income, plus
 - (v) the amount deducted as tax expense in determining Consolidated Net Income to the extent in excess of cash taxes paid in such period, plus



(vi) cash receipts in respect of Hedging Obligations during such period to the extent not otherwise included in such Consolidated Net Income; over

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income (but excluding any non-cash credit to the extent representing the reversal of an accrual or reserve described in clause (a)(ii) above) and cash charges excluded by virtue of clauses (1) through (15) and (17) through (21) of the definition of “Consolidated Net Income”, plus

(ii) without duplication of amounts deducted pursuant to clause (xi) below or this clause (ii) in prior periods, the amount of Capital Expenditures or acquisitions of Intellectual Property accrued or made in cash during the applicable ECF Prepayment Period to the extent not financed with the proceeds of Funded Debt, plus

(iii) the aggregate amount of all principal payments of Indebtedness (including the principal component of payments in respect of Capitalized Leases) of the Borrowers and their Subsidiaries during the applicable ECF Prepayment Period to the extent such prepayments or repayments are not funded with the proceeds of Funded Debt, excluding all payments of Indebtedness described in Section 2.05(c)(i) to the extent such payments reduce the repayment of Term Loans that would otherwise be required by Section 2.05(c)(i), plus

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrowers and their Subsidiaries during the applicable ECF Prepayment Period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income and the net cash loss on Dispositions to the extent otherwise added to arrive at Consolidated Net Income, plus

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions or Dispositions by the Borrowers and their Subsidiaries completed during such period, the application of purchase accounting or the reclassification of items from short term to long term or vice versa), plus

(vi) cash payments by the Borrowers and their Subsidiaries actually made during the applicable ECF Prepayment Period to the extent not financed with the proceeds of Funded Debt in respect of any purchase price holdbacks, earn-out obligations, long-term liabilities of the Borrowers and their Subsidiaries (other than Indebtedness) to the extent such payments are not expensed during such period or are not deducted in



calculating Consolidated Net Income for such period (and so long as there has not been any reduction in respect of such payments in arriving at Consolidated Net Income for such fiscal year), plus

(vii) without duplication of amounts deducted pursuant to clauses (viii) and (xi) below in prior periods, the amount of Investments made during the applicable ECF Prepayment Period to the extent that such Investments were not financed with the proceeds of Funded Debt, not deducted in calculating Consolidated Net Income, plus

(viii) the amount of Restricted Payments actually paid (and permitted to be paid) during the applicable ECF Prepayment Period pursuant to Sections 7.02(h)(ii)(M), (R), (S) and (V), in each case to the extent such Restricted Payments were not financed with the proceeds of Funded Debt, not deducted in calculating Consolidated Net Income, plus

(ix) the aggregate amount of expenditures actually made by the Borrowers and their Subsidiaries to the extent not financed with the proceeds of Funded Debt during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such fiscal year or are not deducted in calculating Consolidated Net Income (and so long as there has not been any reduction in respect of such expenditures in arriving at Consolidated Net Income for such period), plus

(x) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Borrower or any of the Subsidiaries pursuant to binding contracts, commitments, or binding purchase orders (to the extent not financed with the proceeds of Funded Debt, the “Contract Consideration”) entered into prior to or during such ECF Prepayment Period relating to Permitted Investments, Capital Expenditures or acquisitions of Intellectual Property to be consummated; *provided* that, to the extent the aggregate amount actually utilized to finance such Permitted Investments, Capital Expenditures or acquisitions of intellectual property during any period is less than the Contract Consideration that reduced Excess Cash Flow for the prior period, the amount of such shortfall shall be added to the calculation of Excess Cash Flow for such period, plus

(xi) the amount of cash taxes (including penalties and interest) and tax distributions paid pursuant to Sections 7.02(h)(ii)(L), or tax or tax distribution reserves set aside or payable (without duplication) in such period, to the extent they exceed the amount of tax expense deducted in calculating Consolidated Net Income for such period, plus

(xii) cash expenditures in respect of Hedging Obligations during such period to the extent not deducted in calculating Consolidated Net Income, plus

(xiii) cash payments by the Borrowers and their Subsidiaries actually made during the applicable ECF Prepayment Period to their Parent in satisfaction of Equity Issuance costs or issuance costs related to Funded Debt incurred by Parent on behalf of the Borrowers and their Subsidiaries, plus

(xiv) fees or expenses paid in cash during such period in connection with any Investment, Disposition, incurrence or repayment of Indebtedness, issuance of Equity Interests or amendment or modification of any debt instrument (including any amendment or other modification of this Agreement or the other Loan Documents) and including, in each case, any such transaction consummated on or immediately prior to the Closing Date and any such transaction undertaken but not completed to the extent not deducted in calculating Consolidated Net Income for such period.

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

“Excluded Equity Issuance” means (a) in the event that the Lead Borrower or any of its Subsidiaries forms any Subsidiary in accordance with this Agreement, the issuance by such Subsidiary of Equity Interests to the Lead Borrower or such Subsidiary, as applicable, (b) the issuance of Equity Interests by the Lead Borrower to any Person that is an equity holder of the Lead Borrower prior to such issuance (an “Equity Holder”) so long as such Equity Holder did not acquire any Equity Interests of the Lead Borrower so as to become an Equity Holder concurrently with, or in contemplation of, the issuance of such Equity Interests to such Equity Holder, (c) [reserved], (d) the issuance of Equity Interests of the Lead Borrower to directors, officers and employees of the Lead Borrower and its Subsidiaries pursuant to employee stock option plans (or other employee incentive plans or other compensation arrangements) approved by the Board of Directors of the Lead Borrower, (e) [reserved], and (f) the issuance of Equity Interests by a Subsidiary of the Lead Borrower to its parent or member in connection with the contribution by such parent or member to such Subsidiary of the proceeds of an issuance described in clauses (a) – (d) above.

“Excluded Property” has the meaning specified therefor in the Security Agreement or the Canadian Security Agreement, as applicable.

“Excluded Subsidiary” means, with respect to any Subsidiary of the Borrowers, (a) each Subsidiary that is prohibited from guaranteeing the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a governmental (including regulatory) authority to guarantee the Obligations (unless such consent, approval, license or authorization has been received); provided, that, for the avoidance of doubt, such Subsidiary shall have no obligation to seek such consent, approval, license or authorization, (b) each Subsidiary that is prohibited by any applicable contractual requirement from guaranteeing the Obligations on the Effective Date or at the time such Subsidiary becomes a Subsidiary (in



each case for so long as such restriction or any replacement or renewal thereof is in effect and only to the extent that such prohibition was not implemented or consented to with the intent of evading the requirements of Section 7.01(b)), (c) any Special Purpose Securitization Subsidiary, (d) any Subsidiary (other than a Significant Subsidiary) that (i) did not, as of the last day of the fiscal quarter of the Borrowers most recently ended, have assets with a value in excess of 5.0% of the Total Assets or revenues representing in excess of 5.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date and (ii) taken together with all other such Subsidiaries being excluded pursuant to this clause (d), as of the last day of the fiscal quarter of the Borrowers most recently ended, did not have assets with a value in excess of 10.0% of the Total Assets or revenues representing in excess of 10.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date, and (e) any Subsidiary for which providing a Guaranty or granting Liens required by the Collateral Documents to secure Indebtedness could reasonably be expected to result in material tax consequences as determined in good faith by the Borrowers in consultation with the Required Lenders, in each case pursuant to clauses (a) through (e) hereof, only for so long as it remains as such; provided, that any Subsidiary that incurs or provides a guaranty under (or has pledged its assets to secure the obligations of) any Indebtedness for borrowed money shall not be an Excluded Subsidiary.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason not to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time the guarantee of such Guarantor becomes effective with respect to such related Swap Obligation.

“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, U.S. 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 or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.09, 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 2.09(d) or (g) any U.S. federal withholding Taxes imposed under FATCA.

“Exela Finance” has the meaning specified therefor in the preamble hereto.



“Exit Notes” means the notes under the Exit Notes Indenture.

“Exit Notes Collateral Agent” means the Ankura as collateral agent under the Exit Notes Indenture.

“Exit Notes Indenture” means the indenture dated as of the date hereof among the Lead Borrower, Exela Finance, the guarantors named therein, the financial institutions named therein, the Trustee and the Exit Notes Collateral Agent, as in effect on the date hereof.

“Extraordinary Receipts” means any cash received by the Lead Borrower or any of its Subsidiaries not in the ordinary course of business (and not consisting of (x) proceeds described in Section 2.05(c)(ii) or (iii) hereof, (y) proceeds constituting, or from, ABL Priority Collateral prior to the Discharge of ABL Priority Obligations or (z) the ETI Litigation Extraordinary Receipts), including, without limitation, (a) foreign, United States, state or local tax refunds, (b) pension plan reversions, (c) proceeds of insurance (other than to the extent such insurance proceeds are (i) immediately payable to a Person that is not the Lead Borrower or any of its Subsidiaries in accordance with applicable Requirements of Law or with Contractual Obligations entered into in the ordinary course of business or (ii) received by the Lead Borrower or any of its Subsidiaries as reimbursement for any out-of-pocket costs incurred or made by such Person prior to the receipt thereof directly related to the event resulting from the payment of such proceeds), (d) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (e) condemnation awards (and payments in lieu thereof), (f) indemnity payments (other than to the extent such indemnity payments are (i) immediately payable to a Person that is not an Affiliate of the Lead Borrower or any of its Subsidiaries or (ii) received by the Lead Borrower or any of its Subsidiaries as reimbursement for any costs previously incurred or any payment previously made by such Person) and (g) any purchase price adjustment received in connection with any purchase agreement.

“Facility” means the real property identified on Schedule 1.01(B) and any new Facility hereafter acquired by the Lead Borrower or any of its Subsidiaries, including, without limitation, the land on which each such facility is located, all buildings and other improvements thereon, and all fixtures located thereat or used in connection therewith.

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

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Sections 1471 through 1474 of the Internal Revenue 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) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code and any fiscal, tax or regulatory legislation, rules or official practices adopted pursuant to any intergovernmental agreement, treaty or convention

among Governmental Authorities entered into in connection with the implementation of Sections 1471 through 1474 of the Internal Revenue Code and the Treasury Regulations thereunder.

“Federal Funds Rate” means, for any period, a fluctuating interest rate per annum equal to, for each day during such period, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“Fee Letter” means the agency fee letter, dated as of the date hereof, among the Borrowers and the Agents, as may be amended, restated, supplemented or otherwise modified from time to time.

“Final Maturity Date” means July 28, 2028.

“Financial Statements” means (a) the audited consolidated balance sheet of the Lead Borrower and its Subsidiaries and certain Affiliates for the Fiscal Year ended December 31, 2024, and the related consolidated statement of operations, shareholders’ equity and cash flows for the Fiscal Year then ended, and (b) the unaudited consolidated balance sheet of the Parent and its Subsidiaries for the fiscal quarter ended March 31, 2025, and the related consolidated statement of operations, shareholder’s equity and cash flows for the quarter then ended.

“First Amendment” means that certain First Amendment to Financing Agreement, dated as of the First Amendment Effective Date, by and among XBP Americas, LLC, a Delaware limited liability company (f/k/a Exela Technologies BPA, LLC) as the Lead Borrower on behalf of the Borrowers, the Required Lenders party thereto and the Agents.

“First Amendment Effective Date” has the meaning set forth in the First Amendment.

“Fiscal Quarter” means any of the quarterly accounting periods of the Parent and its Subsidiaries ending on March 31, June 30, September 30 and December 31 of each year.

“Fiscal Year” means the fiscal year of the Parent and its Subsidiaries ending on December 31 of each year.

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

“Fixed Charge Coverage Ratio” means, with respect to any Person for any period, the ratio of Consolidated EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the Borrowers or any of its Subsidiaries Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge

Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Fixed Charge Calculation Date”), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

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

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Lead Borrower. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in an Officer’s Certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings that would have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the four-quarter reference period (including, to the extent applicable, the Transactions); provided that for all purposes of determining Consolidated EBITDA hereunder adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of Consolidated EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.



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

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

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

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

“Foreign Lender” has the meaning specified therefor in Section 2.09(d).

“Foreign Plan” means any employee benefit plan, program, policy, arrangement or agreement maintained, sponsored or contributed to, or for which there is an obligation to contribute to, by any Loan Party or any of its ERISA Affiliates that is subject to any Requirements of Laws other than, or in addition to, the laws of the United States or any state thereof or the laws of the District of Columbia.

“Foreign Plan Event” means, with respect to any Foreign Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any Requirement of Law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make any required contribution or payment under any Requirement of Law within the time permitted by any Requirement of Law for such contributions or payments, (c) the receipt of a notice from a Governmental Authority relating to the intention to terminate any such Foreign Plan or to appoint a trustee or similar official to administer any such Foreign Plan, or



alleging the insolvency of any such Foreign Plan, (d) the incurrence of any liability by any Loan Party or any Subsidiary under any law on account of the complete or partial termination of such Foreign Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction with respect to a Foreign Plan that is prohibited under any Requirement of Law and that could reasonably be expected to result in the incurrence of any liability by any Loan Party or any Subsidiary, or the imposition on any Loan Party or any Subsidiary of any fine, excise tax or penalty with respect to a Foreign Plan resulting from any noncompliance with any Requirement of Law.

“Foreign Sovereign Immunities Act” means the US Foreign Sovereign Immunities Act of 1976 (28 U.S.C. Sections 1602-1611), as amended.

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

“Funded Debt” means all Indebtedness of the Borrowers and their Subsidiaries for borrowed money that (i) matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or (ii) arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date.

“Funding Losses” has the meaning specified therefor in Section 2.08.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect on the Effective Date. For the purposes of this Agreement, the term “consolidated” with respect to any Person shall mean such Person consolidated with its Subsidiaries.

“Governing Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization, and the operating agreement; (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture, declaration or other applicable agreement or documentation evidencing or otherwise relating to its formation or organization, governance and capitalization; and (d) with respect to any of the entities described above, any other agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization.

“Governmental Authority” means any nation or government, any foreign, federal, state, territory, provincial, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency 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).

“Guaranteed Obligations” has the meaning specified therefor in Section 11.01.

“Guarantor” and “Guarantors” have the respective meanings specified therefor in the preamble hereto.

“Guaranty” means (a) the guaranty of each Guarantor party hereto contained in Article XI hereof and (b) each other guaranty entered into after the Effective Date, in form and substance satisfactory to the Agents and the Required Lenders, made by any other Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties guaranteeing all or part of the Obligations.

“GUC Payment Obligations” means the outstanding obligations of the Company to holders of Allowed General Unsecured Claims (as defined and described in the Restructuring Plan), which obligations are required to be paid out on the schedule set forth in the Restructuring Plan and the Confirmation Order.

“Hazardous Material” means any element, material, substance, waste, compound or chemical that is defined, listed or otherwise classified as a contaminant, pollutant, toxic or hazardous substance, hazardous waste, universal waste, special waste, or solid waste or is otherwise characterized by words of similar import under any Environmental Law or that is regulated under, or for which liability or standards of care are imposed, pursuant to any Environmental Law, including, without limitation, petroleum, polychlorinated biphenyls; asbestos-containing materials, lead or lead-containing materials, urea formaldehyde-containing materials, radioactive materials, radon, per- and polyfluoroalkyl substances and mold.

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

(1) currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements; and

(2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange, interest rates or commodity prices.

“Highest Lawful Rate” means, with respect to any Agent or any Lender, the maximum non-usurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Obligations under laws applicable to such Agent or such Lender which are currently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum non-usurious interest rate than applicable laws now allow.

“Incremental Effective Date” shall have the meaning set forth in Section 2.14(a).



“Incremental Facility” shall have the meaning set forth in Section 2.14(a).

“Incremental Facility Amendment” shall have the meaning set forth in Section 2.14(b).

“Incremental Facility Request” shall have the meaning set forth in Section 2.14(a).

“Incremental Term Loan” shall have the meaning set forth in Section 2.14(a).

“Incremental Term Loan Commitment” shall have the meaning set forth in Section 2.14(a).

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

“Indebtedness” means, with respect to any Person:

(1) the principal of any indebtedness of such Person, whether or not contingent, (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof), (c) representing the deferred and unpaid purchase price of any property (except any such balance that constitutes (i) a trade payable or similar obligation to a trade creditor Incurred in the ordinary course of business, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (iii) liabilities accrued in the ordinary course of business), which purchase price is due more than twelve months after the date of placing the property in service or taking delivery and title thereto, (d) in respect of Capitalized Lease Obligations, or (e) representing any Hedging Obligations, if and to the extent that any of the foregoing indebtedness would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(2) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the obligations referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and

(3) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); provided, however, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value (as determined in good faith by the Borrower) of such asset at such date of determination, and (b) the principal amount of such Indebtedness of such other Person;

provided, however, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (1) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) Permitted Securitization Financings; (5) trade and other ordinary course payables, accrued expenses and intercompany liabilities, including with respect to working capital advancements, arising in the ordinary course of business; (6) [reserved]; (7) obligations in respect of Third Party Funds; (8) in the case of the Borrowers and their respective Subsidiaries (x) all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries; (9) [reserved]; (10) any obligations under Hedging Obligations; and (11) any Claims Administration Indebtedness of the Borrowers and Subsidiaries (except to the extent that any such Claims Administration Indebtedness exceeds the Claims Administration Investments of such Person); provided, that such agreements are entered into for bona fide hedging purposes of the Borrowers or their respective Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Lead Borrower, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Borrowers or their Subsidiaries entered into in the ordinary course of business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of the Borrowers or their Subsidiaries Incurred without violation of this Agreement.

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

“Indemnified Matters” has the meaning specified therefor in Section 12.15.

“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 Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

“Indemnitees” has the meaning specified therefor in Section 12.15.

“Independent Financial Advisor” means an accounting, appraisal or investment banking firm or consultant, in each case of nationally recognized standing, that is independent of



the Borrowers and any Affiliate thereof and, in the good faith determination of the Borrowers, qualified to perform the task for which it has been engaged.

“Initial Cashless Term Commitment” means as to any Lender, the commitment (if any) of such Lender to be deemed to have made a Loan to the Borrowers pursuant to Section 2.01(a)(i) in the principal amount set forth under the heading “Initial Cashless Term Commitment” opposite such Lender’s name on Schedule 1.01(A). The aggregate principal amount of the Initial Cashless Term Commitments as of the Effective Date is \$6,000,000.

“Initial Funded Term Commitment” means as to any Lender, the obligation of such Lender to make a Loan to the Borrowers pursuant to Section 2.01(a)(ii) in the principal amount set forth under the heading “Initial Funded Term Commitment” opposite such Lender’s name on Schedule 1.01(A). The aggregate principal amount of the Initial Funded Term Commitments as of the Effective Date is \$40,000,000.

“Initial Term Loan Commitment” means the Term Loan Commitments existing as of the Effective Date.

“Insolvency Proceeding” means any proceeding commenced by or against any Person under any provision of any Debtor Relief Law.

“Intellectual Property” has the meaning specified therefor in the Security Agreement or the Canadian Security Agreement, as applicable.

“Intellectual Property Contracts” means all agreements concerning Intellectual Property, including without limitation license agreements, technology consulting agreements, confidentiality agreements, co-existence agreements, consent agreements and non-assertion agreements.

“Intercompany Subordination Agreement” means an Intercompany Subordination Agreement, dated as of the date hereof, made by the Lead Borrower and its Subsidiaries in favor of the Collateral Agent for the benefit of the Secured Parties.

“Intercreditor Agreements” means the Super Senior Intercreditor Agreement and the ABL Intercreditor Agreement and any other junior lien intercreditor agreement in form and substance satisfactory to the Agents and the Required Lenders, in each case entered into on the Effective Date or pursuant to Section 10.15.

“Interest Payment Date” means as to any SOFR Rate Loan, the last day of each Interest Period therefor and the Final Maturity Date.

“Interest Period” means, with respect to each SOFR Rate Loan, a period commencing on the date of the making of such SOFR Rate Loan (or the continuation of a SOFR Rate Loan or the conversion of a Reference Rate Loan to a SOFR Rate Loan) and ending 3 months thereafter; provided, that the initial Interest Period shall be from and after the Effective Date until October 15, 2025; provided, further, that (a) if any Interest Period would end on a day that is not a Business Day, such Interest Period shall be extended (subject to clauses (c)-(e) below) to the next succeeding Business Day, (b) interest shall accrue at the applicable rate based



upon the Term SOFR from and including the first day of each Interest Period to, but excluding, the day on which any Interest Period expires, (c) any Interest Period that would end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day, (d) with respect to an 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), the Interest Period shall end on the last Business Day of the calendar month that is 3 months after the date on which the Interest Period began, as applicable, and (e) the Borrowers may not elect an Interest Period which will end after the Final Maturity Date.

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

“Inventory” means, with respect to any Person, all goods and merchandise of such Person leased or held for sale or lease by such Person, including, without limitation, all raw materials, work-in-process and finished goods, and all packaging, supplies and materials of every nature used or usable in connection with the shipping, storing, advertising or sale of such goods and merchandise, whether now owned or hereafter acquired, and all such other property the sale or other disposition of which would give rise to an Account or cash.

“Investment Grade Securities” means:

- (1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),
- (2) securities that have a rating equal to or higher than Baa3 (or equivalent) by Moody’s and BBB- (or equivalent) by S&P, but excluding any debt securities or loans or advances between and among the Borrowers and their respective Subsidiaries,
- (3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold immaterial amounts of cash pending investment and/or distribution, and
- (4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

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



the other investments included in this definition to the extent such transactions involve the transfer of cash or other property.

“Joinder Agreement” means a Joinder Agreement, substantially in the form of Exhibit A, duly executed by a Subsidiary of a Loan Party made a party hereto pursuant to Section 7.01(b).

“Junior Lien Obligations” means the obligations with respect to Indebtedness permitted to be incurred under this Agreement and the Exit Notes Indenture, which is by its terms intended to be secured by the Collateral on a basis junior to the Obligations and the Notes Obligations under the Exit Notes Indenture, excluding the ABL Facility and the B. Riley Credit Agreement.

“Lease” means any lease, sublease or license of, or other agreement granting a possessory interest in, real property to which any Loan Party or any of its Subsidiaries is a party as lessor, lessee, sublessor, sublessee, licensor or licensee.

“Lead Borrower” has the meaning specified therefor in the preamble hereto.

“Lender” has the meaning specified therefor in the preamble hereto.

“Liability Management Transaction” means, other than a transaction undertaken in good faith for a bona fide business purpose and not designed primarily to implement any of the transactions described in clauses (i) through (vi) hereof, any transaction or series of related transactions that is designed primarily to restructure or otherwise impact the Loan Parties’ capital structure in a manner that improves the prospects of a class or subset of stakeholders (including any equityholder, and any debt financing providers (including any class or subset of Lenders)) that is pari passu with or junior to the Lenders by elevating such stakeholder’s payment or lien priority (whether effectively, structurally or contractually) or ability to direct actions under the Loan Documents, or by introducing any new Indebtedness that is effectively, structurally or contractually senior to the Loans in payment or lien priority except as explicitly permitted pursuant to the terms of the Loan Documents as of the Issue Date, including any of the following: (i) any Indebtedness issued in exchange for, or the net proceeds (or deemed net proceeds in the event of a cashless transaction) of which are used, in whole or in part, to modify, extend, refinance, renew, replace, retire or refund (or any other transaction that would have the effect of circumventing the restrictions set forth in the covenants hereof or achieve the same effect as the foregoing) any existing Indebtedness of the Lead Borrower or any of its Subsidiaries (the “Existing LMT Debt”) with any other Indebtedness or debt-like instruments (including preferred Equity Interests) of the Lead Borrower or any of its Subsidiaries (the “New LMT Debt”) in a transaction the result of which is to ‘uptier’ holders of such Existing LMT Debt on a non-pro rata basis into New LMT Debt that is effectively (including as to security or recourse to additional assets or through a ‘double dip or ‘pari plus’ structure), contractually or structurally senior (in right of payment or security) to the Existing LMT Debt, (ii) any Investment, Asset Sale, Restricted Payment or other transfer or disposition (including any indirect transfers effectuated through a release of a Guarantor, a merger, amalgamation, division, or similar undertaking) of assets constituting Collateral immediately prior to such Investment, Asset Sale, Restricted Payment or other transfer or disposition to an Affiliate of the Lead Borrower or any of

its Subsidiaries that is not a Loan Party (including any non-Loan Party Subsidiary or Affiliate that is not a Loan party), in each case, to (a) facilitate a new financing of Indebtedness or debt-like instruments (including the issuance of any preferred Equity Interests) incurred by such non-Loan Party Person under such Indebtedness or debt-like instruments, or otherwise undertakes a transaction that monetizes such property, the result of which raises, directly or indirectly, liquidity for the Loan Parties or to provide cash flow assistance to the Loan Parties (including in furtherance of exchanging, modifying, extending, refinancing, renewing, replacing, retiring or refunding, in whole or in part, Existing LMT Debt), (b) guarantee any existing Indebtedness or debt-like instrument, or (c) transfer (whether by a distribution, dividend, or otherwise) such property to an Affiliate of a Loan Party the primary purpose of which preserves the value of such property for such Affiliate, (iii) any release of the Guarantee of a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) or of a Guarantor who owns any Material Property, or of a material portion of the Collateral, in each case the results of which is intended to secure or serve as support for new Indebtedness or Refinancing Indebtedness, a new equity issuance, or to otherwise raise liquidity or to provide cash flow assistance, (iv) any transaction whereby an obligation of a Loan Party owed to an Affiliate of a Loan Party (other than another Loan Party) would directly or indirectly be pari passu or senior (in right of payment or security) to the Obligations, (v) any Loan Party incurring any Indebtedness for borrowed money, or granting a Lien on its assets securing Indebtedness for borrowed money, on a senior basis (in right of payment or security) to the Obligations or the Liens securing the Obligations (other than Liens which are explicitly permitted to be incurred on a senior basis under the Loan Documents as in effect as of the Closing Date), or (vi) incurring any indebtedness for the primary purpose of, or that has the effect of, influencing the provision of, or in connection with, obtaining any modification, amendment, release or waiver under this Agreement. Notwithstanding any of the foregoing, the incurrence of any Refinancing Indebtedness permitted to be incurred under this Agreement shall not constitute a Liability Management Transaction.

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

“Liquidity” means, as of any date of determination, the aggregate amount of unrestricted cash on-hand of the Loan Parties maintained in deposit accounts in the name of a Loan Party in the United States or Canada as of such date, which deposit or other accounts are subject to Control Agreements plus the aggregate indebtedness permitted to be borrowed and available to be drawn at such time under the ABL Facility.

“Loan” means any Term Loan made by a Lender to the Borrowers pursuant to Article II hereof.

“Loan Document” means this Agreement, the First [Amendment](#), the [Second Amendment](#), any Control Agreement, the Disbursement Letter, the Fee Letter, any Guaranty, the Intercompany Subordination Agreement, each Intercreditor Agreement, any Joinder Agreement, any Mortgage, the Security Agreement, the Canadian Security Agreement, any landlord waiver,

any collateral access agreement, any Perfection Certificate, any Incremental Facility Amendment and any other agreement, instrument, certificate, report and other document executed and delivered pursuant hereto or thereto or otherwise evidencing or securing any Loan or any other Obligation.

“Loan Party” means any Borrower and any Guarantor.

“Material Adverse Effect” means a material adverse effect on any of (a) the operations, assets, liabilities, financial condition or prospects of the Loan Parties taken as a whole, (b) the ability of the Loan Parties taken as a whole to perform any of their obligations under any Loan Document, (c) the legality, validity or enforceability of this Agreement or any other Loan Document, (d) the rights and remedies of any Agent or any Lender under any Loan Document, or (e) the validity, perfection or priority of a Lien in favor of the Collateral Agent for the benefit of the Secured Parties on Collateral having a fair market value in excess of \$25,000,000.

“Material Contract” means, with respect to any Person, (a) each contract or agreement to which such Person or any of its Subsidiaries is a party involving aggregate consideration payable to or by such Person or such Subsidiary of \$10,000,000 or more in any Fiscal Year (other than purchase orders in the ordinary course of the business of such Person or such Subsidiary and other than contracts that by their terms may be terminated by such Person or Subsidiary in the ordinary course of its business upon less than 60 days’ notice without penalty or premium) and (b) all other contracts or agreements as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

“Material Property” means any asset (or group of assets), including intellectual property owned by the Loan Parties or their respective Subsidiaries that is material to the business, operations, assets, or financial condition of the Lead Borrower and its Subsidiaries, taken as a whole.

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

“Mortgage” means a mortgage, charge, deed of hypothec, deed of trust or deed to secure debt, in form and substance satisfactory to the Collateral Agent and the Required Lenders, made by a Loan Party in favor of the Collateral Agent for the benefit of the Secured Parties, securing the Obligations and delivered to the Collateral Agent.

“Multiemployer Plan” means a “multiemployer plan” as defined in Section 4001(a) (3) of ERISA to which any Loan Party or any of its ERISA Affiliates has contributed, or has been obligated to contribute, to at any time during the preceding the six calendar years.

“Natural Person” means (a) any natural person or (b) a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person.

“Net Cash Proceeds” means the aggregate cash proceeds received by the Borrowers or any Subsidiary in respect of any Disposition (including, without limitation, any cash received in respect of or upon the sale or other disposition of any Designated Non-cash Consideration received in any Disposition and any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding the assumption by the acquiring Person of Indebtedness relating to the disposed assets or other consideration received in any other non-cash form), net of the direct costs relating to such Disposition and the sale or disposition of such Designated Non-cash Consideration (including, without limitation, legal, accounting and investment banking fees, and brokerage and sales commissions), and any relocation expenses Incurred as a result thereof, taxes paid or payable as a result thereof (including, without duplication, Tax Distributions and after taking into account any available tax credits or deduction), amounts required to be applied to the repayment of principal, premium (if any) and interest on Indebtedness required to be paid as a result of such transaction, and any deduction of appropriate amounts to be provided by the Borrowers as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Borrowers after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, and payments made to holders of minority interests in Subsidiaries that are joint ventures as a result of such Disposition.

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

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

“Notice of Borrowing” has the meaning specified therefor in Section 2.02(a).

“Obligations” means all present and future indebtedness, obligations, and liabilities of each Loan Party to the Secured Parties arising under or in connection with this Agreement or any other Loan Document, whether or not the right of payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured, unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any proceeding referred to in Section 9.01. Without limiting the generality of the foregoing, the Obligations of each Loan Party under the Loan Documents include (a) the obligation (irrespective of whether a claim therefor is allowed in an Insolvency Proceeding) to pay principal, interest, charges, expenses, fees, premiums (including the Applicable Premium), attorneys’ fees (including the Specified Professional Fees) and disbursements, indemnities and other amounts payable by such Person under the Loan Documents, and (b) the obligation of such Person to reimburse any amount in respect of any of the foregoing that any Secured Party (in its sole discretion) may elect to pay or advance on behalf



of such Person. Notwithstanding any of the foregoing, Obligations shall not include any Excluded Swap Obligations.

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

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or 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.

“Parent” means XBP Europe Holdings Inc., a Delaware corporation, and any successor thereto.

“Participant Register” has the meaning specified therefor in Section 12.07(i).

“Payment Recipient” has the meaning specified therefor in Section 12.07(i).

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

“Pension Plan” means an Employee Plan that is subject to Section 412 of the Internal Revenue Code, Section 302 of ERISA or Title IV of ERISA maintained, sponsored or contributed to, or for which there is an obligation to contribute to, by any Loan Party or any of its ERISA Affiliates at any time during the preceding six calendar years.

“Perfection Certificate” means a certificate, dated as of the Effective Date, providing information with respect to the property of each Loan Party.

“Periodic Term SOFR Determination Day” has the meaning specified in the definition of “Term SOFR”.

“Permitted Cure Equity” means Qualified Equity Interests of the Parent.

“Permitted Disposition” means:

(a) sale of Inventory in the ordinary course of business of the Borrowers or any Subsidiary of the Borrowers;

(b) licensing, on a non-exclusive basis, Intellectual Property rights in the ordinary course of business of the Borrowers or any Subsidiary of the Borrowers;

(c) leasing or subleasing assets in the ordinary course of business of the Borrowers or any Subsidiary of the Borrowers;

(d) (i) the lapse of Registered Intellectual Property of the Borrowers or any Subsidiary of the Borrowers to the extent not economically desirable in the conduct of their business or (ii) the abandonment of Intellectual Property rights in the ordinary course of their business so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Secured Parties;

(e) any involuntary loss, damage or destruction of property;

(f) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(g) so long as no Event of Default has occurred and is continuing or would result therefrom, transfers of assets (i) from the Borrowers or any Subsidiary of the Borrowers (other than the Borrowers) to a Loan Party (other than the Lead Borrower), and (ii) from any Subsidiary of the Lead Borrower that is not a Loan Party to any other Subsidiary of the Lead Borrower; and

(h) any disposition occurring in accordance with the terms of the Tax Funding Agreement;

(i) sales and contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility in effect as of the date hereof; provided that certain of the proceeds from such sale and contribution are used to repay the B. Riley Credit Agreement (which may be by way of a purchase of a participation interest, so long as such participation interest is purchased by a Loan Party or immediately transferred to a Loan Party) in accordance with the terms of the Exar Facility as in effect as of the date hereof; and

(j) any disposition consisting of Securitization Assets in connection with a Permitted Securitization Financing or arising as a result of a Permitted Securitization Financing.

“Permitted Investments” means:

(1) any Investment in the Borrowers or any of its Subsidiaries that is Guarantor;

(2) any Investment by the Borrowers or any Subsidiary in Cash Equivalents or Investment Grade Securities for the account of such Person;

(3) any Investment by the Borrowers or any of its Subsidiaries in a Person if as a result of such Investment (a) such Person becomes a Subsidiary of the Borrowers that is a



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

(4) any Investment in securities or other assets not constituting Cash Equivalents and received by the Borrowers or any Subsidiary in connection with a Disposition made by such respective Person pursuant to Section 7.02(c)(ii) or any other disposition of assets not constituting a Disposition;

(5) any Investment existing on, or made pursuant to binding commitments existing on, the Effective Date or an Investment consisting of any extension, modification or renewal of any Investment existing on the Effective Date, in each case, that is disclosed on Schedule 1.01(C) hereto; provided, that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the Effective Date or (y) as otherwise permitted under this Agreement;

(6) advances of payroll payments, business related travel expenses, moving expenses and other similar expenses and expenses to employees in the ordinary course of business;

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

(8) Hedging Obligations permitted under Section 7.02(v)(ii)(J);

(9) Investments in any Subsidiary that is not a Guarantor not to exceed, at any one time in the aggregate outstanding under this clause (9), \$3,000,000;

(10) any Investment occurring in accordance with the terms of the Tax Funding Agreement;

(11) additional Investments by the Borrowers or any Subsidiary of the Borrowers having an aggregate Fair Market Value (as determined in good faith by the Borrowers at the time of the making thereof, and without giving effect to any subsequent changes in value), taken together with all other Investments made pursuant to this clause (11) that are at that time outstanding, not to exceed \$500,000; provided, however, that if any Investment pursuant to this clause (11) is made in any Person that is not the Borrowers or a Subsidiary of the Borrowers that is a Guarantor at the date of the making of such Investment and such Person becomes the Borrowers or a Subsidiary of the Borrowers that is a Guarantor after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (11) for so long as such Person continues to be the Borrowers or a Subsidiary of the Borrowers that is a Guarantor;



(12) Investments the payment for which consists of Equity Interests of the Borrowers (other than Disqualified Stock) or any direct or indirect parent of the Borrowers, as applicable;

(13) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 7.02(j)(ii) (except transactions described in clauses (D), (I)(2) and (P) of Section 7.02(j)(ii));

(14) guarantees issued in accordance with Section 7.01(b) and Section 7.02(v);

(15) (i) Investments consisting of the licensing or contribution of intellectual property (on a non-exclusive basis) pursuant to joint marketing arrangements with other Persons in the ordinary course of business; (ii) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property (on a non-exclusive basis) in each case in the ordinary course of business;

(16) Investments consisting of Securitization Assets in connection with a Permitted Securitization Financing or arising as a result of Permitted Securitization Financings;

(17) additional Investments in joint ventures (as determined in good faith by the Borrowers at the time of the making thereof, and without giving effect to any subsequent changes in value) not to exceed, at any one time in the aggregate outstanding under this clause (17), \$3,000,000; provided, that if any Investment pursuant to this clause (17) is made in any Person that is not the Borrowers or a Subsidiary of the Borrowers that is a Guarantor at the date of the making of such Investment and such Person becomes the Borrowers or a Subsidiary of the Borrowers that is a Guarantor after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (17) for so long as such Person continues to be the Borrowers or a Subsidiary of the Borrowers that is a Guarantor;

(18) Investments of a Subsidiary acquired after the Effective Date or of an entity merged into, amalgamated with, or consolidated with the Borrowers or a Subsidiary of the Borrowers that is a Guarantor in a transaction that is not prohibited by Section 7.02(c)(i) after the Effective Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

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

(20) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Borrowers or their Subsidiaries in the ordinary course of business;



(21) any Investment consisting of intercompany current liabilities in connection with the cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries;

(22) any Investment in the form of a participation interest in the B. Riley Credit Agreement which the Borrower and its Subsidiaries are required to make pursuant to the Exar Facility in effect as of the date hereof, so long as such Investment is immediately contributed to the Loan Parties and is not transferred to any Person other than a Loan Party;

(23) any Investments pursuant to clause (i) of the definition of “Permitted Disposition”;

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

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

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

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

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

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

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

(4) deposits and other Liens by the Borrowers or any Subsidiary to secure the



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

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

(6) (A) [reserved];

(B) Liens securing obligations in respect of Permitted Securitization Financings and pursuant to clause (3) of Section 7.02(v)(ii)(A) and Section 7.02(v)(ii)(B); provided, that such Liens referred to in this clause (B) other than Liens securing Permitted Securitization Financings and the Liens on ABL Priority Collateral securing the ABL Facility and the B. Riley Credit Agreement shall be subordinated to the Liens securing the Obligations on terms acceptable to the Agents and the Required Lenders; provided, further, that (x) Liens securing the ABL Facility and the B. Riley Credit Agreement shall be subject to the ABL Intercreditor Agreement and (y) Liens in respect of Permitted Securitization Financings shall extend only to the assets subject thereto and Equity Interests of Special Purpose Securitization Subsidiaries; and

(C) Liens securing obligations in respect of Indebtedness permitted to be Incurred pursuant to clause (D), (L) (or (N) to the extent it guarantees any such Indebtedness), (P), (T) or (W) of Section 7.02(v)(ii) (provided, that (i) in the case of clause (T), such Lien does not extend to the property or assets of the Borrowers or any Subsidiary of the Borrowers other than a Subsidiary that is not a Borrower or a Guarantor, (ii) in the case of clause (D), such Liens do not extend to any property or assets that are not being acquired, leased, constructed, repaired, replaced or improved with the proceeds of such Indebtedness being incurred pursuant to clause (D) (or the indebtedness refinanced thereby) or sold in the applicable sale and lease back transaction and accessions and additions thereto, proceeds and products thereof, customary security deposits and related property; provided, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates) (it being understood that with respect to any Liens on the Collateral being incurred under this clause (C)(ii) to secure Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being refinanced (if any) constituted Junior Lien Obligations, then any Liens on such Collateral being incurred under this clause (C)(ii) to secure Refinancing Indebtedness shall also constitute Junior Lien Obligations), (iii) in the case of clause (P), such Liens securing Indebtedness Incurred pursuant to clause (P) shall only be permitted under this clause (C) if such



Liens secure Indebtedness not created or Incurred in connection with, or in contemplation of, the acquisition and only extend to the property or assets acquired in such acquisition (and accessions and additions thereto and proceeds and products thereof), and (iv) in the case of clause (W), it being understood that with respect to any Liens on the Collateral being incurred under this clause (C)(iv) to secure Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being refinanced (if any) constituted Junior Lien Obligations, then any Liens on such Collateral being incurred under this clause (C)(iv) to secure Refinancing Indebtedness shall also constitute Junior Lien Obligations;

(7) Liens existing on the Effective Date and disclosed on Schedule 7.02(a) hereto (other than Liens in favor of the Secured Parties under this Agreement);

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

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

(10) [reserved];

(11) Liens (i) on not more than \$2,000,000 of deposits securing Hedging Obligations entered into for non-speculative purposes and (ii) on cash or Cash Equivalents securing Hedging Obligations in the ordinary course of business submitted for clearing in accordance with applicable Requirements of Law;

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

(13) leases and subleases not constituting Capitalized Lease Obligations of real property not material to the conduct of any business line of the Borrowers or any Subsidiary of



the Borrowers granted to others in the ordinary course of business that do not materially interfere with the ordinary conduct of the business of the Borrowers or any Subsidiary of the Borrowers;

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

(15) Liens in favor of a Borrower or any Guarantor;

(16) [reserved];

(17) Liens securing the Obligations;

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

(19) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (7), (8), (9), (10), (11), (15), (24) and (32) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Indebtedness being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under clauses (6), (7), (8), (9), (10), (11), (15), (24) and (32) of this definition at the time the original Lien became a Permitted Lien under this Agreement, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided, further, that in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(B) or (6)(C) of this definition, the principal amount of any Indebtedness Incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (6)(B) or (6)(C) of this definition and not this clause (19) of this definition for purposes of determining the principal amount of Indebtedness outstanding under clause (6)(B) or (6)(C) of this definition; provided, further, however, that any Lien securing any refinancing of any Indebtedness secured by a Lien referred to in clause (32) shall be a junior Lien subject to an Intercreditor Agreement and any Lien securing any refinancing of any Indebtedness referenced to in clause (6)(B) other than Liens securing Indebtedness pursuant to clause (2) of Section 7.02(v)(ii)(A) and the Liens on ABL Priority Collateral securing the ABL Facility and



the B. Riley Credit Agreement shall be subordinated to the Liens securing the Obligations on terms acceptable to the Agents and the Required Lenders; provided, further, that Liens securing the ABL Facility and the B. Riley Credit Agreement shall be subject to the ABL Intercreditor Agreement;

(20) non-consensual Liens (not incurred in connection with borrowed money) on equipment of any of the Lead Borrower or any of its Subsidiaries not exceeding \$5,000,000 in value and granted in the ordinary course of business to any client of the Lead Borrower or such Subsidiary at which such equipment is located;

(21) judgment and attachment Liens not exceeding \$15,000,000 in value and not giving rise to an Event of Default;

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

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

(24) other Liens of the Borrowers or any Subsidiary securing obligations the outstanding principal amount of which does not, taken together with the principal amount of all other obligations secured by Liens incurred under this clause (24) that are at that time outstanding, exceed (i) in the event such Liens incurred under this clause (24) are subordinated to the Liens securing the Obligations on terms acceptable to the Agents and the Required Lenders, \$15,000,000 or (ii) otherwise, \$1,000,000;

(25) [reserved];

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



(27) Liens disclosed by the Title Insurance Policies delivered on (with respect to any Mortgages delivered on the Effective Date) or subsequent to the Effective Date and any replacement, extension or renewal of any such Lien; provided, that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; provided, further, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted under this Agreement;

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

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

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

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

(32) Liens on the Collateral securing Junior Lien Obligations (subject to an Intercreditor Agreement) in an aggregate amount not to exceed \$3,000,000; provided, that the Obligations are secured on a senior priority basis to the obligations so secured until such time as such obligations are no longer secured by a Lien;

(33) Liens on non-Collateral assets in an aggregate amount not to exceed \$5,000,000;

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

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

(36) Liens to secure cash management services in the ordinary course of business; provided, that such Liens are not incurred in connection with, and do not secure, any borrowings or Indebtedness;

(37) Liens granted by (i) each Exar Originator in favor of Exar SPV and (ii) Exar SPV to the Exar Buyer, in each case, in Receivables Assets, pursuant to the Exar Facility in effect as of the date hereof and solely to the extent that such Lien is in respect of a backup security interest granted in connection with the Exar Facility;

(38) Claims Administration Liens;



(39) Liens on cash and Cash Equivalents on deposit with lenders and affiliates of lenders securing obligations owing to such Persons under any treasury, depository, overdraft or other cash management services agreements or arrangements with the Borrowers or any of their Subsidiaries; and

(40) in the case of real property that constitutes a leasehold interest, any Lien to which the fee simple interest (or any superior leasehold interest) is subject.

“Permitted Securitization Financing” means one or more transactions pursuant to which (a) Securitization Assets or interests therein are sold or transferred to or financed by one or more Special Purpose Securitization Subsidiaries, and (b) such Special Purpose Securitization Subsidiaries finance (or refinance) their acquisition of such Securitization Assets or interests therein, or the financing thereof, by selling or borrowing against Securitization Assets, and any Hedging Obligations entered into in connection with such Securitization Assets; provided, that, recourse to the Borrowers or any Subsidiary (other than the Special Purpose Securitization Subsidiaries) in connection with such transactions shall be limited to the extent customary (as determined by the Borrowers in good faith) for similar transactions in the applicable jurisdictions (including, to the extent applicable, in a manner consistent with the delivery of a “true sale”/“absolute transfer” opinion with respect to any transfer by the Borrowers or any Subsidiary (other than a Special Purpose Securitization Subsidiary)), it being understood and agreed that such transactions may be either on-balance sheet or off-balance sheet arrangements; provided, further, that, Permitted Securitization Financings shall be limited such that, at the time of incurrence of such securitization financings, the sum of the maximum amount of indebtedness that could be outstanding at any time under the ABL Facility, the B. Riley Credit Agreement, the Exar Facility and all Permitted Securitization Financings then in effect shall not exceed 90% of the Receivables Assets as of the most recent date for which financial statements have been delivered to the Administrative Agent immediately preceding the date on which such securitization financings Incurred; provided, further, that Permitted Securitization Financings incurred on or after the First Amendment Effective Date shall be limited to \$10,000,000 in the aggregate, provided that such financings are incurred prior to March 31, 2026.

“Permitted Specified Liens” means Permitted Liens described in clauses (2), (3), and (17) of the definition of Permitted Liens, and, solely in the case of Section 7.01(b)(i), including clauses (2), (5) and (28) of the definition of Permitted Liens.

“Person” means an individual, corporation, limited liability company, unlimited liability company, partnership, association, joint-stock company, trust, unincorporated organization, joint venture or other enterprise or entity or Governmental Authority.

“Platform” has the meaning specified therefor in Section 12.20.

“Post-Default Rate” means (a) with respect to a principal of a Loan, a rate of interest per annum equal to the rate of interest otherwise in effect from time to time therefor pursuant to the terms of this Agreement plus 2.00%, or (b) otherwise interest at the highest rate specified herein for any Loan then outstanding prior to an Event of Default plus 2.00%.



“PPSA” means the Personal Property Security Act (Ontario) (or any successor statute) and the regulations thereunder; *provided* that if validity, perfection and effect of perfection and non-perfection and opposability of the Collateral Agent’s Lien in any Collateral are governed by the personal property security laws of any Canadian jurisdiction other than Ontario, PPSA shall mean those personal property security laws (including the Civil Code of Quebec) of such other jurisdiction for the purposes of the provisions hereof relating to such validity, perfection, and effect of perfection and non-perfection and for the definitions related to such provisions, as from time to time in effect.

“Pre-Opening Expenses” means, with respect to any fiscal period, the amount of expenses (other than interest expense) incurred with respect to facilities which are classified as “pre-opening expenses” (or any similar or equivalent caption) on the applicable financial statements of the Borrowers and their respective Subsidiaries for such period, prepared in accordance with GAAP.

“Preferred Stock” means any Equity Interest with preferential right of payment of dividends or upon liquidation, dissolution, or winding up.

“Prepayment Conditions” means the “Payment Conditions” (as defined in the ABL Credit Agreement (as in effect on the date of such calculation; *provided*, that the prepayment condition shall be no more restrictive than the Prepayment Condition on the date hereof)); *provided*, *further*, that, (i) for purposes of the calculation of the ratio thereunder, such ratio shall be determined on a pro forma basis (including a pro forma application of the prepayment and Equity Issuance (if applicable)) and (ii) for purposes of the Excess Availability (as defined in the ABL Credit Agreement) any required period shall be with respect to the date of such prepayment.

Upon request by the Administrative Agent in connection with a voluntary or mandatory prepayment by the Borrowers under Section 2.05(b), (c)(i), or (c)(iii), the Borrowers shall provide an officer’s certificate to the Administrative Agent, certifying that the Prepayment Conditions have been met (upon which the Administrative Agent may conclusively rely without further inquiry).

After the Discharge of ABL Obligations (in respect of the ABL Obligations existing on the Effective Date under the ABL Credit Agreement, and not any refinancing thereof), the Prepayment Conditions shall no longer apply for purposes of this Agreement (including, without limitation, with respect to any prepayment hereunder).

“Prepetition Financing Agreement” means that certain term financing agreement, dated as of July 11, 2023 (as amended, supplemented or otherwise modified on or prior to the date hereof), by and among the Borrowers, the guarantors party thereto, the lenders party thereto and Blue Torch Finance LLC, in its capacities as administrative agent and collateral agent.

“Pro Rata Share” means, with respect to:

(a) a Lender’s obligation to make the Term Loan or be deemed to make the Term Loan, and the right to receive payments of interest, fees, and principal with respect thereto,

the percentage obtained by dividing (i) such Lender's Term Loan Commitment, by (ii) the Total Term Loan Commitment [\(including the 2026 Incremental Term Loan Commitment\)](#), provided, that if the Total Term Loan Commitment has been reduced to zero, the numerator shall be the aggregate unpaid principal amount of such Lender's portion of the Term Loan and the denominator shall be the aggregate unpaid principal amount of the Term Loan, and

(b) all other matters (including, without limitation, the indemnification obligations arising under Section 10.05), the percentage obtained by dividing (i) the unpaid principal amount of such Lender's portion of the Term Loan, by (ii) the sum of the aggregate unpaid principal amount of the Term Loan.

"Public Lender" has the meaning specified therefor in Section 12.20.

"Public Reporting Entity" has the meaning specified therefor in Section 7.01(a)(ii).

"Qualified Equity Interests" means, with respect to any Person, all Equity Interests of such Person that are not Disqualified Stock.

"Rating Agency" means (1) each of Moody's and S&P (and their respective successors and assigns) and (2) if Moody's or S&P ceases to rate the Exit Notes for reasons outside of the Borrower's control, a "nationally recognized statistical rating organization" within the meaning of Section 3(a)(62) of the Exchange Act selected by the Borrowers or any direct or indirect parent of the Borrowers as a replacement agency for Moody's or S&P, as the case may be.

"Real Property Deliverables" means each of the following agreements, instruments and other documents in respect of each Facility, each in form and substance reasonably satisfactory to the Collateral Agent and the Required Lenders:

- (a) a Mortgage duly executed by the applicable Loan Party,
- (b) evidence of the recording of each Mortgage in such office or offices as may be necessary or, in the reasonable opinion of the Collateral Agent or the Required Lenders, desirable to perfect the Lien purported to be created thereby or to otherwise protect the rights of the Secured Parties thereunder;
- (c) a Title Insurance Policy or bring-down of the existing Title Insurance Policy with respect to each Mortgage;
- (d) a current ALTA survey and a surveyor's certificate, certified to the Collateral Agent and to the issuer of the Title Insurance Policy with respect thereto by a professional surveyor licensed in the state in which such Facility is located and reasonably satisfactory to the Collateral Agent and the Required Lenders;
- (e) in the case of a leasehold interest, (i) a certified copy of the Lease between the landlord and such Person with respect to such real property in which such Person has a leasehold interest, and the certificate of occupancy with respect thereto, and (ii) an attornment



and nondisturbance agreement between the landlord (and any fee mortgagee) and the applicable Loan Party with respect to such leasehold interest and the Collateral Agent, in form and substance satisfactory to the Collateral Agent and the Required Lenders;

(f) a zoning report issued by a provider reasonably satisfactory to the Collateral Agent and the Required Lenders or a copy of each letter issued by the applicable Governmental Authority, evidencing each Facility's compliance with all applicable Requirements of Law, together with a copy of all certificates of occupancy issued with respect to each Facility;

(g) an opinion of counsel, satisfactory to the Collateral Agent and the Required Lenders, in the state where such Facility is located with respect to the enforceability of the Mortgage to be recorded and such other matters as the Collateral Agent or the Required Lenders may reasonably request;

(h) a Phase I Environmental Site Assessment prepared in accordance with the United States Environmental Protection Agency Standards and Practices for "All Appropriate Inquiries" under Section 101(3)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act as referenced in 40 CFR Part 312 and ASTM E-1527-13 "Standard Practice for Environmental Assessments" "Phase I ESA" (and if reasonably requested by the Collateral Agent or the Required Lenders based upon the results of such Phase I ESA, a Phase II Environmental Site Assessment), by a nationally-recognized environmental consulting firm, reasonably satisfactory to the Collateral Agent and the Required Lenders; and

(i) such other agreements, instruments, appraisals and other documents (including guarantees and opinions of counsel) as the Collateral Agent or the Required Lenders may reasonably require.

"Receivables Assets" means accounts receivable (including any bills of exchange) from time to time originated, acquired or otherwise owned by the Borrowers or any Subsidiary and all right, title and interests in and to (i) all security interests or liens securing payment of such accounts receivable, (ii) any obligations supporting such accounts receivable, including all guarantees, insurance and other agreements or arrangements supporting or securing payment of such accounts receivable, (iii) all books and records relating to such accounts receivables and the related obligor and (iv) all payments and collections with respect to, and other proceeds of, such accounts receivable.

"Recipient" means any Agent or any Lender, as applicable.

"Reference Rate" means, for any period, the greatest of (a) 4.00% per annum, (b) the Federal Funds Rate plus 0.50% per annum, (c) Term SOFR (which rate shall be calculated based upon an Interest Period of 1 month and shall be determined on a daily basis) plus 1.00% per annum, and (d) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any



similar release by the Federal Reserve Board (as determined by the Administrative Agent) (the “Prime Rate”). Each change in the Reference Rate shall be effective from and including the date such change is publicly announced as being effective.

“Reference Rate Loan” means each portion of a Loan that bears interest at a rate determined by reference to the Reference Rate.

“Reference Rate Term SOFR Determination Day” has the meaning specified in the definition of “Term SOFR”.

“Register” has the meaning specified therefor in Section 12.07(f).

“Registered Intellectual Property” means Intellectual Property that is issued, registered, renewed or the subject of a pending application.

“Registered Loans” has the meaning specified therefor in Section 12.07(f).

“Regulation T”, “Regulation U”, and “Regulation X” mean, respectively, Regulation T, U and X of the Board or any successor, as the same may be amended or supplemented from time to time.

“Related Fund” means, with respect to any Person, an Affiliate of such Person, or a fund or account managed by such Person or an Affiliate of such Person.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and their respective direct and indirect equityholders, partners, directors, officers, employees, agents (including sub-agents and co-agents), consultants, trustees, administrators, managers, members, attorneys, attorneys-in-fact, advisors and representatives of such Person and of such Person’s Affiliates.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping or disposing of any Hazardous Material (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Material) into the indoor or outdoor environment, including, without limitation, the movement of Hazardous Materials through or in any environmental media, including the indoor or outdoor air, soil, surface or ground water, sediments or property.

“Remedial Action” means any action (a) to correct, mitigate, or address any actual, alleged or threatened violation of or non-compliance with any Environmental Law or Environmental Permit, or (b) to clean up, remove, remediate, mitigate, abate, contain, treat, monitor, assess, evaluate, investigate, prevent, minimize or in any other way address any environmental condition or the actual, alleged or threatened presence, Release or threatened Release of any Hazardous Materials (including the performance of pre-remedial studies and investigations and post-remedial operation and maintenance activities).

“Reportable Event” means an event described in Section 4043 of ERISA (other than an event not subject to the provision for 30-day notice to the PBGC under the regulations promulgated under such Section).

“Required Lenders” means a Lender or Lenders whose Pro Rata Shares (calculated in accordance with clause (b) of the definition thereof) aggregate at least 50.1%; provided, that, to the extent set forth in Section 12.02, whenever there are one or more Defaulting Lenders, the total outstanding principal amount of the Term Loans and unused Term Commitments of each Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Required Supermajority Lenders” means a Lender or Lenders whose Pro Rata Shares (calculated in accordance with clause (b) of the definition thereof) aggregate at least 66.67%; provided, that, to the extent set forth in Section 12.02, whenever there are one or more Defaulting Lenders, the total outstanding principal amount of the Term Loans and unused Term Commitments of each Defaulting Lender shall be excluded for purposes of making a determination of Required Supermajority Lenders.

“Required Prepayment Date” has the meaning specified therefor in Section 2.05(g).

“Requirements of Law” means, with respect to any Person, collectively, the common law and any and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities), and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Restricted Cash” means (i) cash and Cash Equivalents held by Subsidiaries of the Borrowers that would appear as “restricted” on a consolidated balance sheet of the Borrowers or any of their respective Subsidiaries and (ii) cash and Cash Equivalents not available to be distributed to the Borrowers or a Subsidiary thereof (other than a Special Purpose Securitization Subsidiary) from issuers of Permitted Securitization Financings.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Payments” has the meaning specified therefor in Section 7.02(h).

“Restructuring Plan” means the Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, attached to the Confirmation Order as Exhibit A, and all exhibits, supplements, appendices, and schedules thereto, as may be altered, amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof.

“S&P” means S&P Global Ratings or any successor to the rating agency business thereof.

“Sale/Leaseback Transaction” means an arrangement relating to property now owned or hereafter acquired by the Borrowers or a Subsidiary whereby the Borrowers or such Subsidiary transfers such property to a Person and the Borrowers or such Subsidiary leases it from such Person, other than leases between the Borrowers and a Subsidiary or between Subsidiaries.

“Sanctioned Country” means, at any time, a country or territory that is the subject or target of any Sanctions that broadly prohibit dealings with that country or territory (which, as of the Effective Date, include Crimea, Cuba, Iran, North Korea, Sudan and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in OFAC’s Specially Designated Nationals and Blocked Persons List, OFAC’s Sectoral Sanctions Identification List, any Person that is a “designated person”, “politically exposed foreign person” or “terrorist group” as described in any Canadian Economic Sanctions and Export Control Laws, and any other Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, or His Majesty’s Treasury of the United Kingdom, Germany, Canada, Australia, or other relevant sanctions authority, (b) a Person that resides in, is organized in or located in, or has a place of business in, a country or territory named on any list referred to in clause (a) of this definition or a country or territory that is designated as a “Non-Cooperative Jurisdiction” by the Financial Action Task Force on Money Laundering, or whose subscription funds are transferred from or through any such jurisdiction (each of the foregoing in this clause (b), a “Sanction Target”), or a Person that owns 50% or more of the Equity Interests of, or is otherwise controlled by, or is acting on behalf of, one or more Sanction Targets, (c) any Person with whom or with which a U.S. Person is prohibited from dealing under any of the Sanctions, or (d) any Person owned or controlled by any Person or Persons described in clause (a) or (b).

“Sanctions” means Requirements of Law concerning or relating to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by OFAC, the U.S. Department of State, the government of Canada, the European Union, or His Majesty’s Treasury of the United Kingdom, or other relevant sanctions authority.

“SEC” means the Securities and Exchange Commission or any other similar or successor agency of the Federal government administering the Securities Act.

“Second Amendment” means that certain Second Amendment to Financing Agreement, dated as of the Second Amendment Effective Date, by and among XBP Americas, LLC, a Delaware limited liability company (f/k/a Exela Technologies BPA, LLC) as the Lead Borrower on behalf of the Borrowers, the 2026 Incremental Term Loan Lender thereto, and the Agents.

“Second Amendment Effective Date” has the meaning set forth in the Second Amendment.

“Secured Indebtedness” means any Consolidated Total Indebtedness secured by a Lien.

“Secured Parties” means, collectively, the Agents the Lenders, and each co-agent, sub-agent and attorney-in-fact appointed by any Agent from time to time pursuant to Section 10.02.

“Securities Act” means the Securities Act of 1933, as amended, or any similar Federal statute, and the rules and regulations of the SEC promulgated thereunder, all as the same shall be in effect from time to time.

“Securitization” has the meaning specified therefor in Section 12.07(l).

“Securitization Assets” means any of the following assets (or interests therein) from time to time originated, acquired or otherwise owned by the Borrowers or any Subsidiary or in which the Borrowers or any Subsidiary has any rights or interests, in each case, without regard to where such assets or interests are located: (1) Receivables Assets and (2) any Equity Interests of any Special Purpose Securitization Subsidiary or any Subsidiary of a Special Purpose Securitization Subsidiary and any rights under any limited liability company agreement, trust agreement, shareholders agreement, organizational or formation documents or other agreement entered into in furtherance of the organization of such entity.

“Security Agreement” means the Pledge and Security Agreement, dated as of the date hereof, made by each Loan Party in favor of the Collateral Agent, for the benefit of the Secured Parties securing the Obligations in accordance with the terms thereof.

“Senior Leverage Ratio” means, with respect to any Person and its Subsidiaries for any period, the ratio of (a) Indebtedness of such Person and its Subsidiaries constituting Obligations as of such date of calculation (determined on a consolidated basis in accordance with GAAP) to (b) Covenant Consolidated EBITDA of such Person and its Subsidiaries for such period.

“Senior Secured Leverage Calculation Date” has the meaning assigned in the “Senior Secured Leverage Ratio” definition.

“Senior Secured Leverage Ratio” means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Subsidiaries constituting Obligations hereunder, Notes Obligations (as defined in the Exit Notes Indenture), obligations in respect of the ABL Facility and obligations under the B. Riley Credit Agreement, in each case as of such date of calculation (determined on a consolidated basis in accordance with GAAP), less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Subsidiaries and held by such Person and its Subsidiaries as of such date of determination to (ii) Consolidated EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to the Administrative Agent immediately preceding such date on which such additional Indebtedness is Incurred. In the event that the Borrowers or any Subsidiary Incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which the Senior Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Senior

Secured Leverage Ratio is made (the “Senior Secured Leverage Calculation Date”), then the Senior Secured Leverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period.

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

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Lead Borrower. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in an Officer’s Certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings that would have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the four-quarter reference period (including, to the extent applicable, the Transactions); provided, that for all purposes of determining Consolidated EBITDA hereunder adjustments for operating expense reductions and other operating improvements, synergies or cost savings shall not be more than 20% of Consolidated EBITDA for the most recently ended four fiscal quarter period (calculated prior to giving effect to such capped adjustments (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.



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

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

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

“Significant Subsidiary” means any Subsidiary that would be a “Significant Subsidiary” of the Borrowers within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

“Similar Business” means any business, the majority of whose revenues are derived from (i) the business or activities of the Borrowers and their respective Subsidiaries as of the Effective Date, (ii) any business that is a natural outgrowth or a reasonable extension, development or expansion of any such business or any business similar, reasonably related, incidental, complementary or ancillary to any of the foregoing or (iii) any business that in the Borrowers' good faith business judgment constitutes a reasonable diversification of business conducted by the Borrowers and their respective Subsidiaries.

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

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

“SOFR Borrowing” means, as to any borrowing, the SOFR Rate Loans comprising such borrowing.



“SOFR Deadline” has the meaning specified therefor in Section 2.07(a).

“SOFR Notice” means a written notice substantially in the form of Exhibit E.

“SOFR Option” has the meaning specified therefor in Section 2.07(a).

“SOFR Rate Loan” means a Loan that bears interest at a rate based on Term SOFR, other than pursuant to clause (c) of the definition of “Reference Rate”.

“Solvent” means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is not less than the total amount of the 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 existing debts as they become absolute and matured, (c) such Person is able to realize upon its assets and pay its debts and other liabilities, Contingent Obligations and other commitments as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature, (e) 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 unreasonably small capital, and (f) with respect to any Canadian Person, such Person is not an “insolvent person” within the meaning of the Bankruptcy and Insolvency Act (Canada).

“Special Purpose Securitization Subsidiary” means (i) a direct or indirect Subsidiary of the Borrowers established in connection with a Permitted Securitization Financing for the acquisition of Securitization Assets or interests therein, and which is organized in a manner (as determined by the Borrowers in good faith) intended to reduce the likelihood that it would be substantively consolidated with the Borrowers or any of its Subsidiaries (other than Special Purpose Securitization Subsidiaries) in the event the Borrowers or any such Subsidiary becomes subject to a proceeding under the Bankruptcy Code (or other Debtor Relief Law) and (ii) any subsidiary of a Special Purpose Securitization Subsidiary.

“Specified Professional Fees” means the professional fees and expenses of Ropes & Gray LLP, as counsel to the Required Lenders, and Cleary Gottlieb Steen & Hamilton LLP in connection with the Transactions to the extent incurred in connection with the Transactions.

“Spot Rate” means, on any date, as determined by the Administrative Agent, the spot selling rate posted by Reuters on its website for the sale of the applicable currency for Dollars at approximately 11:00 a.m., New York City time, on such date; provided, that if, for any reason, no such spot rate is being quoted, the spot selling rate shall be determined by reference to such publicly available services for displaying exchange rates as may be reasonably selected by the Administrative Agent, or, in the event no such service is selected, such spot selling rate shall instead be the rate reasonably determined by the Administrative Agent as the spot rate of exchange in the market where its foreign currency exchange operations in respect of the applicable currency are then being conducted, at or about 11:00 a.m., New York City time, on the applicable date for the purchase of the relevant currency for delivery two Business Days later; provided, that, the Administrative Agent may obtain such spot rate from another financial



institution designated by the Administrative Agent if the Administrative Agent does not have a spot rate for any such currency as of the date of determination.

“Sub-Group DIP Lenders” has the meaning set forth in the Restructuring Plan.

“Subordinated Indebtedness” means (a) any Indebtedness provided for under the Exit Notes Indenture and the Exit Notes issued thereunder, (b) with respect to a Borrower, any Indebtedness of such Borrower which is subordinated in right of payment to the Obligations on terms acceptable to the Agents and the Required Lenders, (c) with respect to any Guarantor, any Indebtedness of such Guarantor which is subordinated in right of payment to its Guaranty on terms acceptable to the Agents and the Required Lenders and (d) unsecured Indebtedness.

“Subsidiary” means, with respect to any Person, (1) any corporation, unlimited liability company, association or other business entity (other than a partnership, joint venture or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, and (2) any partnership, joint venture or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity. Unless otherwise indicated in this Agreement or the context requires otherwise, all references to Subsidiaries shall mean Subsidiaries of the Borrowers.

“Super Senior Intercreditor Agreement” means that certain Intercreditor Agreement, dated as of the date hereof, by and among the Loan Parties, the Administrative Agent, the Trustee, the Collateral Agent and the Exit Notes Collateral Agent.

“Swap Obligation” means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

“Tax Distributions” means any distributions described in Section 7.02(h)(ii)(L).

“Tax Funding Agreement” means that certain Tax Funding Agreement, dated as of the date hereof, by and among the Exela Technologies BPA, LLC and each of its debtor affiliates, Exela Technologies BPA, LLC, in its capacity as agent, Parent, ETI, GP 3XCV LLC and XCV-STs, LLC.

“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, additions to tax or penalties applicable thereto.



“Term Loan” means, collectively, (x) the loans made by the Term Loan Lenders to the Borrowers on the Effective Date pursuant to Section 2.01(a)(i) and Section 2.01(a)(ii) (each, an “Effective Date Term Loan”), and (y) any Incremental Term Loan made pursuant to Section 2.14 hereof ([including the 2026 Incremental Term Loan](#)).

“Term Loan Commitment” means, with respect to each Lender, (x) such Lender’s Initial Cashless Term Commitment and/or Initial Funded Term Commitment, as the case may be, or (y) the commitment of such Lender to make an Incremental Term Loan to the Borrowers in connection with any Incremental Facility Amendment, or, in each case, in the Assignment and Acceptance pursuant to which such Lender became a Lender under this Agreement, as the same may be terminated or reduced from time to time in accordance with the terms of this Agreement.

“Term Loan Lender” means a Lender with a Term Loan Commitment or a Term Loan ([including the 2026 Incremental Term Loan Lenders](#)).

“Term Loan Obligations” means any Obligations with respect to the Term Loan (including, without limitation, the principal thereof, the interest thereon, and the fees and expenses specifically related thereto).

“Term Priority Collateral” has the meaning set forth in the ABL Intercreditor Agreement.

“Term SOFR” means:

(a) for any calculation with respect to a SOFR Rate 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) U.S. Government Securities 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 4:00 p.m. (New York City time) 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 U.S. Government Securities 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 U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day; and

(b) for any calculation with respect to a Reference Rate Loan on any day, the Term SOFR Reference Rate for a tenor of three (3) months on the day (such day, the “Reference Rate Term SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 4:00 p.m. (New York City time) on any Reference 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 U.S. Government Securities 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 U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Reference Rate Term SOFR Determination Day;

provided, further, that if Term SOFR as so determined shall ever be less than 4.00%, then Term SOFR shall be deemed to be 4.00%.

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

“Term SOFR Borrowing” means, as to any borrowing, the Loans bearing interest at a rate based on Term SOFR comprising such borrowing.

“Term SOFR Reference Rate” means the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR.

“Third Party Funds” means any accounts or funds, or any portion thereof, received by the Borrowers or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon the Borrowers or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“Title Insurance Policy” means a mortgagee’s loan policy, in form and substance satisfactory to the Collateral Agent and the Required Lenders, together with all endorsements made from time to time thereto, issued to the Collateral Agent by or on behalf of a title insurance company selected by or otherwise satisfactory to the Required Lenders, insuring the Lien created by a Mortgage in an amount and on terms and with such endorsements satisfactory to the Collateral Agent and the Required Lenders, delivered to the Collateral Agent.

“Total Assets” means the total consolidated assets of the Borrowers and their respective Subsidiaries, as shown on the most recent balance sheet of the Borrowers calculated on a pro forma basis after giving effect to any subsequent acquisition or disposition of a Person or business.

“Total Commitment” means the sum of the Total Term Loan Commitment.

“Total Term Loan Commitment” means the sum of the amounts of the Lenders’ [Initial Term Loan Commitments and the amounts of the 2026 Incremental Term Loan Lenders’ 2026 Incremental](#) Term Loan Commitments.

“Transactions” means the transactions under or pursuant to or contemplated by the Restructuring Plan, including the Restructuring Transactions (as defined in the Restructuring Plan).

“Transfer” has the meaning specified in Section 7.02(c).

“Trustee” means U.S. Bank Trust Company, National Association, as trustee under the Exit Notes Indenture.

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

“Uniform Commercial Code” or “UCC” has the meaning specified therefor in Section 1.04.

“U.S. Government Obligations” means securities that are:

(1) direct obligations of the United States of America denominated in U.S. dollars for the timely payment of which its full faith and credit is pledged, or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in each case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depository receipt; provided, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depository receipt.

“U.S. Government Securities Business Day” means 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.

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

“USA PATRIOT Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001 (Title III of Pub. L. 107-56, Oct. 26, 2001) as amended by the USA Patriot Improvement and Reauthorization Act of 2005 (Pub. L. 109-177, March 9, 2006) and as the same may have been or may be further renewed, extended, amended, or replaced.

“Voting Stock” of any Person as of any date means the Equity Interests of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Waivable Mandatory Prepayment” has the meaning specified therefor in Section 2.05(g).



“WARN” has the meaning specified therefor in Section 6.01(p).

“Weighted Average Life to Maturity” means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment, by (2) the sum of all such payments.

“Wholly Owned Subsidiary” of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares or shares required pursuant to applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

“Withholding Agent” means any Loan Party and the Administrative Agent.

Section 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any right or interest in or to assets and properties of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

Section 1.03 Certain Matters of Construction.

(a) References in this Agreement to “determination” by any Agent include good faith estimates by such Agent (in the case of quantitative determinations) and good faith beliefs by such Agent (in the case of qualitative determinations). A Default or Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement; and an Event of Default shall “continue” or be

“continuing” until such Event of Default has been waived in writing by the Required Lenders. Any Lien referred to in this Agreement or any other Loan Document as having been created in favor of any Agent, any agreement entered into by any Agent pursuant to this Agreement or any other Loan Document, any payment made by or to or funds received by any Agent pursuant to or as contemplated by this Agreement or any other Loan Document, or any act taken or omitted to be taken by any Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of the Secured Parties. Wherever the phrase “to the knowledge of any Loan Party” or words of similar import relating to the knowledge or the awareness of any Loan Party are used in this Agreement or any other Loan Document, such phrase shall mean and refer to (i) the actual knowledge of a senior officer of any Loan Party or (ii) the knowledge that a senior officer would have obtained if such officer had engaged in good faith and diligent performance of such officer’s duties, including the making of such reasonably specific inquiries as may be necessary of the employees or agents of such Loan Party and a good faith attempt to ascertain the existence or accuracy of the matter to which such phrase relates. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

(b) Any reference herein to a merger, consolidation, amalgamation, liquidation, winding up, dissolution, assignment, sale, lease, Investment, disposition, Restricted Payment, conveyance or transfer, or similar term, shall be deemed to apply to a division (whether pursuant to a divisive merger, plan of division, or other comparable event under any jurisdiction’s law) of or by a Person, or an allocation of assets to any Person or series of Persons, as if it were a merger, consolidation, amalgamation, liquidation, winding up, dissolution, assignment, sale, lease, Investment, disposition, Restricted Payment, conveyance or transfer, or similar term, as applicable, to, of or with a separate Person. Any division (whether pursuant to a divisive merger, plan of division, or other comparable event under any jurisdiction’s law) of a Person shall constitute a separate Person hereunder (and each division of any, and such separate Person shall be deemed to have been organized on the first date of its existence by the holders of its stock at such time.

Section 1.04 Accounting and Other Terms.

(a) Unless otherwise expressly provided herein, each accounting term used herein shall have the meaning given it under GAAP. For purposes of determining compliance with any incurrence or expenditure tests set forth in Section 7.01, Section 7.02 and Section 7.03, any amounts so incurred or expended (to the extent incurred or expended in a currency other than Dollars) shall be converted into Dollars on the basis of the exchange rates (as shown on the Bloomberg currency page for such currency or, if the same does not provide such exchange rate, by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Agents or, in the event no such service is selected, on such other basis as is reasonably satisfactory to the Agents) as in effect on the date of such incurrence or



expenditure under any provision of any such Section that has an aggregate Dollar limitation provided for therein (and to the extent the respective incurrence or expenditure test regulates the aggregate amount outstanding at any time and it is expressed in terms of Dollars, all outstanding amounts originally incurred or spent in currencies other than Dollars shall be converted into Dollars on the basis of the exchange rates (as shown on the Bloomberg currency page for such currency or, if the same does not provide such exchange rate, by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Agents or, in the event no such service is selected, on such other basis as is reasonably satisfactory to the Agents) as in effect on the date of any new incurrence or expenditures made under any provision of any such Section that regulates the Dollar amount outstanding at any time). Notwithstanding the foregoing, (i) with respect to the accounting for leases as either operating leases or capital leases and the impact of such accounting in accordance with FASB ASC 842 on the definitions and covenants herein, GAAP as in effect on December 31, 2018 shall be applied, (ii) for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Lead 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 and (iii) with respect to revenue recognition and the impact of such accounting in accordance with FASB ASC 606 on the definitions and covenants herein, GAAP as in effect on December 31, 2017 shall be applied.

(b) All terms used in this Agreement which are defined in Article 8 or Article 9 of the Uniform Commercial Code as in effect from time to time in the State of New York (the “Uniform Commercial Code” or the “UCC”) and which are not otherwise defined herein shall have the same meanings herein as set forth therein, provided, that terms used herein which are defined in the Uniform Commercial Code as in effect in the State of New York on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute.

Section 1.05 Time References. Unless otherwise indicated herein, all references to time of day refer to Eastern Standard Time or Eastern daylight-saving time, as in effect in New York City on such day. For purposes of the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each means “to but excluding”; provided, however, that with respect to a computation of fees or interest payable to any Secured Party, such period shall in any event consist of at least one full day.

Section 1.06 Obligation to Make Payments in Dollars. All payments to be made by any Loan Party of principal, interest, fees and other Obligations under any Loan Document shall be made in Dollars in same day funds, and no obligation of any Loan Party to make any such payment shall be discharged or satisfied by any payment other than payments made in Dollars in same day funds.

Section 1.07 Rates.

The Administrative Agent does not warrant or accept 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 Reference Rate, the Term SOFR Reference Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement) or any relevant adjustments thereto (including any Benchmark Replacement Adjustment), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto (including any Benchmark Replacement Adjustment) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Reference Rate, the Term SOFR Reference Rate, Term SOFR 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 the Reference Rate, the Term SOFR Reference Rate, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto (including any Benchmark Replacement Adjustment), in each case in a manner adverse to the Borrowers. The Administrative Agent may select information sources or services in its sole discretion to ascertain the Reference Rate, the Term SOFR Reference Rate, Term SOFR or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other Person 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. Under no circumstances will the Administrative Agent be responsible for selecting or determining any Benchmark Replacement if Term SOFR or any other Benchmark will no longer be available past the Benchmark Replacement Date. No such replacement (including any Benchmark Replacement Conforming Changes) shall affect the Administrative Agent's own rights, privileges, protections, indemnities, duties or immunities under the Loan Documents or otherwise.

Section 1.08 Exchange Rates.

Principal, interest, reimbursement obligations, fees, and all other amounts payable under this Agreement and the other Loan Documents to the Agents and the other Secured Parties shall be payable in Dollars. Unless stated otherwise, all calculations, comparisons, measurements or determinations under this Agreement shall be made in Dollars. For the purpose of such calculations, comparisons, measurements or determinations, amounts or proceeds denominated in other currencies shall be converted to the Equivalent Amount of Dollars on the date of calculation, comparison, measurement or determination. Unless expressly provided otherwise, where a reference is made to a Dollar amount, the amount is to be considered as the amount in Dollars and, therefore, each other currency shall be converted into the Equivalent Amount thereof in Dollars.

Section 1.09 Quebec Interpretation.

For purposes of the interpretation or construction of this Agreement pursuant to the laws of the Province of Quebec, for purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of any other Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) “personal property” shall be deemed to include “movable property”, (b) “real property” shall be deemed to include “immovable property”, (c) “tangible property” shall be deemed to include “corporeal property”, (d) “intangible property” shall be deemed to include “incorporeal property”, (e) “security interest”, “mortgage” and “lien” shall be deemed to include a “hypothec”, a “reservation of ownership”, “prior claim” and a “resolatory clause,” (f) all references to filing, registering or recording under the PPSA or the UCC shall be deemed to include publication under the Civil Code of Québec, (g) all references to “perfection” of or “perfected” Liens shall be deemed to include a reference to an “opposable” or “set up” Liens as against third parties, (h) any “right of offset”, “right of setoff” or similar expression shall be deemed to include a “right of compensation”, (i) “goods” shall be deemed to include “corporeal movable property” other than chattel paper, documents of title, instruments, money and securities, (j) an “agent” shall be deemed to include a “mandatary,” (k) “construction liens” shall be deemed to include “legal hypothecs in favour of persons having taken part in the construction or renovation of an immovable”, (l) “joint and several” shall be deemed to include “solidary” and “jointly and severally” shall be deemed to include “solidarily” (m) “gross negligence or willful misconduct” shall be deemed to be “intentional or gross fault”, (n) “beneficial ownership” shall be deemed to include “ownership on behalf of another as mandatary”, (o) “legal title” shall be deemed to include “holding title on behalf of an owner as mandatary or prête-nom”, (p) “easement” shall be deemed to include “servitude”, (q) “priority” shall be deemed to include “prior claim” or “rank”, as applicable, (r) “survey” shall be deemed to include “certificate of location and plan”, (s) “fee simple title” and “fee title” shall be deemed to include “right of ownership”, (t) “foreclosure” shall be deemed to include “the exercise of a hypothecary right”, (u) “leasehold interest” shall be deemed to include “valid rights resulting from a lease”, (v) “lease” for personal or movable property shall be deemed to include a “contract of leasing (crédit-bail)”, (x) “deposit account” shall include a “financial account” as defined in Article 2713.6 of the Civil Code of Québec, and (y) “guarantee” and “guarantor” shall include “suretyship” and “surety”, respectively. The parties hereto confirm that it is their wish that this Agreement and any other Loan Document be drawn up in the English language only and that all other documents contemplated hereunder or relating hereto, including notices, shall also be drawn up in the English language only. *Les parties aux présentes confirment que c’est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisages par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*

ARTICLE II

THE LOANS

Section 2.01 Commitments. (a) Subject to the terms and conditions and relying upon the representations and warranties herein set forth:

(i) to give effect to the satisfaction of DIP Claims in the aggregate amount of \$10,000,000, and subject to the Cancellation Condition, held by the Sub-Group DIP Lenders in accordance with the Restructuring Plan, each Lender with an Initial Cashless Term Commitment as of the Effective Date shall (i) be automatically deemed to have made an Effective Date Term Loan in Dollars to the Borrowers on the Effective Date in an amount equal to the amount of the Initial Cashless Term Commitment of such Lender and (ii) be bound by the provisions of this Agreement as a Lender hereunder and shall have the obligations of a Lender hereunder by its acceptance of the benefits of this Agreement and the other Loan Documents, and be deemed to have executed and delivered this Agreement, regardless of whether such Lender has executed and delivered a signature page hereto; and

(ii) each Term Loan Lender with an Initial Funded Term Commitment severally agrees to make the Effective Date Term Loan to the Borrowers on the Effective Date, in an aggregate principal amount not to exceed the amount of such Lender's Initial Funded Term Commitment.

(iii) the 2026 Incremental Term Loan Lender with the 2026 Incremental Term Loan Commitment severally agrees to make the 2026 Incremental Term Loan to the Lead Borrower on the Second Amendment Effective Date, in an aggregate principal amount not to exceed the amount of the 2026 Incremental Term Loan Commitment.

(b) Notwithstanding the foregoing, the aggregate principal amount of the Effective Date Term Loan made on the Effective Date shall not exceed the ~~Total~~Initial Term Loan Commitment. After giving effect to the deemed funding of Loans pursuant to Section 2.01(a)(i) and the funding of Loans pursuant to Section 2.01(a)(ii) the aggregate outstanding principal amount of Loans shall be \$46,000,000. Any principal amount of the Term Loan which is repaid or prepaid may not be reborrowed. For the avoidance of doubt, the Term Loan Commitments of each Lender shall be automatically and permanently reduced to \$0 upon the making (or deemed making) of such Lender's Loans pursuant to Section 2.01(a)(i) and Section 2.01(a)(ii) on the Effective Date. After giving effect to the funding of the 2026 Incremental Term Loan pursuant to Section 2.01(a)(iii) the aggregate outstanding principal amount of 2026 Incremental Term Loan shall be \$4,000,000. Any principal amount of the 2026 Incremental Term Loan which is repaid or prepaid may not be reborrowed.

(c) On the Effective Date, DIP Claims held by the Sub-Group DIP Lenders in an aggregate amount equal to \$10,000,000 will automatically be deemed satisfied, compromised, settled, released and discharged in full pursuant to and in accordance with the Restructuring Plan (the "Cancellation Condition").

Section 2.02 Making the Loans. (a) The Administrative Borrower shall give the Administrative Agent prior written notice, in substantially the form of Exhibit D hereto (a "Notice of Borrowing"), appropriately completed and executed by an Authorized Officer of the Administrative Borrower, not later than 12:00 noon (New York City time) on



the date which is 1 Business Day prior to the date of the proposed Loan (or such shorter period as the Administrative Agent is willing to accommodate from time to time, but in no event later than 12:00 noon (New York City time) on the borrowing date of the proposed Loan). Such Notice of Borrowing shall be irrevocable and shall specify (i) the aggregate principal amount of the proposed Loan, (ii) Borrower's wiring instructions, (iii) whether the Loan is requested to be a Reference Rate Loan or a SOFR Rate Loan and, in the case of a SOFR Rate Loan, the initial Interest Period with respect thereto, (iv) the use of the proceeds of such proposed Loan, (v) the proposed borrowing date, which must be a Business Day, and, with respect to the Effective Date Term Loan, must be the Effective Date, and (vi) the Administrative Borrower's wiring instructions. The Administrative Agent and the Lenders may act without liability upon the basis of written notice believed by the Administrative Agent in good faith to be from the Administrative Borrower (or from any Authorized Officer thereof designated in writing purportedly from the Administrative Borrower to the Administrative Agent). Each Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such Notice of Borrowing. The Administrative Agent and each Lender shall be entitled to rely conclusively on any Authorized Officer's authority to request a Loan on behalf of the Borrowers until the Administrative Agent receives written notice to the contrary. The Administrative Agent and the Lenders shall have no duty to verify the authenticity of the signature appearing on any written Notice of Borrowing.

(b) Each Notice of Borrowing pursuant to this Section 2.02 shall be irrevocable and the Borrowers shall be bound to make a borrowing in accordance therewith. Each Term Loan Lender with an Initial Funded Term Commitment shall make each Loan to be made by it hereunder on the Effective Date by wire transfer of immediately available funds to such account in New York City as the Administrative Agent may designate from time to time not later than 11:00 a.m., New York City time, and the Administrative Agent shall promptly credit the amounts so received to the account specified by the Administrative Borrower in the applicable Notice of Borrowing or, if a borrowing shall not occur on such date because any condition precedent herein specified shall not have been met, return the amounts so received to the respective Term Loan Lenders within 2 Business Days.

(c) (i) All Loans under this Agreement shall be made (or deemed made) by (x) the Lenders simultaneously and proportionately to their Pro Rata Shares of the ~~Total~~Initial Term Loan Commitment and (y) the 2026 Incremental Term Loan Lenders simultaneously and proportionately to their Pro Rata Shares of their 2026 Incremental Term Loan Commitment, as the case may be, it being understood that no Lender (including the 2026 Incremental Term Loan Lenders) shall be responsible for any default by any other Lender in that other Lender's obligations to make (or be deemed to make) a Loan requested hereunder, nor shall the Commitment of any Lender be increased or decreased as a result of the default by any other Lender in that other Lender's obligation to make a Loan requested hereunder, and each Lender shall be obligated to make (or be deemed to make) the Loans required to be made by it by the terms of this Agreement regardless of the failure by any other Lender.

Section 2.03 Repayment of Loans; Evidence of Debt.

(a) [Reserved].

(b) Neither the Effective Date Term Loan nor any Incremental Term Loans shall amortize. The outstanding unpaid principal amount of the Term Loan, and all accrued and unpaid interest thereon, shall be due and payable on the earliest of (i) the Final Maturity Date and (ii) the date on which the Term Loan is declared due and payable pursuant to the terms of this Agreement.

(c) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) The Administrative Agent shall maintain a Register in which it shall record (i) the amount of each Loan made hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(e) The entries made in the Register and accounts maintained pursuant to Section 2.03(c) or Section 2.03(d) shall be prima facie evidence of the existence and amounts of the Obligations recorded therein; provided, that (i) the failure of any Lender or the Administrative Agent to maintain such accounts or such Register or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement and (ii) in the event of any conflict between the entries made in the accounts maintained pursuant to Section 2.03(c) and the Register maintained pursuant to Section 2.03(d), the Register maintained pursuant to Section 2.03(d) shall govern and control.

(f) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrowers shall execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) in a form furnished by such Lender and reasonably acceptable to the Administrative Borrower. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 12.07) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.04 Interest.

(a) [Reserved].

(b) Term Loan. Subject to the terms of this Agreement, at the option of the Administrative Borrower, the Term Loan or any portion thereof shall be either a Reference Rate Loan or a SOFR Rate Loan. Each portion of the Term Loan that is a Reference Rate Loan shall bear interest on the principal amount thereof from time to time outstanding, from the date of the

Reference Rate Loan until repaid, at a rate per annum equal to the Reference Rate plus the Applicable Margin, and each portion of the Term Loan that is a SOFR Rate Loan shall bear interest on the principal amount thereof from time to time outstanding, from the date of the SOFR Rate Loan until repaid, at a rate per annum equal to Term SOFR for the Interest Period in effect for the SOFR Rate Loan (or such portion thereof) plus the Applicable Margin.

(c) Default Interest. To the extent permitted by law and notwithstanding anything to the contrary in this Section, upon the occurrence and during the continuance of an Event of Default, the principal of, and all accrued and unpaid interest on, all Loans, fees, indemnities or any other Obligations of the Loan Parties under this Agreement and the other Loan Documents, shall bear interest, from the date such Event of Default occurred until the date such Event of Default is cured or waived in writing in accordance herewith, at a rate per annum equal at all times to the Post-Default Rate.

(d) Interest Payment. Interest on each Loan shall be payable in cash (i) in the case of a Reference Rate Loan, monthly, in arrears, on the first Business Day of each month, commencing on the first Business Day of the month following the month in which such Loan is made, (ii) in the case of a SOFR Rate Loan, on the last day of each Interest Period applicable to such Loan, and (iii) in the case of each Loan, at maturity (whether upon the Final Maturity Date, upon demand, by acceleration or otherwise. Interest at the Post-Default Rate shall be payable on demand.

(e) General. All computations of interest and fees for Reference Rate Loans, when based on the Prime Rate, shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days, including the first day but excluding the last day, elapsed. All other computations of interest and fees shall be made on the basis of a year of 360 days for the actual number of days, including the first day but excluding the last day, elapsed.

(f) Conforming Changes. In connection with the use or administration of Term SOFR, 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 Borrowers and the Lenders prior to the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

(g) Canadian Interest Act Disclosure. For the purposes of the Interest Act (Canada) and disclosure thereunder, whenever any interest or any fee to be paid under any Loan Document is to be calculated on the basis of a 360-day or 365-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or 365, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.



Section 2.05 Reduction of Commitment; Prepayment of
Loans.

(a) Reduction of Commitments.

(i) [Reserved].

(ii) Term Loan. The ~~Total~~Initial Term Loan Commitment shall terminate at 5:30 p.m. (New York City time) on the Effective Date.

(iii) 2026 Incremental Term Loan. The 2026 Incremental Term Loan Commitment shall terminate at 5:30 p.m. (New York City time) on the Second Amendment Effective Date.

(b) Optional Prepayment.

(i) [Reserved].

(ii) Term Loan. The Borrowers may, at any time and from time to time so long as the Prepayment Conditions are satisfied, upon at least 5 Business Days' prior written notice by 11:00 a.m. to the Administrative Agent, prepay the principal of the Term Loan, in whole or in part, which written notice shall specify the date (which shall be a Business Day) and amount of such prepayment. Each prepayment made pursuant to this Section 2.05(b)(ii) shall be accompanied by the payment of (A) accrued interest to the date of such payment on the amount prepaid and (B) the Applicable Premium, if any, payable in connection with such prepayment of the Term Loan.

(iii) Termination of Agreement. The Borrowers may, upon at least 30 days prior written notice to the Administrative Agent, terminate this Agreement by paying to the Administrative Agent, in cash, the Obligations in full, including the Applicable Premium.

(c) Mandatory Prepayment.

(i) Subject to the Intercreditor Agreements and satisfaction of the Prepayment Conditions, within ten (10) Business Days after financial statements have been delivered pursuant to Section 7.01(a)(i)(A) (the "ECF Due Date"), but in any event not later than 120 calendar days plus ten (10) Business Days after the end of each Fiscal Year of the Lead Borrower beginning with the Fiscal Year ended December 31, 2026 (the "ECF Trigger Date"), the Borrowers shall prepay an aggregate principal amount of Loans in an amount equal to 25% of Excess Cash Flow for the Fiscal Year covered by such financial statements; provided that such amount shall, at the option of the Lead Borrower, be reduced on a dollar-for dollar basis by the aggregate amount of voluntary principal prepayments (other than prepayments financed with any long-term Indebtedness or any Equity Issuance of the Loans pursuant to Section 2.05(b)), to the extent permitted to be made hereunder and made during such Fiscal Year or, at the option of the Borrower, made during the period following the end of such Fiscal Year and prior to the ECF Due Date (without duplication in the next Fiscal Year). The Borrower shall promptly (and in any event, no later than five (5) Business Days after the ECF Trigger Date) determine whether the Prepayment Conditions will be satisfied on such prepayment date and if the Borrowers determine



that, as of the prepayment date, the Prepayment Conditions will not be satisfied, the Borrowers shall deliver a certificate of an Authorized Officer of the Borrowers to the Administrative Agent attaching supporting calculations in respect of the Prepayment Conditions and determining the aggregate principal amount of Loans the Borrowers can prepay in satisfaction of the Prepayment Conditions on a pro forma basis, and such amount shall be prepaid on the date specified above.

(ii) Subject to the Intercreditor Agreements, immediately upon any Disposition (excluding Dispositions which qualify as Permitted Dispositions) by any Loan Party or its Subsidiaries, the Borrowers shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such Dispositions to the extent that the aggregate amount of Net Cash Proceeds received by all Loan Parties and their Subsidiaries (and not paid to the Administrative Agent as a prepayment of the Loans) shall exceed for all such Dispositions \$500,000 any Fiscal Year. Nothing contained in this Section 2.05(c)(ii) shall permit any Loan Party or any of its Subsidiaries to make a Disposition of any property other than in accordance with Section 7.02(c)(ii).

(iii) Subject to the Intercreditor Agreements and solely, with respect to an Equity Issuance, satisfaction of the Prepayment Conditions, upon the issuance or incurrence by any Loan Party or any of its Subsidiaries of any Indebtedness (other than Permitted Indebtedness), or upon an Equity Issuance (other than any Excluded Equity Issuances), the Borrowers shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to the Equity and Debt Prepayment Percentage of the Net Cash Proceeds received by such Person in connection therewith. The Borrower shall promptly (and in any event, no later than five (5) Business Days prior to the Equity Issuance) determine whether the Prepayment Conditions will be satisfied on the date of the Equity Issuance and if the Borrowers determine that, as of the date of the Equity Issuance, the Prepayment Conditions will not be satisfied, the Borrowers shall deliver a certificate of an Authorized Officer of the Borrowers to the Administrative Agent attaching supporting calculations in respect of the Prepayment Conditions and determining the aggregate principal amount of Loans the Borrowers can prepay in satisfaction of the Prepayment Conditions on a pro forma basis, and such amount shall be prepaid upon the issuance of such Equity Interests. The provisions of this Section 2.05(c)(iii) shall not be deemed to be implied consent to any such issuance, incurrence or sale otherwise prohibited by the terms and conditions of this Agreement.

(iv) Subject to the Intercreditor Agreements, upon the receipt by any Loan Party or any of its Subsidiaries of (i) any Extraordinary Receipts, the Borrowers shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection therewith and (ii) any ETI Litigation Extraordinary Receipts, the Borrowers shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to 50% of the Net Cash Proceeds received by such Person in connection therewith.

(v) Subject to the Intercreditor Agreements, immediately upon receipt by the Borrowers of the proceeds of any Permitted Cure Equity pursuant to Section 9.02, the



Borrowers shall prepay the outstanding principal amount of the Loans in accordance with Section 2.05(d) in an amount equal to 100% of such proceeds.

(vi) Subject to the Intercreditor Agreements, notwithstanding the foregoing, with respect to Net Cash Proceeds received by any Loan Party or any of its Subsidiaries in connection with a Disposition or the receipt of Extraordinary Receipts consisting of insurance proceeds or condemnation awards that are required to be used to prepay the Obligations pursuant to Section 2.05(c)(ii) or Section 2.05(c)(iv), as the case may be, up to (x) with respect to Net Cash Proceeds from all such Dispositions, \$5,000,000 in the aggregate in any Fiscal Year and (y) with respect to Net Cash Proceeds from all such Extraordinary Receipts, \$20,000,000 in the aggregate in any Fiscal Year shall, in each case, not be required to be so used to prepay the Obligations to the extent that such Net Cash Proceeds are used to replace, repair or restore properties or assets (other than current assets) used in such Person's business, provided, that, (A) no Default or Event of Default has occurred and is continuing on the date such Person receives such Net Cash Proceeds, (B) the Administrative Borrower delivers a certificate to the Administrative Agent within 5 days after such Disposition or loss, destruction or taking, as the case may be, stating that such Net Cash Proceeds shall be used to replace, repair or restore properties or assets used in such Person's business within a period specified in such certificate not to exceed 180 days after the date of receipt of such Net Cash Proceeds (which certificate shall set forth estimates of the Net Cash Proceeds to be so expended and state that no Default or Event of Default has occurred and is continuing on the date such Person receives such Net Cash Proceeds), (C) such Net Cash Proceeds are deposited in an account subject to a Control Agreement, and (D) upon the earlier of (1) the expiration of the period specified in the relevant certificate furnished to the Administrative Agent pursuant to clause (B) above or (2) the occurrence of a Default or an Event of Default, such Net Cash Proceeds, if not theretofore so used, shall be used to prepay the Obligations in accordance with Section 2.05(c)(ii) or Section 2.05(c)(iv) as applicable.

(d) Application of Payments. Subject to the Intercreditor Agreements, each prepayment pursuant to subsections (c)(i), (c)(ii), (c)(iii), (c)(iv) and (c)(v) above shall be applied ratably to the outstanding principal balance of the Term Loan, until paid in full. Notwithstanding the foregoing, after the occurrence and during the continuance of an Event of Default, if the Administrative Agent has elected or has been directed by the Required Lenders to so elect, to apply payments in respect of any Obligations in accordance with Section 4.03(b), prepayments required under Section 2.05(c) shall be applied in the manner set forth in Section 4.03(b).

(e) Interest and Fees. Any prepayment made pursuant to this Section 2.05 shall be accompanied by (i) accrued interest on the principal amount being prepaid to the date of prepayment, (ii) any Funding Losses payable pursuant to Section 2.08, (iii) the Applicable Premium, if any, payable in connection with such prepayment of the Loans to the extent required under Section 2.06(b) and (iv) if such prepayment would reduce the amount of the outstanding Loans to zero, such prepayment shall be accompanied by the payment of all other outstanding Obligations.

(f) Cumulative Prepayments. Except as otherwise expressly provided in this Section 2.05, payments with respect to any subsection of this Section 2.05 are in addition to payments made or required to be made under any other subsection of this Section 2.05.

(g) Waivable Mandatory Prepayments. Anything contained herein to the contrary notwithstanding, in the event that the Borrowers are required to make any mandatory prepayment (a “Waivable Mandatory Prepayment”) of the Loans pursuant to Section 2.05(c), not less than 3 Business Days by 11:00 a.m. prior to the date on which the Borrowers are required to make such Waivable Mandatory Prepayment (the “Required Prepayment Date”), the Administrative Borrower shall notify the Administrative Agent in writing of the date on which the Borrowers to make such mandatory prepayment, the amount of such mandatory prepayment, and the basis for such mandatory prepayment and include a reasonably detailed calculation of the amount of such mandatory prepayment. The Administrative Agent will promptly thereafter notify each Lender of the amount of such Lender’s Pro Rata Share of such Waivable Mandatory Prepayment and such Lender’s option to refuse such amount. Each such Lender may exercise such option by giving written notice to the Administrative Borrower and the Administrative Agent of its election to do so on or before 12:00 noon (New York City time) one Business Day prior to the Required Prepayment Date (it being understood that any Lender that does not notify the Administrative Borrower and the Administrative Agent of its election to exercise such option on or before 12:00 noon (New York City time) one Business Day prior to the Required Prepayment Date shall be deemed to have elected, as of such date, not to exercise such option). On the Required Prepayment Date, the Borrowers shall pay to the Administrative Agent the amount of the Waivable Mandatory Prepayment, which amount shall be applied (i) in an amount equal to that portion of the Waivable Mandatory Prepayment payable to those Lenders that have elected not to exercise such option, to prepay the Loans of such Lenders (which prepayment shall be applied to prepay the outstanding principal amount of the Obligations in accordance with Section 2.05(d)) and (ii) to the extent of any excess, to the Borrowers for working capital and general corporate purposes.

Section 2.06 Fees.

(a) Fee Letter. As and when due and payable under the terms of the Fee Letter, the Borrowers shall pay to the Agents the fees set forth in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(b) Applicable Premium.

(i) Upon the occurrence of an Applicable Premium Trigger Event, the Borrowers shall pay to the Administrative Agent, for the account of the Lenders in accordance with their Pro Rata Shares, the Applicable Premium.

(ii) Any Applicable Premium payable in accordance with this Section 2.06(b) shall be presumed to be equal to the liquidated damages sustained by the Lenders as the result of the occurrence of the Applicable Premium Trigger Event and the Loan Parties agree that it is reasonable under the circumstances currently existing. THE LOAN PARTIES EXPRESSLY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR

LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING APPLICABLE PREMIUM IN CONNECTION WITH ANY ACCELERATION.

(iii) The Loan Parties expressly agree that: (A) the Applicable Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Applicable Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Applicable Premium; (D) the Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this paragraph; (E) their agreement to pay the Applicable Premium is a material inducement to Lenders to provide the Commitments and make the Loans, and (F) the Applicable Premium represents a good faith, reasonable estimate and calculation of the lost profits or damages of the Agents and the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Agents and the Lenders or profits lost by the Agents and the Lenders as a result of such Applicable Premium Trigger Event.

(iv) Nothing contained in this Section 2.06(b) shall permit any prepayment of the Loans or reduction of the Commitments not otherwise permitted by the terms of this Agreement or any other Loan Document.

(c) Audit and Collateral Monitoring Fees. The Borrowers acknowledge that pursuant to Section 7.01(f), representatives and advisors of the Agents may visit any or all of the Loan Parties and/or conduct inspections, audits, physical counts, valuations, appraisals, environmental site assessments and/or examinations of any or all of the Loan Parties at any time and from time to time. The Borrowers agree to pay (i) \$1,500 per day per examiner plus the examiner's out-of-pocket costs and reasonable expenses incurred in connection with all such visits, inspections, audits, physical counts, valuations, appraisals, environmental site assessments and/or examinations and (ii) the cost of all visits, inspections, audits, physical counts, valuations, appraisals, environmental site assessments and/or examinations conducted by a third party on behalf of the Agents.

Section 2.07 SOFR Option.

(a) The Borrowers (or the Administrative Borrower on behalf of the Borrowers) may, at any time and from time to time, so long as no Default or Event of Default has occurred and is continuing, elect to have interest on all or a portion of the Loans be charged at a rate of interest based upon Term SOFR (the "SOFR Option") by notifying the Administrative Agent in writing prior to 11:00 a.m. (New York City time) at least 3 U.S. Government Securities Business Days prior to (or such shorter period as may be agreed by the Administrative Agent) (i) the proposed borrowing date of a Loan (as provided in Section 2.02), (ii) in the case of the conversion of a Reference Rate Loan to a SOFR Rate Loan, the commencement of the proposed Interest Period or (iii) in the case of the continuation of a SOFR Rate Loan as a SOFR Rate Loan, the last day of the then current Interest Period (the "SOFR Deadline"). Notice of the Borrowers' election of the SOFR Option for a permitted portion of the Loans and an Interest Period pursuant to this Section 2.07(a) shall be made by delivery to the Administrative Agent of (A) a Notice of Borrowing (in the case of the initial making or deemed making of a Loan) in



accordance with Section 2.02 or (B) a SOFR Notice prior to the SOFR Deadline (or such shorter period as may be agreed by the Administrative Agent). Promptly upon its receipt of each such SOFR Notice, the Administrative Agent shall provide a copy thereof to each of the Lenders. Each SOFR Notice shall be irrevocable and binding on the Borrowers.

(b) Interest on SOFR Rate Loans shall be payable in accordance with Section 2.04(d). On the last day of each applicable Interest Period, unless the Borrowers properly have exercised the SOFR Option with respect thereto, the interest rate applicable to such SOFR Rate Loans automatically shall convert to the rate of interest then applicable to Reference Rate Loans of the same type hereunder. At any time that a Default or an Event of Default has occurred and is continuing, the Borrowers no longer shall have the option to request that any portion of the Loans bear interest at Term SOFR and the Required Lenders shall have the right upon written notice to the Administrative Agent and the Administrative Borrower, to convert the interest rate on all outstanding SOFR Rate Loans to the rate of interest then applicable to Reference Rate Loans of the same type hereunder prior to the last day of the then current Interest Period.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Borrowers (i) shall have not more than five (5) SOFR Rate Loans in effect at any given time, and (ii) only may exercise the SOFR Option for SOFR Rate Loans of at least \$500,000 and integral multiples of \$100,000 in excess thereof.

(d) The Borrowers may prepay SOFR Rate Loans at any time; provided, however, that in the event that SOFR Rate Loans are prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any mandatory prepayment pursuant to Section 2.05(c) or any application of payments or proceeds of Collateral in accordance with Section 4.03 or Section 4.04 or for any other reason, including early termination of the term of this Agreement or acceleration of all or any portion of the Obligations pursuant to the terms hereof, the Borrowers shall indemnify, defend, and hold the Secured Parties and their participants harmless against any and all Funding Losses in accordance with Section 2.08.

Section 2.08 Funding Losses. In connection with each SOFR Rate Loan, the Borrowers shall indemnify, defend, and hold the Secured Parties harmless against any loss, cost, or expense incurred by any Secured Party as a result of (a) the payment of any principal of any SOFR Rate Loan other than on the last day of the Interest Period applicable thereto (including as a result of a Default or an Event of Default or any mandatory prepayment required pursuant to Section 2.05(c)), (b) the conversion of any SOFR Rate Loan other than on the last day of the Interest Period applicable thereto (including as a result of a Default or an Event of Default) or (c) the failure to borrow, convert, continue or prepay any SOFR Rate Loan on the date specified in any Notice of Borrowing, SOFR Notice or prepayment notice delivered pursuant hereto (such losses, costs, and expenses, collectively, "Funding Losses"). Funding Losses shall, with respect to any Secured Party, be deemed to equal the amount reasonably determined by such Secured Party to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such SOFR Rate Loan had such event not occurred, at the Term SOFR that would have been applicable thereto, for the period from the



date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period therefor), minus (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Secured Party would be offered were it to be offered, at the commencement of such period, Dollar deposits of a comparable amount and period in the applicable interbank market. A certificate of a Secured Party setting forth any amount or amounts that such Secured Party is entitled to receive pursuant to this Section 2.08 shall be delivered to the Administrative Borrower and shall be conclusive absent manifest error. The Borrowers shall pay such Secured Party the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.09 Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction or withholding for any and all Taxes, except as required by applicable Requirements of Law. If any applicable Requirements of Law (as determined in the good faith discretion of any Withholding Agent) requires the deduction or withholding of any Taxes from or in respect of any such payment, (i) the applicable Withholding Agent shall make such deduction or withholding, (ii) the applicable Withholding Agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Requirements of Law and (iii) if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased by the amount (an “Additional Amount”) necessary such that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section 2.09) the applicable Recipient receives the amount equal to the sum it would have received had no such deduction or withholding been made.

(b) In addition, each Loan Party shall pay to the relevant Governmental Authority in accordance with applicable Requirements of Law any Other Taxes, or at the option of any Secured Party timely reimburse it for the payment of any Other Taxes by such Secured Party. Each Loan Party shall deliver to each applicable Secured Party, upon such Secured Party’s request, official receipts (or other evidence of payment reasonably satisfactory to such Secured Party) in respect of any such Taxes or Other Taxes payable hereunder promptly after payment of such Taxes or Other Taxes by such Loan Party.

(c) The Loan Parties hereby jointly and severally indemnify and agree to hold each Secured Party harmless from and against Indemnified Taxes (including, without limitation, Indemnified Taxes imposed on any amounts payable under this Section 2.09) paid or payable by such Secured Party or required to be withheld or deducted from a payment to such Secured Party and any expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. Such indemnification shall be paid within 10 days from the date on which any such Person makes written demand therefor specifying in reasonable detail the nature and amount of such Indemnified Taxes. A certificate as to the amount of such payment or liability delivered to the Borrowers by a Secured Party (with a copy to the



Administrative Agent) or by any Agent on its own behalf or on behalf of another Secured Party shall be conclusive absent manifest error.

(d) (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 Borrowers and the Administrative Agent, at the time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrowers or the Administrative Agent 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 Borrowers or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers 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 2.09(d)(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 Borrowers 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 Borrowers or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Lender that is not a U.S. Person (a "Foreign Lender") shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be reasonably 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 Borrowers 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 or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed copies of IRS Form W-8ECI or W-8EXP;



(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit 2.09(d)-1 hereto to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of the Borrowers within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or 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-8EXP, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.09(d)-2 or Exhibit 2.09(d)-3, IRS Form W-9, 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 2.09(d)-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 Borrowers and the Administrative Agent (in such number of copies as shall be reasonably 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 Borrowers 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 U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers 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 U.S. 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 Internal Revenue Code, as applicable), such Lender shall deliver to the Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by the Borrowers or the Administrative Agent as may be necessary for the Borrowers 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.

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 Administrative Agent in writing of its legal inability to do so.

(e) Each Lender shall severally indemnify each Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified such Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.07(i) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by such Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by such Agent shall be conclusive absent manifest error. Each Lender hereby authorizes each Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by such Agent to the Lender from any other source against any amount due to such Agent under this paragraph (e).

(f) 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 2.09 (including by the payment of Additional Amounts pursuant to this Section 2.09), 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 2.09 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 (f) (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 (f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (f) the payment of which 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.

(g) The Administrative Agent, and any sub-agent and any successor or supplemental Administrative Agent, shall deliver to the Borrowers on or prior to the date on which such Person becomes the Administrative Agent, sub-agent or successor or supplemental Administrative Agent hereunder (and from time to time thereafter upon the reasonable request of a Borrower) an executed copy of its IRS Form W-9. The Administrative Agent and any sub-agent and successor or supplemental Administrative Agent agree 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 Borrowers in writing of its legal inability to do so.

(h) The agreements in this Section 2.09 shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

Section 2.10 Increased Costs and Reduced Return. (a) If any Secured Party shall have determined that any Change in Law shall (i) subject such Secured Party, or any Person controlling such Secured Party to any Tax, duty or other charge with respect to this Agreement or any Loan made by such Agent or such Lender, or change the basis of taxation of payments to such Secured Party or any Person controlling such Secured Party of any amounts payable hereunder (except for taxes on the overall net income of such Secured Party or any Person controlling such Secured Party), (ii) impose, modify or deem applicable any reserve, special deposit or similar requirement against any Loan or against assets of or held by, or deposits with or for the account of, or credit extended by, such Secured Party or any Person controlling such Secured Party or (iii) impose on such Secured Party or any Person controlling such Secured Party any other condition regarding this Agreement or any Loan, and the result of any event referred to in clauses (i), (ii) or (iii) above shall be to increase the cost to such Secured Party of making any Loan, or agreeing to make any Loan, or to reduce any amount received or receivable by such Secured Party hereunder, then, upon demand by such Secured Party, the Borrowers shall pay to such Secured Party such additional amounts as will compensate such Secured Party for such increased costs or reductions in amount.

(b) If any Secured Party shall have determined that any Change in Law either (i) affects or would affect the amount of capital required or expected to be maintained by such Secured Party or any Person controlling such Secured Party, and such Secured Party determines that the amount of such capital is increased as a direct or indirect consequence of any Loans made or maintained, or any agreement to make Loans, or such Secured Party's or such other controlling Person's other obligations hereunder, or (ii) has or would have the effect of reducing the rate of return on such Secured Party's or such other controlling Person's capital to a level below that which such Secured Party or such controlling Person could have achieved but for such circumstances as a consequence of any Loans made or maintained, or any agreement to make Loans, or such Secured Party's or such other controlling Person's other obligations hereunder (in each case, taking into consideration, such Secured Party's or such other controlling Person's policies with respect to capital adequacy), then, upon demand by such Secured Party, the Borrowers shall pay to such Secured Party from time to time such additional amounts as will compensate such Secured Party for such cost of maintaining such increased capital or such reduction in the rate of return on such Secured Party's or such other controlling Person's capital.

(c) All amounts payable under this Section 2.10 shall bear interest from the date that is 10 days after the date of demand by any Secured Party until payment in full to such Secured Party at the Reference Rate. A certificate of such Secured Party claiming compensation under this Section 2.10 (with a copy to the Administrative Agent), specifying the event herein above described and the nature of such event shall be submitted by such Secured Party to the Administrative Borrower (with a copy to the Administrative Agent), setting forth the additional amount due and an explanation of the calculation thereof, and such Secured Party's reasons for invoking the provisions of this Section 2.10, and shall be final and conclusive absent manifest error.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 2.10 shall not constitute a waiver of such Lender's right to demand such compensation; provided, that the Borrowers shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 2.10 for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Administrative Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) The obligations of the Loan Parties under this Section 2.10 shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

Section 2.11 Inability to Determine Rates.

(a) Subject to Section 2.13, if Administrative Agent shall have determined in good faith that for any reason adequate and reasonable means do not exist for ascertaining the Term SOFR for any requested Interest Period with respect to a proposed SOFR Rate Loan or that the Term SOFR applicable pursuant to Section 2.04 for any requested Interest Period with respect to a proposed SOFR Rate Loan does not adequately and fairly reflect the cost to the Lenders of funding or maintaining such Loan, Administrative Agent will forthwith give notice of such determination to the Borrowers and each Lender. Thereafter, the obligation of the Lenders to make or maintain SOFR Rate Loans hereunder shall be suspended (to the extent of the affected SOFR Rate Loans or, in the case of a Term SOFR Borrowing, the affected Interest Periods), and in the event of a determination described in the preceding sentence with respect to the Term SOFR component of the Reference Rate, the utilization of the Term SOFR component in determining the Reference Rate shall be suspended, until Administrative Agent revokes such notice in writing. Upon receipt of such notice, the Borrowers may revoke any pending Notice of Borrowing or notice of conversion or continuation of SOFR Rate Loans (to the extent of the affected SOFR Rate Loans or, in the case of a Term SOFR Borrowing, the affected Interest Periods) then submitted by it. If the Borrowers does not revoke such notice, the Lenders shall make, convert or continue the Loans, as proposed by the Borrowers in the amount specified in the applicable notice submitted by the Borrowers but such Loans shall be made, converted or



continued as Reference Rate Loans immediately or, in the case of a Term SOFR Borrowing, at the end of the applicable Interest Period.

(b) The obligations of the Loan Parties under this Section 2.11 shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

Section 2.12 Illegality. If any Lender determines that any law has made it unlawful or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to SOFR, the Term SOFR Reference Rate or Term SOFR, or to determine or charge interest rates based upon SOFR, the Term SOFR Reference Rate or Term SOFR, then, upon notice thereof by such Lender to the Administrative Borrower (with a copy to the Administrative Agent), (a) any obligation of the Lenders to make SOFR Rate Loans, and any right of the Administrative Borrower to continue SOFR Rate Loans or to convert Reference Rate Loans to SOFR Rate Loans, shall be suspended, and (b) the interest rate on which Reference Rate Loans shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to clause (c) of the definition of “Reference Rate”, in each case until such Lender notifies the Administrative Agent and the Administrative Borrower in writing that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) the Administrative Borrower shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all SOFR Rate Loans to Reference Rate Loans (the interest rate on which Reference Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to clause (c) of the definition of “Reference Rate”), either on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if any Lender may not lawfully continue to maintain such SOFR Rate Loans to such day, and (ii) if necessary to avoid such illegality, the Administrative Agent shall during the period of such suspension compute the Reference Rate without reference to clause (c) of the definition of “Reference Rate,” in each case until the Administrative Agent is advised in writing by each affected Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon SOFR, the Term SOFR Reference Rate or Term SOFR. Upon any such prepayment or conversion, the Borrowers shall also pay any additional amounts required pursuant to Section 2.08.

Section 2.13 Benchmark Replacement Setting.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event,

the Administrative Agent and the Administrative Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all Lenders and the Administrative 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 2.13(a) will occur prior to the applicable Benchmark Replacement Date.

(b) Benchmark Replacement Conforming Changes. In connection with the 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. The Administrative Agent will promptly notify the Borrowers and the Lenders prior to the effectiveness of any Conforming Changes.

(c) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Administrative Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes. The Administrative Agent will promptly notify the Administrative Borrower and the Lenders of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 2.13(d). 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 2.13, 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 2.13.

(d) 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), (i) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate and either (A) 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 (B) 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 (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will no longer 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.

(e) Benchmark Unavailability Period. Upon the Administrative Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Administrative Borrower may revoke any pending request for a SOFR Borrowing of, conversion to or continuation of SOFR Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Administrative Borrower will be deemed to have converted any such request into a request for a SOFR Borrowing of or conversion to Reference Rate Loans. During a Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Reference Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Reference Rate.

(f) [Reserved].

(g) Reserves on SOFR Rate Loans. The Borrowers shall pay to each Lender, as long as such Lender shall be required under regulations of the Federal Reserve Board to maintain reserves with respect to liabilities or assets consisting of or including SOFR funds or deposits, additional costs on the unpaid principal amount of each SOFR Rate Loan equal to actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), payable on each date on which interest is payable on such Loan provided the Borrowers shall have received at least 15 days' prior written notice (with a copy to Administrative Agent) of such additional interest from the Lender. If a Lender fails to give notice 15 days prior to the relevant Interest Payment Date, such additional interest shall be payable 15 days from receipt of such notice. Notwithstanding anything to the contrary contained in this Section 2.13(g), Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 2.13(g) for any additional interest incurred, or relating to Loans made, more than nine (9) months prior to the date that such Lender notifies the Borrowers of the requirement to pay such additional interest (except that, if the requirements under the regulations of the Federal Reserve Board giving rise to such additional interest is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 2.14 Incremental Facility.

(a) Requests. At any time, the Borrowers may, by written notice to the Administrative Agent (each, an "Incremental Facility Request"), request an increase in the Term Loan Commitments and/or to establish a tranche of new term loans (each, whether or not a separate tranche, an "Incremental Term Loan Commitment" and the loans thereunder, "Incremental Term Loans"; sometimes referred to herein individually as an "Incremental Facility" and collectively as the "Incremental Facilities") in Dollars in an aggregate amount of up to \$10,000,000; ~~provided, that, unless the Administrative Agent otherwise agrees in its sole and absolute discretion, there may be only one drawing of Incremental Facilities following the Effective Date~~ 6,000,000. Such Incremental Facility Request shall set forth (A) the Business Day (an "Incremental Effective Date") on which such Incremental Facility is requested to become effective (which, unless otherwise agreed by the Administrative Agent, shall not be less than ten



(10) Business Days after the date of such notice), (B) the requested amount of the Incremental Term Loan Commitment, and (C) whether the Incremental Term Loans shall initially consist of Reference Rate Loans and/or SOFR Rate Loans and, if the Loans are to include SOFR Rate Loans, the Interest Period to be initially applicable thereto.

(b) Lenders. Incremental Facilities may only be provided by Term Loan Lenders as of the Incremental Effective Date, Affiliates of Term Loan Lender as of the Incremental Effective Date or Related Funds of Term Loan Lender as of the Incremental Effective Date; provided, that no existing Lender will have any obligation to provide all or any portion of such Incremental Facilities. Each lender in connection with an Incremental Facility that is not an existing Lender (which lender, for the avoidance of doubt, shall be an Affiliate of a Lender or Related Fund of a Lender) (such lender, an “Additional Lender”) shall (i) become a Lender under this Agreement pursuant to an amendment (such amendment, an “Incremental Facility Amendment”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrowers, such Additional Lender and the Administrative Agent and (ii) deliver to the Administrative Agent, a completed Administrative Questionnaire, all tax forms required under Section 2.09 and all documentation and other information that each Agent reasonably requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering or terrorist financing rules and regulations, including the USA PATRIOT Act. An Incremental Facility Amendment may, without the consent of any other Lenders, effect such amendments to any Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.14. The effectiveness of any Incremental Facility Amendment shall, unless otherwise agreed to by the Administrative Agent and the applicable Additional Lenders, be subject to the satisfaction on the date thereof of each of the conditions set forth in Section 2.14(c) below.

(c) Conditions. No Incremental Facility shall become effective under this Section 2.14 unless, immediately after giving effect to such Incremental Facility, the Loans to be made thereunder (and assuming, that the entire amount of such Incremental Term Loan Commitment is funded), and the application of the proceeds therefrom (including any acquisition or investment consummated in connection therewith):

- (i) no Default or Event of Default shall have occurred or be continuing;
- (ii) the Loan Parties shall be in pro forma compliance with the financial covenants set forth in Section 7.03 hereof; provided, that for the purposes of this Section 2.14(c)(ii), the date of determination of compliance with the Senior Leverage Ratio and minimum Liquidity required by Section 7.03 hereof shall be the last day of the fiscal quarter of the Borrowers most recently ended for which annual or quarterly reports, as applicable, have been delivered pursuant to Section 7.01(a) hereof;
- (iii) the Administrative Borrower shall have submitted a Notice of Borrowing with respect to such Incremental Facility in the same form contemplated by Section 2.02(a) hereof;



(iv) the representations and warranties contained in Article VI and in each other Loan Document, certificate or other writing delivered to any Secured Party pursuant hereto or thereto on or prior to the date of such Loan are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to materiality or “Material Adverse Effect” in the text thereof, which representations and warranties shall be true and correct in all respects subject to such qualification) on and as of such date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct on and as of such earlier date),

(v) the Borrowers shall have paid all fees, costs and expenses and taxes then payable by the Borrowers pursuant to this Agreement and the other Loan Documents;

(vi) the Administrative Agent and the Required Lenders shall have provided their written consent to the incurrence of such Incremental Facility;

(vii) the Administrative Agent shall have received a certificate of an Authorized Officer of the Borrowers certifying as to the foregoing and with respect to clause (ii), attaching supporting calculations; and

(viii) the Lenders shall have been afforded a bona fide opportunity to provide a pro rata share of any such Incremental Facility.

(d) Terms. Unless otherwise agreed by the Administrative Agent in its sole and absolute discretion, the terms of any Incremental Facility (including, without limitation, pricing, upfront and closing fees and final maturity) shall be consistent with the Effective Date Term Loan. The outstanding unpaid principal amount of the Incremental Term Loan shall be due and payable set forth in Section 2.03(b) hereof.

(e) Required Amendments. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Facility, this Agreement may be amended to the extent (but only to the extent, as reasonably determined by the Administrative Agent) necessary to reflect the existence of such Incremental Facility and the Loans evidenced thereby, and any joinder agreement or amendment may without the consent of the other Lenders effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effectuate the provisions of this Section 2.14, and, for the avoidance of doubt, this Section 2.14(e) shall supersede any provisions in Section 12.02. From and after the Incremental Effective Date, the Loans and Commitments established pursuant to this Section 2.14 shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the guarantees and security interests created by the applicable Loan Documents. The Loan Parties shall take any actions reasonably required by the Collateral Agent to ensure and/or demonstrate that the Liens and security interests granted by the applicable Loan Documents continue to be

perfected under the UCC, the PPSA or otherwise after giving effect to the establishment of any such new Loans and Commitments.

ARTICLE III

[RESERVED]

ARTICLE IV

APPLICATION OF PAYMENTS; DEFAULTING LENDERS; JOINT AND SEVERAL LIABILITY OF BORROWERS

Section 4.01 Payments; Computations and Statements. (a) The Borrowers will make each payment under this Agreement not later than 12:00 noon (New York City time) on the day when due, in lawful money of the United States of America and in immediately available funds, to the Administrative Agent's Accounts. All payments received by the Administrative Agent after 12:00 noon (New York City time) on any Business Day may, in Administrative Agent's sole discretion, be deemed received on the next succeeding Business Day. All payments shall be made by the Borrowers without set-off, counterclaim, recoupment, deduction or other defense to the Agents and the Lenders. Except as provided in Section 2.02, after receipt, the Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal ratably to the Lenders in accordance with their Pro Rata Shares and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement. Whenever any payment to be made under any such Loan Document shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day (unless otherwise provided herein) and such extension of time shall in such case be included in the computation of interest or fees, as the case may be. Each determination by the Administrative Agent of an interest rate or fees hereunder shall be conclusive and binding for all purposes in the absence of manifest error.

Section 4.02 Sharing of Payments. Except as provided in Section 2.02 hereof, if any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of any Obligation in excess of its ratable share of payments on account of similar obligations obtained by all the Lenders, such Lender shall forthwith purchase from the other Lenders such participations in such similar obligations held by them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that (a) if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and each Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal



to such Lender's ratable share (according to the proportion of (i) the amount of such Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid by the purchasing Lender in respect of the total amount so recovered and (b) the provisions of this Section shall not be construed to apply to (i) any payment made by the Borrowers 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 and any payment of an amendment, consent or waiver fee to consenting Lenders pursuant to an effective amendment, consent or waiver with respect to this Agreement), or (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans, other than to any Loan Party or any Subsidiary thereof (as to which the provisions of this Section shall apply). The Borrowers agree that any Lender so purchasing a participation from another Lender pursuant to this Section may, to the fullest extent permitted by law, exercise all of its rights (including the Lender's right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrowers in the amount of such participation.

Section 4.03 Apportionment of Payments. Subject to Section 2.02 hereof and to any written agreement among the Agents and/or the Lenders:

(a) All payments of principal and interest in respect of outstanding Loans, all payments of fees (other than the fees set forth in Section 2.06 hereof to the extent set forth in any written agreement among the Lenders) and all other payments in respect of any other Obligations, shall be allocated by the Administrative Agent among such of the Lenders as are entitled thereto, in proportion to their respective Pro Rata Shares or otherwise as provided herein or, in respect of payments not made on account of Loans, as designated by the Person making payment when the payment is made.

(b) After the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and upon the direction of the Required Lenders shall, apply all payments in respect of any Obligations, including without limitation, all proceeds of the Collateral, subject to the provisions of this Agreement, (i) first, ratably to pay the Obligations in respect of any fees, expense reimbursements, indemnities and other amounts then due and payable to the Agents until paid in full; (ii) second, to pay interest then due and payable in respect of the Collateral Agent Advances until paid in full; (iii) third, to pay principal of the Collateral Agent Advances until paid in full; (iv) fourth, ratably to pay the Specified Professional Fees; (v) fifth, ratably to pay the Term Loan Obligations in respect of any fees (other than any Applicable Premium), expense reimbursements, indemnities and other amounts then due and payable to the Term Loan Lenders until paid in full; (vi) sixth, ratably to pay interest then due and payable in respect of the Term Loan until paid in full; (vii) seventh, ratably to pay principal of the Term Loan until paid in full; (viii) eighth, ratably to pay the Obligations in respect of any Applicable Premium then due and payable to the Lenders until paid in full; and (ix) ninth, to the ratable payment of all other Obligations then due and payable.

(c) For purposes of Section 4.03(b) (other than clause (viii) thereof), “paid in full” means payment in cash of all amounts owing under the Loan Documents according to the terms thereof, including loan fees, service fees, professional fees, interest (and specifically including interest accrued after the commencement of any Insolvency Proceeding), default interest, interest on interest, and expense reimbursements, whether or not same would be or is allowed or disallowed in whole or in part in any Insolvency Proceeding, except to the extent that default or overdue interest (but not any other interest) and loan fees, each arising from or related to a default, are disallowed in any Insolvency Proceeding; provided, however, that for the purposes of clause (viii), “paid in full” means payment in cash of all amounts owing under the Loan Documents according to the terms thereof, including loan fees, service fees, professional fees, interest (and specifically including interest accrued after the commencement of any Insolvency Proceeding), default interest, interest on interest, and expense reimbursements, whether or not the same would be or is allowed or disallowed in whole or in part in any Insolvency Proceeding.

(d) In the event of a direct conflict between the priority provisions of this Section 4.03 and other provisions contained in any other Loan Document, it is the intention of the parties hereto that both such priority provisions in such documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of Section 4.03 shall control and govern.

Section 4.04 Defaulting Lenders. 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:

(a) 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 Section 12.02.

(b) The Administrative Agent shall not be obligated to transfer to such Defaulting Lender any payments made by any Borrower to the Administrative Agent for such Defaulting Lender’s benefit, and, in the absence of such transfer to such Defaulting Lender, the Administrative Agent shall transfer any such payments to each other non-Defaulting Lender ratably in accordance with their Pro Rata Shares (without giving effect to the Pro Rata Shares of such Defaulting Lender) (but only to the extent that such Defaulting Lender’s Loans were funded by the other Lenders) or, if so directed by the Administrative Borrower and if no Default or Event of Default has occurred and is continuing (and to the extent such Defaulting Lender’s Loans were not funded by the other Lenders), retain the same to be re-advanced to the Borrowers as if such Defaulting Lender had made such Loans to the Borrowers. Subject to the foregoing, the Administrative Agent may hold and, in its discretion, re-lend to the Borrowers for the account of such Defaulting Lender the amount of all such payments received and retained by the Administrative Agent for the account of such Defaulting Lender.

(c) Any such failure to fund by any Defaulting Lender shall constitute a material breach by such Defaulting Lender of this Agreement and shall entitle the Borrowers to replace the Defaulting Lender with one or more substitute Lenders, and the Defaulting Lender



shall have no right to refuse to be replaced hereunder. Such notice to replace the Defaulting Lender shall specify an effective date for such replacement, which date shall not be later than 15 Business Days after the date such notice is given. Prior to the effective date of such replacement, the Defaulting Lender shall execute and deliver an Assignment and Acceptance, subject only to the Defaulting Lender being repaid its share of the outstanding Obligations without any premium or penalty of any kind whatsoever. If the Defaulting Lender shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, the Defaulting Lender shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Defaulting Lender shall be made in accordance with the terms of Section 12.07.

(d) The operation of this Section shall not be construed to increase or otherwise affect the Commitments of any Lender, to relieve or excuse the performance by such Defaulting Lender or any other Lender of its duties and obligations hereunder, or to relieve or excuse the performance by any Borrower of its duties and obligations hereunder to any Agent or to the Lenders other than such Defaulting Lender.

(e) This Section shall remain effective with respect to such Lender until either (i) the Obligations under this Agreement shall have been declared or shall have become immediately due and payable or (ii) the non-Defaulting Lenders, the Agents, and the Borrowers shall have waived such Defaulting Lender's default in writing, and the Defaulting Lender makes its Pro Rata Share of the applicable defaulted Loans and pays to the Administrative Agent all amounts owing by such Defaulting Lender in respect thereof; provided, that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while such Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

Section 4.05 Administrative Borrower; Joint and Several Liability of the Borrowers.

(a) Each Borrower hereby irrevocably appoints the Lead Borrower as the borrowing agent and attorney-in-fact for the Borrowers (the "Administrative Borrower") which appointment shall remain in full force and effect unless and until the Agents shall have received prior written notice signed by all of the Borrowers that such appointment has been revoked and that another Borrower has been appointed Administrative Borrower. Each Borrower hereby irrevocably appoints and authorizes the Administrative Borrower (i) to provide to the Agents and receive from the Agents all notices with respect to Loans obtained for the benefit of any Borrower and all other notices, certificates and instructions under this Agreement and (ii) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain Loans and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. It is understood that the handling of the Collateral of the Borrowers in a combined fashion, as more fully set forth herein, is done solely as an accommodation to the Borrowers in order to utilize the collective borrowing powers of the Borrowers in the most efficient and economical manner and at their request, and that none of the Secured Parties shall incur liability to the Borrowers as a result hereof. Each Borrower expects to derive benefit,



directly or indirectly, from the handling of the Collateral in a combined fashion since the successful operation of each Borrower is dependent on the continued successful performance of the integrated group.

(b) Each Borrower hereby accepts joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Agents and the Lenders under this Agreement and the other Loan Documents, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations. Each of the Borrowers, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the Obligations (including, without limitation, any Obligations arising under this Section 4.05), it being the intention of the parties hereto that all of the Obligations shall be the joint and several obligations of each of the Borrowers without preferences or distinction among them. If and to the extent that any of the Borrowers shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event, the other Borrowers will make such payment with respect to, or perform, such Obligation. Subject to the terms and conditions hereof, the Obligations of each of the Borrowers under the provisions of this Section 4.05 constitute the absolute and unconditional, full recourse Obligations of each of the Borrowers, enforceable against each such Person to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Agreement, the other Loan Documents or any other circumstances whatsoever.

(c) The provisions of this Section 4.05 are made for the benefit of the Secured Parties and their successors and assigns, and may be enforced by them from time to time against any or all of the Borrowers as often as occasion therefor may arise and without requirement on the part of the Secured Parties or such successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any of the other Borrowers or to exhaust any remedies available to it or them against any of the other Borrowers or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy. The provisions of this Section 4.05 shall remain in effect until all of the Obligations shall have been paid in full or otherwise fully satisfied.

(d) Each of the Borrowers hereby agrees that it will not enforce any of its rights of contribution or subrogation against the other Borrowers with respect to any liability incurred by it hereunder or under any of the other Loan Documents, or any payments made by it to the Secured Parties with respect to any of the Obligations or any Collateral, until such time as all of the Obligations have been paid in full in cash. Any claim which any Borrower may have against any other Borrower with respect to any payments to the Secured Parties hereunder or under any other Loan Documents are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the prior payment in full in cash of the Obligations.

ARTICLE V

CONDITIONS TO LOANS

Section 5.01 Conditions Precedent to Effectiveness. The effectiveness of this Agreement and the agreement of each Lender to make the initial extension of credit requested to be made (or to be deemed to be made) by it on the Business Day (the “Effective Date”) is subject to the satisfaction (or waiver by the Required Lenders or the Agents, as applicable), prior to or concurrently with the making of such extension of credit on the Effective Date, of the following conditions in a manner satisfactory to the Agents and the Required Lenders:

(a) Payment of Fees, Etc. The Borrowers shall have paid on or before the Effective Date all fees, costs, expenses, and taxes then payable pursuant to the Restructuring Plan, Section 2.06 and Section 12.04 (provided that, on the Effective Date, the Borrowers shall be required to pay to each legal advisor owed Specified Professional Fees a sum equal to (i) a third of the estimated amount of such advisor’s Specified Professional Fees plus (ii) 50% of any amount that is in excess of \$25,900,000 retained by the Borrowers on the Effective Date (provided that such excess amount shall not exceed \$1,000,000)).

(b) Representations and Warranties; No Event of Default. The following statements shall be true and correct: (i) the representations and warranties contained in Article VI and in each other Loan Document, certificate or other writing delivered to any Secured Party pursuant hereto or thereto on or prior to the Effective Date are true and correct on and as of the Effective Date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct on and as of such earlier date) and (ii) no Default or Event of Default shall have occurred and be continuing on the Effective Date or would result from this Agreement or the other Loan Documents becoming effective in accordance with its or their respective terms.

(c) Legality. The making of the initial Loans shall not contravene any law, rule or regulation applicable to any Secured Party.

(d) Delivery of Documents. The Administrative Agent and the Lenders (or their respective counsel) shall have received on or before the Effective Date the following, each in form and substance satisfactory to the Agents and the Required Lenders, unless indicated otherwise, dated the Effective Date and, if applicable, duly executed by the Persons party thereto:

(i) a Security Agreement and a Canadian Security Agreement, together with the original stock certificates representing all of the Equity Interests and all promissory notes required to be pledged thereunder, accompanied by undated stock powers executed in blank and other proper instruments of transfer;

(ii) the results of searches for any effective UCC financing statements, PPSA financing statements, filings under the Bank Act (Canada), tax Liens or judgment Liens

filed against any Loan Party or its property, which results shall not show any such Liens (other than Permitted Liens acceptable to the Required Lenders);

- (iii) a Perfection Certificate;
- (iv) the Disbursement Letter;
- (v) the Fee Letter;
- (vi) the Intercompany Subordination Agreement;
- (vii) the Super Senior Intercreditor Agreement;
- (viii) the ABL Intercreditor Agreement;
- (ix) the Exit Notes Indenture;
- (x) the ABL Credit Agreement;
- (xi) the B. Riley Credit Agreement;
- (xii) the Exar Facility;

(xiii) a certificate of an Authorized Officer of each Loan Party, certifying (A) as to copies of the Governing Documents of such Loan Party, together with all amendments thereto (including, without limitation, a true and complete copy of the charter, certificate of formation, certificate of limited partnership or other publicly filed organizational document of each Loan Party, in the case of non-Canadian Loan Parties, certified as of a recent date not more than 30 days prior to the Effective Date by an appropriate official of the jurisdiction of organization of such Loan Party which shall set forth the same complete name of such Loan Party as is set forth herein and the organizational number of such Loan Party, if an organizational number is issued in such jurisdiction), (B) the names and true signatures of the representatives of such Loan Party authorized to sign each Loan Document (in the case of a Borrower, including, without limitation, Notices of Borrowing, SOFR Notices and all other notices under this Agreement and the other Loan Documents) to which such Loan Party is or will be a party and the other documents to be executed and delivered by such Loan Party in connection herewith and therewith, together with evidence of the incumbency of such Authorized Officers, (C) resolutions (or equivalent authorization) of the board of directors (or equivalent body) of each Loan Party authorizing, among other things, the execution, delivery and performance of this Agreement, the other Loan Documents and the consummation of the transactions contemplated hereby, (D) in the case of Canadian Loan Parties, a true and correct copy of the shareholders register of such Canadian Loan party, and (E) as to the matters set forth in Section 5.01(b);

(xiv) a certificate of the chief financial officer of the Lead Borrower (A) setting forth in reasonable detail the calculations required to establish compliance, on a pro forma basis after giving effect to the Loans, with the financial covenant contained in Section 7.03(a) (as if the covenants applicable to the fiscal quarter ending September 30, 2025 applied on the Effective Date) and (B) certifying that after giving effect to all Loans to be made on the



Effective Date the Liquidity is not less than \$2,000,000, (C) certifying that all tax returns required to be filed by the Loan Parties have been filed and all taxes upon the Loan Parties or their properties, assets, and income (including real property taxes and payroll taxes) have been paid, except for those Taxes which will be treated as general unsecured claims in accordance with the Restructuring Plan or otherwise satisfied in the accordance with the Restructuring Plan and (D) setting forth a list of all Subsidiaries which meet the criteria set forth in clause (d) of the definition of Excluded Subsidiaries as of the Effective Date;

(xv) a certificate of the chief financial officer of each Loan Party, certifying that such Loan Party is Solvent (after giving effect to the Loans made on the Effective Date);

(xvi) a certificate of an Authorized Officer of the Administrative Borrower certifying that (A) the attached copies of all Material Contracts as in effect on the Effective Date are true, complete and correct copies thereof and (B) such agreements remain in full force and effect and that none of the Loan Parties has breached or defaulted in any of its obligations under such agreements;

(xvii) a certificate of the appropriate official(s) of the jurisdiction of organization and, except to the extent such failure to be so qualified could not reasonably be expected to have a Material Adverse Effect, each jurisdiction of foreign qualification of each Loan Party certifying as of a recent date not more than 30 days prior to the Effective Date (or, in the case of a Canadian Loan Party, not more than 2 Business Days prior to the Effective Date) as to the subsistence in good standing of, and the payment of taxes by, such Loan Party in such jurisdictions;

(xviii) opinions of Latham & Watkins LLP, counsel to the Loan Parties, Maynard Nexsen, South Carolina counsel to the Loan Parties, Faegre Drinker Biddle & Reath LLP, Iowa counsel to the Loan Parties, Cox & Palmer, Nova Scotia counsel to the Loan Parties and Gowling WLG (Canada) LLP, Ontario counsel to the Loan Parties, as to such matters as the Agents or the Required Lenders may reasonably request;

(xix) a certificate of an Authorized Officer of the Parent certifying that neither XCV-EMEA, LLC nor BTC Int'l Holdings, Inc. (i) conduct, transact or otherwise engage in any business or operations other than those incidental to its ownership of the Equity Interests of their Subsidiaries, (ii) own any assets (other than the Equity Interests of their respective Subsidiaries, if any, and cash and Cash Equivalents), (iii) incur any Indebtedness (other than intercompany Indebtedness which constitute Permitted Investments hereunder) or (iv) make any Investments;

(xx) the historical Financial Statements requested by the Required Lenders prior to the Effective Date; and

(xxi) such other agreements, instruments, approvals, opinions and other documents, each satisfactory to the Agents and the Required Lenders in form and substance, as any Agent or the Required Lenders may reasonably request.

(e) Material Adverse Effect. The Required Lenders shall have determined, in their sole judgment, that no event or development shall have occurred since the Disclosure Statement Date which could reasonably be expected to have a Material Adverse Effect.

(f) [Reserved].

(g) Approvals. All consents, authorizations and approvals of, and filings and registrations with, and all other actions in respect of, any Governmental Authority or other Person required in connection with the making of the Loans, or the conduct of the Loan Parties' business, or the consummation of any of the underlying transactions, shall have been obtained and shall be in full force and effect.

(h) Proceedings; Receipt of Documents. All proceedings in connection with the making of the Effective Date Term Loans and the other transactions contemplated by this Agreement and the other Loan Documents, and all documents incidental hereto and thereto, shall be satisfactory to the Agents, the Required Lenders, and their respective counsel, and the Agents, the Required Lenders, and such counsel shall have received all such information and such counterpart originals or certified or other copies of such documents as the Agents, the Required Lenders, or such counsel may reasonably request.

(i) Restructuring Plan Effective Date; Confirmation Order. (i) All conditions precedent to the confirmation and occurrence of the effectiveness of the Restructuring Plan, as set forth in the Restructuring Plan, shall have been satisfied or waived in accordance with the terms thereof, and (ii) effectiveness of the Restructuring Plan shall have occurred (or occur contemporaneously with the Effective Date).

(j) Due Diligence. The Agents and the Required Lenders shall have completed their business, legal and collateral due diligence with respect to each Loan Party and the results thereof shall be acceptable to the Agents and the Required Lenders, in their sole and absolute discretion.

(k) Security Interests. Other than with respect to the documents and actions set forth in Section 7.01(r), the Loan Documents shall create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable first priority security interest in the Term Priority Collateral and a security interest in the ABL Priority Collateral with the priority set forth in the ABL Intercreditor Agreement, in each case secured thereby (subject only to Permitted Liens).

(l) Litigation. There shall exist no claim, action, suit, investigation, litigation or proceeding (including, without limitation, shareholder or derivative litigation) pending or threatened in any court or before any arbitrator or Governmental Authority which relates to the Loans or which, in the opinion of the Required Lenders, is reasonably likely to be adversely determined, and that, if adversely determined, would reasonably be expected to have a Material Adverse Effect.

(m) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing pursuant to Section 2.02 hereof.



(n) Payment of DIP Claims. The Debtors shall have satisfied all DIP Claims in accordance with the Restructuring Plan (including through (i) the Exit Notes, (ii) the issuance of the Loans and (iii) the Cancellation Condition).

(o) Repayment of Prepetition Indebtedness. The Debtors shall have repaid in full all obligations under the Prepetition Financing Agreement and the Prepetition Securitization Programs (as defined in the Restructuring Plan) (including through the incurrence of the Exar Facility, the B. Riley Credit Agreement and the ABL Facility).

(p) B. Riley Credit Agreement. The Loan Parties covenant and agree to the extent and at the time such Loan Party received a participation interest in the B. Riley Credit Agreement, such participation interest shall be immediately cancelled and extinguished. The aggregate principal amount outstanding under the B. Riley Credit Agreement, after giving effect to the Transactions, shall not exceed \$19,750,000.00, and no Affiliate of the Loan Parties that is not a Loan Party shall hold any participation interest of the B. Riley Credit Agreement;

(q) Stock Certificates. The Borrowers shall deliver or cause to be delivered to the Collateral Agent any original stock certificates (or replacement stock certificates to the extent originals cannot be located, together with corresponding affidavits of loss in form and substance reasonably satisfactory to the Collateral Agent), and corresponding stock powers with respect to such Equity Interests.

For purposes of determining compliance with the conditions specified in this Section 5.01, each Lender that has signed, is deemed to sign, or has authorized the signing of this Agreement shall be deemed to have consented to, approved, accepted or be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless the Administrative Agent shall have received written notice from such Lender prior to the proposed Effective Date specifying its objection thereto.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

Section 6.01 Representations and Warranties. Each Loan Party hereby represents and warrants to the Secured Parties as follows:

(a) Organization, Good Standing, Etc. Each Loan Party (i) is a corporation, limited liability company or limited partnership duly organized, validly existing and in good standing under the laws of the state or jurisdiction of its organization, (ii) has all requisite power and authority to conduct its business as now conducted and as presently contemplated and, in the case of the Borrowers, to make the borrowings hereunder, and to execute and deliver each Loan Document to which it is a party, and to consummate the transactions contemplated thereby, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except (solely for the purposes of this subclause (iii)) where the



failure to be so qualified and in good standing could not reasonably be expected to have a Material Adverse Effect.

(b) Authorization, Etc. The execution, delivery and performance by each Loan Party of each Loan Document to which it is or will be a party, (i) have been duly authorized by all necessary action, (ii) do not and will not contravene (A) any of its Governing Documents, (B) any applicable Requirement of Law or (C) any Contractual Obligation binding on or otherwise affecting it or any of its properties, (iii) do not and will not result in or require the creation of any Lien (other than pursuant to any Loan Document) upon or with respect to any of its properties, and (iv) do not and will not result in any default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal of any permit, license, authorization or approval applicable to its operations or any of its properties, except, in the case of clauses (ii)(B), (ii)(C) and (iv), to the extent where such contravention, default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal could not reasonably be expected to have a Material Adverse Effect.

(c) Governmental Approvals. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required in connection with the due execution, delivery and performance by any Loan Party of any Loan Document to which it is or will be a party other than filings and recordings with respect to Collateral to be made, or otherwise delivered to the Collateral Agent for filing or recordation, on the Effective Date.

(d) Enforceability of Loan Documents. This Agreement is, and each other Loan Document to which any Loan Party is or will be a party, when delivered hereunder, will be, a legal, valid and binding obligation of such Person, enforceable against such Person in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(e) Capitalization. On the Effective Date, after giving effect to the transactions contemplated hereby to occur on the Effective Date, the authorized Equity Interests of the Lead Borrower and each of its Subsidiaries and the issued and outstanding Equity Interests of the Lead Borrower and each of its Subsidiaries are as set forth on Schedule 6.01(e). All of the issued and outstanding shares of Equity Interests of the Lead Borrower and each of its Subsidiaries have been validly issued and are fully paid and nonassessable, and the holders thereof are not entitled to any preemptive, first refusal or other similar rights. All Equity Interests of such Subsidiaries of the Lead Borrower are owned by the Lead Borrower free and clear of all Liens (other than Permitted Specified Liens). Except as described on Schedule 6.01(e), there are no outstanding debt or equity securities of the Lead Borrower or any of its Subsidiaries and no outstanding obligations of the Lead Borrower or any of its Subsidiaries convertible into or exchangeable for, or warrants, options or other rights for the purchase or acquisition from the Lead Borrower or any of its Subsidiaries, or other obligations of the Lead Borrower or any of its Subsidiaries to issue, directly or indirectly, any shares of Equity Interests of the Lead Borrower or any of its Subsidiaries.

(f) Litigation. Except as set forth in Schedule 6.01(f), there is no pending or, to the best knowledge of any Loan Party, threatened action, suit or proceeding affecting any Loan

Party or any of its properties before any court or other Governmental Authority or any arbitrator that (i) if adversely determined, could reasonably be expected to have a Material Adverse Effect or (ii) relates to this Agreement or any other Loan Document or any transaction contemplated hereby or thereby.

(g) Financial Statements. The Financial Statements, copies of which have been delivered to each Lender, fairly present the consolidated financial condition of the Lead Borrower and its Subsidiaries as at the respective dates thereof and the consolidated results of operations of the Lead Borrower and its Subsidiaries for the fiscal periods ended on such respective dates, all in accordance with GAAP. All material indebtedness and other liabilities (including, without limitation, Indebtedness, liabilities for taxes, long-term leases and other unusual forward or long-term commitments), direct or contingent, of the Lead Borrower and its Subsidiaries are set forth in the Financial Statements. Since the Disclosure Statement Date, no event or development has occurred that has had or could reasonably be expected to have a Material Adverse Effect.

(h) Compliance with Law, Etc. No Loan Party or any of its Subsidiaries is in violation of (i) any of its Governing Documents, (ii) any Requirement of Law, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, or (iii) any material term of any Contractual Obligation (including, without limitation, any Material Contract) binding on or otherwise affecting it or any of its properties, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, and no default or event of default has occurred and is continuing thereunder.

(i) ERISA and Canadian Pensions. Except as set forth on Schedule 6.01(i), (i) each Loan Party and each Employee Plan is in compliance with all Requirements of Law in all material respects, including ERISA, the Internal Revenue Code and the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, (ii) no ERISA Event has occurred nor is reasonably expected to occur with respect to any Employee Plan or Multiemployer Plan, (iii) the most recent annual report (Form 5500 Series) with respect to each Pension Plan, including any required Schedule B (Actuarial Information) thereto, copies of which have been filed with the Internal Revenue Service and delivered to the Required Lenders ((or their counsel), is complete and correct and fairly presents the funding status of such Pension Plan, and since the date of such report, there has been no material adverse change in such funding status, (iv) copies of each agreement entered into with the PBGC, the U.S. Department of Labor or the Internal Revenue Service with respect to any Employee Plan have been delivered to the Required Lenders (or their counsel), and (v) each Employee Plan that is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Internal Revenue Code and the trust related thereto is exempt from federal income tax under Section 501(a) of the Internal Revenue Code. No Loan Party or any of its ERISA Affiliates has incurred any liability to the PBGC which remains outstanding other than the payment of premiums, and there are no premium payments which have become due which are unpaid. There are no pending or, to the best knowledge of any Loan Party, threatened claims, actions, proceedings or lawsuits (other than claims for benefits in the normal course) asserted or instituted against (A) any Employee Plan or its assets, (B) any fiduciary with respect to any Employee Plan, or (C) any Loan Party or any of its ERISA Affiliates with respect to any



Employee Plan. Except as required by Section 4980B of the Internal Revenue Code, no Loan Party or any of its ERISA Affiliates maintains an employee welfare benefit plan (as defined in Section 3(1) of ERISA) that provides health benefits (through the purchase of insurance or otherwise) for any retired or former employee of any Loan Party or any of its ERISA Affiliates or has any obligation to provide any such benefits for any current employee after such employee's termination of employment. All obligations of the Loan Parties (including fiduciary, funding, investment and administration obligations) required to be performed in connection with any Canadian Pension Plan and the funding agreements relating thereto have been performed on a timely basis. All contributions or premiums required to be made or paid by the Loan Parties to any Canadian Pension Plan have been made on a timely basis in accordance with the terms of such plans and all applicable laws. No event has occurred which could cause the loss of registered status of any Canadian Pension Plan. No fact or situation that may reasonably be expected to result in a Material Adverse Effect exists in connection with any Canadian Pension Plan. No Loan Party nor any of its Subsidiaries has any withdrawal liability in connection with a Canadian Pension Plan which could reasonably be expected to have a Material Adverse Effect. No Lien has arisen, choate or inchoate, in respect of any Loan Party or its Subsidiaries or its or their property in connection with any Canadian Pension Plan (save for contribution amounts not yet due). No Loan Party contributes to, sponsors or maintains, or has contributed to, sponsored or maintained (in the last 5 years), a Canadian Defined Benefit Plan. No Canadian Pension Event has occurred or is reasonably likely to occur.

(j) Taxes, Etc. (i) All Tax returns and other reports required by applicable Requirements of Law to be filed by any Loan Party have been timely filed and (ii) all Taxes imposed upon any Loan Party or any property of any Loan Party which have become due and payable on or prior to the date hereof have been paid, except (A) for those Taxes which will be treated as general unsecured claims in accordance with the Restructuring Plan or otherwise satisfied in accordance with the Restructuring Plan, and (B) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof on the Financial Statements in accordance with GAAP.

(k) Regulations T, U and X. No Loan Party is or will be engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X), and no proceeds of any Loan will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U and X.

(l) Nature of Business.

(i) No Loan Party is engaged in any business other than as set forth on Schedule 6.01(l).

(ii) The Lead Borrower does not have any material liabilities (other than liabilities arising under the Loan Documents), own any material assets (other than the



Equity Interests of its Subsidiaries) or engage in any operations or business (other than the ownership of its Subsidiaries).

(m) Adverse Agreements, Etc. No Loan Party or any of its Subsidiaries is a party to any Contractual Obligation or subject to any restriction or limitation in any Governing Document or any judgment, order, regulation, ruling or other requirement of a court or other Governmental Authority, which (either individually or in the aggregate) has, or in the future could reasonably be expected (either individually or in the aggregate) to have, a Material Adverse Effect.

(n) Permits, Etc. Each Loan Party has, and is in compliance with, all permits, licenses, authorizations, approvals, entitlements and accreditations, including Environmental Permits, required for such Person lawfully to own, lease, manage or operate, or to acquire, each business and Facility currently owned, leased, managed or operated, or to be acquired, by such Person, except to the extent the failure to have or be in compliance therewith could not reasonably be expected to have a Material Adverse Effect. No condition exists or event has occurred which, in itself or with the giving of notice or lapse of time or both, would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such permit, license, authorization, approval, entitlement or accreditation, including any such Environmental Permit, and there is no claim that any of the foregoing is not in full force and effect.

(o) Properties. Each Loan Party has good and marketable title to, valid leasehold interests in, or valid licenses to use, all property and assets material to its business, free and clear of all Liens, except Permitted Liens. All such properties and assets are in good working order and condition, ordinary wear and tear excepted.

(p) Employee and Labor Matters. Except as set forth on Schedule 6.01(p), (i) each Loan Party and its Subsidiaries is in compliance with all Requirements of Law in all material respects pertaining to employment and employment practices, terms and conditions of employment, wages and hours, and occupational safety and health, (ii) no Loan Party or any Subsidiary is party to any collective bargaining agreement, nor has any labor union been recognized as the representative of the employees of any Loan Party or Subsidiary, (iii) there is no unfair labor practice complaint pending or, to the best knowledge of any Loan Party, threatened against any Loan Party or any Subsidiary before any Governmental Authority and no grievance or arbitration proceeding pending or threatened against any Loan Party or any Subsidiary which arises out of or under any collective bargaining agreement, (iv) there has been no strike, work stoppage, slowdown, lockout, or other labor dispute pending or threatened against any Loan Party or any Subsidiary, and (v) to the best knowledge of each Loan Party, no labor organization or group of employees has made a pending demand for recognition or certification, and there are no representation or certification proceedings or petitions seeking a representation proceeding presently pending or threatened to be brought or filed, with the National Labor Relations Board or any other labor relations tribunal or authority. No Loan Party or Subsidiary has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act (“WARN”) or any similar Requirement of Law, which remains unpaid or unsatisfied. All payments due from any Loan Party or Subsidiary on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a



liability on the books of such Loan Party or Subsidiary except where the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(q) Environmental Matters. Except as set forth on Schedule 6.01(q) hereto, (i) no Loan Party or any of its Subsidiaries is in violation of any Environmental Law, (ii) each Loan Party and each of its Subsidiaries has, and is in compliance with, all Environmental Permits for its respective operations and businesses, except to the extent any failure to have or be in compliance therewith could not reasonably be expected to result in any adverse consequence to any Loan Party (other than immaterial consequences) or any Secured Party; (iii) there has been no Release or threatened Release of Hazardous Materials on, in, at, under or from any properties currently or formerly owned, leased or operated by any Loan Party, its Subsidiaries or a respective predecessor in interest or at any disposal or treatment facility which received Hazardous Materials generated by any Loan Party, its Subsidiaries or any respective predecessor in interest, which in any case of the foregoing could reasonably be expected to result in any adverse consequence to any Loan Party (other than immaterial consequences) or any Secured Party; (iv) there are no pending or threatened Environmental Claims against, or Environmental Liability of, any Loan Party, its Subsidiaries or any respective predecessor in interest that could reasonably be expected to result in any adverse consequence to any Loan Party (other than immaterial consequences) or any Secured Party; (v) neither any Loan Party nor any of its Subsidiaries is performing or responsible for any Remedial Action that could reasonably be expected to result in any adverse consequence to any Loan Party (other than immaterial consequences) or any Secured Party; and (vi) the Loan Parties have made available to the Required Lenders (or their counsel) true and complete copies of all material environmental reports, audits and investigations in the possession or control of any Loan Party or any of its Subsidiaries with respect to the operations and business of the Loan Parties and its Subsidiaries.

(r) Insurance. Each Loan Party maintains all insurance required by Section 7.01(h). Schedule 6.01(r) sets forth a list of all such insurance maintained by or for the benefit of each Loan Party on the Effective Date.

(s) Use of Proceeds. The proceeds of (i) the Loans deemed to have been made on the Effective Date pursuant to Section 2.01(a)(i) shall be used to effect the Transactions in accordance with the Restructuring Plan, including to satisfy \$10,000,000 of DIP Claims held by the Sub-Group DIP Lenders in exchange for the Initial Cashless Term Commitments, ~~and~~ (ii) the Loans funded on the Effective Date pursuant to Section 2.01(a)(ii) shall be used to make payments and distributions under the Restructuring Plan, to repay in full all obligations under the Prepetition Financing Agreement and to pay fees and expenses in connection with the transactions and for general corporate purposes of the Borrowers and its Subsidiaries not otherwise prohibited by this Agreement; and (iii) the 2026 Incremental Term Loans funded on the Second Amendment Effective Date pursuant to Section 2.01(a)(iii) shall be used to pay fees and expenses in connection with the Second Amendment, for working capital and for general corporate purposes of the Borrowers and its Subsidiaries not otherwise prohibited by this Agreement.

(t) Solvency. After giving effect to the transactions contemplated by this Agreement and before and after giving effect to each Loan, each Loan Party is, and the Loan Parties on a consolidated basis are, Solvent. No transfer of property is being made by any Loan

Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party.

(u) Intellectual Property. Except as set forth on Schedule 6.01(u), each Loan Party owns or licenses or otherwise has the right to use all Intellectual Property rights that are necessary for the operation of its business, without infringement upon or conflict with the rights of any other Person with respect thereto, except for such infringements and conflicts which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. Set forth on Schedule 6.01(u) is a complete and accurate list as of the Effective Date of (i) each item of Registered Intellectual Property owned by each Loan Party; (ii) each material work of authorship owned by each Loan party and which is not Registered Intellectual Property, and (iii) each material Intellectual Property Contract to which each Loan Party is bound. No trademark or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Loan Party infringes upon or conflicts with any rights owned by any other Person, and no claim or litigation regarding any of the foregoing is pending or threatened, except for such infringements and conflicts which could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the knowledge of each Loan Party, no patent, invention, industrial design, device, application, principle or any statute, law, rule, regulation, standard or code pertaining to Intellectual Property is pending or proposed, which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(v) Material Contracts. Each Material Contract (i) is in full force and effect and is binding upon and enforceable against each Loan Party that is a party thereto and, to the best knowledge of such Loan Party, all other parties thereto in accordance with its terms, (ii) has not been otherwise amended or modified, and (iii) is not in default due to the action of any Loan Party or, to the best knowledge of any Loan Party, any other party thereto.

(w) Investment Company Act. None of the Loan Parties is (i) an “investment company” or an “affiliated person” or “promoter” of, or “principal underwriter” of or for, an “investment company”, as such terms are defined in the Investment Company Act of 1940, as amended, or (ii) subject to regulation under any Requirement of Law that limits in any respect its ability to incur Indebtedness or which may otherwise render all or a portion of the Obligations unenforceable.

(x) Customers and Suppliers. There exists no actual or threatened termination, cancellation or limitation of, or modification to or change in, the business relationship between (i) any Loan Party, on the one hand, and any customer or any group thereof, on the other hand, whose agreements with any Loan Party are individually or in the aggregate material to the business or operations of such Loan Party, or (ii) any Loan Party, on the one hand, and any supplier or any group thereof, on the other hand, whose agreements with any Loan Party are individually or in the aggregate material to the business or operations of such Loan Party; and there exists no present state of facts or circumstances that could give rise to or result in any such termination, cancellation, limitation, modification or change.



(y) Senior Indebtedness, Etc.

(i) The Borrowers have the power and authority to incur the Exit Notes and has duly authorized, executed and delivered the Exit Notes Indenture and the Exit Notes issued thereunder. The Borrowers have issued, pursuant to due authorization, the Exit Notes under the Exit Notes Indenture. The Exit Notes Indenture and the Exit Notes issued thereunder constitutes the legal, valid and binding obligation of the Borrowers enforceable against the Borrowers in accordance with their its terms. All Obligations, including, without limitation, those to pay principal of and interest (including post-petition interest) on the Loans and fees, expenses and indemnities in connection therewith, constitute Senior Indebtedness (as defined in the Super Senior Intercreditor Agreement), and all such Obligations are entitled to the benefits of the subordination created by the Super Senior Intercreditor Agreement. The Borrowers acknowledges that the Agents and the Lenders are entering into this Agreement, and extending their Commitments, in reliance upon the subordination provisions of the Super Senior Intercreditor Agreement and this Section 6.01(y)(i).

(ii) The Loan Parties have the power and authority to incur the each of the ABL Facility and the B. Riley Credit Agreement, and has duly authorized, executed and delivered the ABL Credit Agreement and the B. Riley Credit Agreement. The ABL Credit Agreement and the B. Riley Credit Agreement constitute the legal, valid and binding obligations of the Loan Parties enforceable against the Loan Parties in accordance with their terms. All Obligations, including, without limitation, those to pay principal of and interest (including post-petition interest) on the Loans and fees, expenses and indemnities in connection therewith, constitute Term Obligations (as defined in the ABL Intercreditor Agreement), and all such Obligations are entitled to the benefits of the subordination created by the ABL Intercreditor Agreement with respect to the Term Priority Collateral. The Borrowers acknowledges that the Agents and the Lenders are entering into this Agreement, and extending their Commitments, in reliance upon the subordination provisions of the ABL Intercreditor Agreement and this Section 6.01(y)(ii).

(z) Sanctions; Anti-Corruption and Anti-Money Laundering Laws. None of any Loan Party, any Subsidiary thereof, any of their respective directors, officers, or employees, shareholders or owners, nor, to the knowledge of any Loan Party, any of their respective agents or Affiliates, (i) is a Sanctioned Person or currently the subject or target of any Sanctions, (ii) has assets located in a Sanctioned Country, (iii) conducts any business with or for the benefit of any Sanctioned Person, (iv) directly or indirectly derives revenues from investments in, or transactions with, Sanctioned Persons, (v) is a “Foreign Shell Bank” within the meaning of the USA Patriot Act, i.e., a foreign bank that does not have a physical presence in any country and that is not affiliated with a bank that has a physical presence and an acceptable level of regulation and supervision, or (vi) is a Person that resides in or is organized under the laws of a jurisdiction designated by the United States Secretary of the Treasury under Section 311 or 312 of the USA Patriot Act as warranting special measures due to money laundering concerns. Each Loan Party and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by each Loan Party and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Anti-Corruption Laws and Anti-Money Laundering Law. Each Loan Party and each Subsidiary is in compliance with all Sanctions, Anti-Money Laundering Laws and Anti-Corruption Laws. Each Loan Party and each

Affiliate, officer, employee or director acting on behalf of any Loan Party is (and is taking no action that would result in any such Person not being) in compliance with (A) all applicable OFAC rules and regulations, (B) all applicable United States of America, United Kingdom, United Nations, European Union, German, Canadian, Australian and all other internationally respected national autonomous sanctions, embargos and trade restrictions and (C) all applicable provisions of the USA Patriot Act. In addition, no Loan Party or any Subsidiary is engaged in any kind of activities or business of or with any Person or in any country or territory that is subject to any sanctions administered by OFAC, the United Kingdom, the European Union, Germany, Canada, Australia or the United Nations.

(aa) Anti-Bribery and Corruption.

(i) Neither any Loan Party nor, to the best knowledge of any Loan Party, any director, officer, employee, or any other Person acting on behalf of any Loan Party, has offered, promised, paid, given or authorized the payment or giving of any money or other thing of value, directly or indirectly, to or for the benefit of any Person, including without limitation, any employee, official or other Person acting on behalf of any Governmental Authority, or otherwise engaged in any activity that may violate any Anti-Corruption Law.

(ii) Neither any Loan Party nor, to the best knowledge of any Loan Party, any director, officer, employee, or any other Person acting on behalf of any Loan Party, has engaged in any activity that would breach any Anti-Corruption Laws.

(iii) To the best of each Loan Party's knowledge and belief, there is no pending or, to the best knowledge of any Loan Party, threatened action, suit, proceeding or investigation before any court or other Governmental Authority against any Loan Party or any of its directors, officers, employees or other Person acting on its behalf that relates to a potential violation of any Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(iv) The Loan Parties will not directly or indirectly use, lend or contribute the proceeds of the advances for any purpose that would breach the Anti-Bribery and Corruption Laws.

(v) The representations and warranties in Section 6.01(z) and Section 6.01(aa) shall not apply to any Canadian Loan Party, or to any director, officer, agent or employee of such Party, to the extent that they would result in a violation of or conflict with the Foreign Extraterritorial Measures (United States) Order, 1992.

(bb) [Reserved].

(cc) [Reserved].

(dd) [Reserved].

(ee) Pari Passu. The obligations of each Loan Party under this Agreement and the other Loan Documents to which it is a party rank and will rank at least pari passu in priority



of payment and in all other respects with all its other present and future unsecured and unsubordinated Indebtedness of such Loan Party.

(ff) [Reserved].

(gg) Full Disclosure. Each Loan Party has disclosed to the Agents all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party to the Agents (other than forward-looking information and projections and information of a general economic nature and general information about Borrowers' industry) in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which it was made, not misleading.

ARTICLE VII

COVENANTS OF THE LOAN PARTIES AND OTHER COLLATERAL MATTERS

Section 7.01 Affirmative Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, the Borrowers shall and shall cause each of their Subsidiaries and the Lead Borrower to comply with their respective obligations set forth in this Section 7.01, unless the Required Lenders shall otherwise consent in writing:

(a) Reporting Requirements.

(i) For so long as any Obligations are outstanding, the Borrowers shall deliver to Administrative Agent and each Lender (upon such Lender's request) a copy of all of the information and reports referred to below (provided, that if the Borrowers do not furnish the information as set forth in clause (iv) below, each Lender will be deemed to have requested to receive such information):

(A) within 15 days after the time period specified in the SEC's rules and regulations for non-accelerated filers, annual reports of the Public Reporting Entity (as defined below) for such Fiscal Year containing the information that would have been required to be contained in an annual report on Form 10-K (or any successor or comparable form) if the Public Reporting Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC;

(B) within 15 days after the time period specified in the SEC's rules and regulations for non-accelerated filers, quarterly reports of the Public Reporting Entity for such fiscal quarter containing the information that would have been required to



be contained in a quarterly report on Form 10-Q (or any successor or comparable form) if the Public Reporting Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC; and

(C) within 15 days after the time period specified in the SEC's rules and regulations for filing current reports on Form 8-K, current reports of the Public Reporting Entity containing substantially all of the information that would be required to be filed in a current report on Form 8-K under the Exchange Act on the Effective Date pursuant to Sections 1, 2 and 4, Items 5.01, 5.02 (a),(b) and (c) and Item 9.01(a) and (b) (only to the extent relating to any of the foregoing) of Form 8-K if the Public Reporting Entity had been a reporting company under the Exchange Act.

Any financial statements provided pursuant to this Section 7.01(a)(A) and Section 7.01(a)(B) shall also include a statement of cash flows.

At the option of the Borrowers, the Borrowers may make available to the Administrative Agent and such requesting Lenders the information required to be provided pursuant to the foregoing clauses (A), (B) and (C), by posting such information to its website (or the website of any of the Borrower's parent companies, including the Public Reporting Entity) on IntraLinks or any comparable online data system or website to which each Lender and the Administrative Agent have access; provided, that the Borrower shall notify (which may be by electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. If at any time the Borrowers or any direct or indirect parent of the Borrowers has made a good faith determination to file a registration statement with the SEC with respect to an initial public offering of such entity's Capital Stock, the Borrowers will not be required to disclose any information or take any actions that, in the good faith view of the Borrowers would violate the securities laws or the SEC's "gun jumping" rules.

Notwithstanding the foregoing, (A) neither the Borrowers nor another Public Reporting Entity will be required to deliver any information, certificates or reports that would otherwise be required by (i) Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307 or 308 of Regulation S-K or (ii) Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-generally accepted accounting principles financial measures contained therein, (B) such reports will not be required to contain financial information required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X or include any exhibits or certifications required by Form 10-K, Form 10-Q or Form 8-K (or any successor or comparable forms) or related rules under Regulation S-K and (C) such reports shall not be required to present compensation or beneficial ownership information.

(ii) The financial statements, information and other documents required to be provided as described in Section 7.01(a)(i) may be those of (i) the Borrowers and their respective Subsidiaries (on a combined basis) or (ii) any direct or indirect parent of all of the Borrowers (any such entity, a "Public Reporting Entity"); provided, that, if the financial information so delivered relates to such direct or indirect parent of the Borrowers the same is accompanied by consolidating financial statements (including statements of cash flows) that explain in reasonable detail the differences between the information relating to such parent, on



the one hand, and the information relating to the Lead Borrower and its Subsidiaries on a standalone basis, on the other hand, for the applicable period. Notwithstanding any of the foregoing herein, to the extent any of the Borrower's parent companies is subject to the reporting requirements under Section 13 or 15(d) of the Exchange Act, such information described in this paragraph shall be included in the Form 10-K and Form 10-Q reports of the Public Reporting Entity described in Sections 7.01(a)(i)(A) and (B) filed with the SEC.

(iii) In addition, the Borrowers will make such information available to prospective investors upon request. The Borrowers have agreed that, for so long as any Obligations remain outstanding during any period when neither it nor another Public Reporting Entity is subject to Section 13 or 15(d) of the Exchange Act, or otherwise permitted to furnish the SEC with certain information pursuant to Rule 12g3-2(b) of the Exchange Act, they will furnish to Lenders, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(iv) Notwithstanding the foregoing, the Borrowers will be deemed to have delivered such reports and information referred to in this Section 7.01(a) to the Lenders and the Administrative Agent for all purposes of this Agreement if the Borrowers or another Public Reporting Entity has filed such reports with the SEC via the EDGAR filing system (or any successor system) and such reports are publicly available. In addition, except as required by the last sentence of Section 7.01(a)(ii), the requirements of this Section 7.01(a) shall be deemed satisfied and the Borrowers will be deemed to have delivered such reports and information referred to this Section 7.01(a) to the Administrative Agent, holders, prospective investors, market makers and securities analysts for all purposes of this Agreement by the posting of reports and information that would be required to be provided on the Borrower's website (or that of any of the Borrower's parent companies, including the Public Reporting Entity). The Agents shall have no obligation to monitor whether the Borrowers post such reports, information and documents on the Borrower's website (or that of any of the Borrower's parent companies, including the Public Reporting Entity) or the SEC's EDGAR service, or collect or re-post any such information from the Borrower's (or any of the Borrower's parent companies) website or the SEC's EDGAR service.

(v) The Borrowers or any Public Reporting Entity will also hold quarterly conference calls, beginning with the first full fiscal quarter ending after the Effective Date, for all Lenders and prospective Lenders to discuss such financial information no later than ten Business Days after the distribution of such information required by clauses (A) or (B) of Section 7.01(a)(i) and, prior to the date of each such conference call, will announce the time and date of such conference call and either include all information necessary to access the call or inform Lenders and prospective Lenders how they can obtain such information, including, without limitation, the applicable password or login information (if applicable).

(vi) [Reserved].

(vii) Simultaneously with the delivery of the financial statements of the Borrowers required by clause (i) of this Section 7.01(a), a Compliance Certificate:

(A) stating that such Authorized Officer has reviewed the provisions of this Agreement and the other Loan Documents and has made or caused to be made under his or her supervision a review of the condition and operations of the Reporting Entities during the period covered by such financial statements with a view to determining whether the Reporting Entities were in compliance with all of the provisions of this Agreement and such Loan Documents at the times such compliance is required hereby and thereby, and that such review has not disclosed, and such Authorized Officer has no knowledge of, the occurrence and continuance during such period of an Event of Default or Default or, if an Event of Default or Default had occurred and continued or is continuing, describing the nature and period of existence thereof and the action which the Reporting Entities propose to take or have taken with respect thereto,

(B) in the case of the delivery of the financial statements of the Reporting Entities required by clauses (i)(A) and (i)(B) of this Section 7.01(a), (1) attaching a schedule showing the calculation of the financial covenants specified in Section 7.03 and (2) including a discussion and analysis of the financial condition and results of operations of the Reporting Entities for the portion of the Fiscal Year then elapsed, and

(C) in the case of the delivery of the financial statements of the Reporting Entities required by clause (i)(A) of this Section 7.01(a), attaching (1) a summary of all material insurance coverage maintained as of the date thereof by any Loan Party or any of its Subsidiaries and evidence that such insurance coverage meets the requirements set forth in Section 7.01, each Security Agreement, each Canadian Security Agreement and each Mortgage, together with such other related documents and information as the Required Lenders may reasonably require and (2) confirmation that there have been no changes to the information contained in each of the Perfection Certificates delivered on the Effective Date or the date of the most recently updated Perfection Certificate delivered pursuant to this clause (vii) and/or attaching an updated Perfection Certificate identifying any such changes to the information contained therein;

(viii) Promptly after submission to any Governmental Authority, all documents and information furnished to such Governmental Authority in connection with any investigation of any Loan Party other than routine inquiries by such Governmental Authority.

(ix) As soon as possible, and in any event three (3) days after the occurrence of an Event of Default or Default or the occurrence of any event or development that could reasonably be expected to have a Material Adverse Effect, the written statement of an Authorized Officer of the Administrative Borrower setting forth the details of such Event of Default or Default or other event or development having a Material Adverse Effect and the action which the affected Loan Party proposes to take with respect thereto.

(x) As soon as possible and in any event: (A) at least 10 days prior to any event or development that could reasonably be expected to result in or constitute an ERISA Event or a Canadian Pension Event, and, to the extent not reasonably expected, within 5 days



after the occurrence of any ERISA Event or a Canadian Pension Event, notice of such ERISA Event or a Canadian Pension Event (in each case, in reasonable detail), (B) within three days after receipt thereof by any Loan Party or any of its ERISA Affiliates from the PBGC, copies of each notice received by any Loan Party or any of its ERISA Affiliates of the PBGC's intention to terminate any Pension Plan or to have a trustee appointed to administer any Pension Plan or Canadian Pension Plan, (C) within 10 days after the filing thereof with (1) the Internal Revenue Service, copies of each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) with respect to each Pension Plan or Canadian Pension Plan, and (2) any applicable Governmental Authority, copies of each actuarial valuation with respect to each Canadian Pension Plan, (D) three (3) days after receipt thereof by any Loan Party or any of its ERISA Affiliates from a sponsor of a Multiemployer Plan or from the PBGC, a copy of each notice received by any Loan Party or any of its ERISA Affiliates concerning the imposition or amount of withdrawal liability under Section 4202 of ERISA or indicating that such Multiemployer Plan may enter reorganization status under Section 4241 of ERISA, and (E) within 10 days after any Loan Party sends notice of a plant closing or mass layoff (as defined in WARN) to employees, copies of each such notice sent by such Loan Party.

(xi) Promptly after the commencement thereof but in any event not later than 5 days after service of process with respect thereto on, or the obtaining of knowledge thereof by, any Loan Party, notice of each action, suit or proceeding before any court or other Governmental Authority or other regulatory body or any arbitrator which, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

(xii) As soon as possible and in any event within 5 days after execution, receipt or delivery thereof, copies of any material notices that any Loan Party executes or receives in connection with any Material Contract.

(xiii) As soon as possible and in any event within 5 days after execution, receipt or delivery thereof, copies of any material notices that any Loan Party executes or receives in connection with the sale or other Disposition of all of the assets of, any Loan Party.

(xiv) As soon as possible and in any event within 5 days after the delivery thereof to the Parent's or the Borrower's Board of Directors, copies of all reports or other information so delivered.

(xv) Promptly upon receipt thereof, copies of all financial reports (including, without limitation, management letters), if any, submitted to any Loan Party by its auditors in connection with any annual or interim audit of the books thereof.

(xvi) Promptly upon request, any certification or other evidence requested from time to time by any Lender in its sole discretion, confirming the Borrowers' compliance with Section 7.02(r).

(xvii) Simultaneously with the delivery of the financial statements of the Reporting Entities required by clause (i) of this Section 7.01(a), if, as a result of any change in accounting principles and policies from those used in the preparation of the last delivered financial statements that is permitted by Section 7.02(q), the consolidated financial statements of

Reporting Entities required by clause (i) of this Section 7.01(a) will differ from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more statements of reconciliation for all such prior financial statements in form and substance satisfactory to the Required Lenders.

(b) Additional Guarantors and Collateral Security. The Borrowers shall cause each Subsidiary that is not an Excluded Subsidiary to:

(i) execute and deliver to the Collateral Agent promptly and in any event within ten (10) Business Days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) the Administrative Agent or the Collateral Agent (in each case acting at the direction of the Required Lenders)) after the formation, acquisition or change in status thereof, (A) a Joinder Agreement, pursuant to which such Subsidiary shall be made a party to this Agreement as a Guarantor, (B) a supplement to the Security Agreement or the Canadian Security Agreement, as applicable, together with (1) certificates evidencing all of the Equity Interests of any Person owned by such Subsidiary required to be pledged under the terms of the Security Agreement or the Canadian Security Agreement, as applicable, (2) undated stock powers for such Equity Interests executed in blank with signature guaranteed, and (3) such opinions of counsel as the Collateral Agent or the Required Lenders may reasonably request, (C) to the extent required under the terms of this Agreement, one or more Mortgages creating on the real property of such Subsidiary a perfected, first priority Lien (in terms of priority, subject only to Permitted Specified Liens) on such real property and such other Real Property Deliverables as may be required by the Collateral Agent or the Required Lenders with respect to each such real property, and (D) such other agreements, instruments, approvals or other documents reasonably requested by the Collateral Agent or the Required Lenders in order to create, perfect, establish the first priority of or otherwise protect any Lien purported to be covered by any such Security Agreement, Canadian Security Agreement or Mortgage or otherwise to effect the intent that such Subsidiary shall become bound by all of the terms, covenants and agreements contained in the Loan Documents and that all property and assets of such Subsidiary shall become Collateral for the Obligations; and

(ii) cause each owner of the Equity Interests of any such Subsidiary to execute and deliver promptly and in any event within ten (10) Business Days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) the Administrative Agent or the Collateral Agent (in each case acting at the direction of the Required Lenders)) after the formation or acquisition of such Subsidiary a Pledge Amendment (as defined in the Security Agreement or the Canadian Security Agreement, as applicable), together with (A) certificates evidencing all of the Equity Interests of such Subsidiary required to be pledged under the terms of the Security Agreement or the Canadian Security Agreement, as applicable, (B) undated stock powers or other appropriate instruments of assignment for such Equity Interests executed in blank with signature guaranteed, (C) such opinions of counsel as the Collateral Agent or the Required Lenders may reasonably request and (D) such other agreements, instruments, approvals or other documents requested by the Collateral Agent or the Required Lenders.



Notwithstanding the foregoing, no Excluded Subsidiary shall be required to become a Guarantor hereunder (and, as such, shall not be required to deliver the documents required by clause (i) above); provided, however, that (I) if the Equity Interests of a Foreign Subsidiary that is an Excluded Subsidiary are owned by a Loan Party, such Loan Party shall deliver all such documents, instruments, agreements (including, without limitation, at the reasonable request of the Collateral Agent or the Required Lenders, a pledge agreement governed by the laws of the jurisdiction of the organization of such Excluded Subsidiary, in form and substance satisfactory to the Collateral Agent and the Required Lenders) and certificates described in clause (ii) above to the Collateral Agent, and take all commercially reasonable actions reasonably requested by the Collateral Agent or the Required Lenders or otherwise necessary to grant and to perfect a first-priority Lien (subject to Permitted Specified Liens) in favor of the Collateral Agent, for the benefit of the Secured Parties, in 100% of all Equity Interests of such Foreign Subsidiary owned by such Loan Party, and (II) promptly and in any event within 20 days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) the Administrative Agent or the Collateral Agent (in each case acting at the direction of the Required Lenders)) after the effectiveness of any amendment of the Internal Revenue Code to allow for 100% of the voting Equity Interests of such Foreign Subsidiary to be pledged to the Collateral Agent without material adverse tax consequences to the Parent and its Subsidiaries, 100% of such voting Equity Interests shall be pledged pursuant to clause (ii) above.

(c) Compliance with Laws; Payment of Taxes.

(i) Comply, and cause each of its Subsidiaries to comply, in all material respects, with all Requirements of Law, judgments and awards (including any settlement of any claim that, if breached, could give rise to any of the foregoing.

(ii) Pay, and cause each of its Subsidiaries to pay, in full before delinquency or before the expiration of any extension period, all Taxes imposed upon any Loan Party or any of its Subsidiaries or any property of any Loan Party or any of its Subsidiaries, except (i) for those Taxes which will be treated as general unsecured claims in accordance with the Restructuring Plan or otherwise satisfied in accordance with the Restructuring Plan (provided, that, for the avoidance of doubt, the Loan Parties shall pay Taxes to the extent required under and in accordance with the Restructuring Plan), and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP.

(d) Preservation of Existence, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, its existence, rights and privileges, and become or remain, and cause each of its Subsidiaries to become or remain, duly qualified and in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except to the extent that the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect.

(e) Keeping of Records and Books of Account. Keep, and cause each of its Subsidiaries to keep, adequate records and books of account, with complete entries made to permit the preparation of financial statements in accordance with GAAP.

(f) Inspection Rights. Permit, and cause each of its Subsidiaries to permit, the agents, advisors and representatives of any Agent at any time and from time to time during normal business hours, at the expense of the Borrowers, to examine and make copies of and abstracts from its records and books of account, to visit and inspect its properties, to verify materials, leases, notes, accounts receivable, deposit accounts and its other assets, to conduct audits, physical counts, valuations, appraisals or examinations and to discuss its affairs, finances and accounts with any of its directors, officers, managerial employees, independent accountants or any of its other representatives. In furtherance of the foregoing, each Loan Party hereby authorizes its independent accountants, and the independent accountants of each of its Subsidiaries, to discuss the affairs, finances and accounts of such Person (independently or together with representatives of such Person) with the agents and representatives of any Agent in accordance with this Section 7.01(f).

(g) Maintenance of Properties, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties which are necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear and casualty excepted, and comply, and cause each of its Subsidiaries to comply, at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder, except to the extent the failure to so maintain and preserve or so comply could not reasonably be expected to have a Material Adverse Effect.

(h) Maintenance of Insurance. Maintain, and cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations (including, without limitation, comprehensive general liability, hazard, flood, rent, worker's compensation and business interruption insurance) with respect to the Collateral and its other properties (including all real property leased or owned by it) and business, in such amounts and covering such risks as is (i) carried generally in accordance with sound business practice by companies in Similar Businesses similarly situated, (ii) required by any Requirement of Law, (iii) required by any Material Contract and (iv) in any event in amount, adequacy and scope reasonably satisfactory to the Required Lenders. All policies covering the Collateral are to be made payable to the Collateral Agent for the benefit of the Secured Parties, as their interests may appear, in case of loss, under a standard non contributory "lender" or "secured party" clause and are to contain such other provisions as the Collateral Agent or the Required Lenders may require to fully protect the Secured Parties' interest in the Collateral and to any payments to be made under such policies. All certificates of insurance are to be delivered to the Collateral Agent and the policies are to be premium prepaid, with the loss payable and additional insured endorsement in favor of the Collateral Agent for the benefit of the Secured Parties, as their respective interests may appear, and such other Persons as the Collateral Agent may designate from time to time, and shall provide for not less than 30 days' (10 days' in the case of non-payment) prior written notice to the Collateral Agent of the exercise of any right of cancellation. If any Loan Party or any of its Subsidiaries fails to maintain such insurance, the Collateral Agent may arrange for such insurance, but at the Borrowers' expense and without any responsibility on the Collateral

Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have the sole right, in the name of the Secured Parties, any Loan Party and its Subsidiaries, to file claims under any insurance policies, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

(i) Obtaining of Permits, Etc. Obtain, maintain and preserve, and cause each of its Subsidiaries to obtain, maintain and preserve, and take all necessary action to timely renew, all permits, licenses, authorizations, approvals, entitlements and accreditations that are necessary or useful in the proper conduct of its business, in each case, except to the extent the failure to obtain, maintain, preserve or take such action could not reasonably be expected to have a Material Adverse Effect.

(j) Environmental.

(i) Keep the Collateral free of any Environmental Lien;

(ii) Obtain, maintain and preserve, and cause each of its Subsidiaries to obtain, maintain and preserve, and take all necessary action to timely renew, all Environmental Permits that are necessary or useful in the proper conduct of its business, and comply, and cause each of its Subsidiaries to comply, with all Environmental Laws and Environmental Permits, except to the extent the failure to so obtain, maintain, preserve or comply could not reasonably be expected to result in a material Environmental Claim or Environmental Liability;

(iii) Take all commercially reasonable steps to prevent any Release or threatened Release of Hazardous Materials in violation of any Environmental Law or Environmental Permit at, in, on, under or from any property owned, leased or operated by any Loan Party or its Subsidiaries that could reasonably be expected to result in material Environmental Liabilities;

(iv) Provide the Collateral Agent with written notice within ten (10) days of any of the following: (A) discovery of any Release of a Hazardous Material or environmental condition at, in, on, under or from any property currently or formerly owned, leased or operated by any Loan Party, Subsidiary or predecessor in interest or any violation of Environmental Law or Environmental Permit that in any case could reasonably be expected to result in any material Environmental Claim or Environmental Liability; (B) notice that an Environmental Lien has been filed against any Collateral; or (C) a material Environmental Claim or Environmental Liabilities; and provide such reports, documents and information as the Collateral Agent or the Required Lenders may reasonably request from time to time with respect to any of the foregoing.

(k) Fiscal Year. Cause the Fiscal Year of the Parent and its Subsidiaries to end on December 31 of each calendar year unless the Agents and the Required Lenders consent to a change in such Fiscal Year (and appropriate related changes to this Agreement).

(l) [Reserved].

(m) After Acquired Real Property. Promptly, following the acquisition by a Borrower or any Guarantor of any After-Acquired Property, or promptly, following any additional Subsidiary of the Borrowers becoming a Guarantor, such Borrower or such Subsidiary shall execute and deliver such mortgages, deeds of trust, security instruments, financing statements and other Collateral Documents as shall be reasonably necessary to vest in the Collateral Agent a perfected first-priority security interest, subject only to Permitted Liens and Liens permitted under Section 7.02(a), in such After-Acquired Property and to have such After-Acquired Property (but subject to the limitations as described in the Collateral Documents) added to the Collateral (or in the case of a Guarantor, all of its assets that constitute After-Acquired Property), and thereupon all provisions of this Agreement relating to the Collateral shall be deemed to relate to such After-Acquired Property to the same extent and with the same force and effect.

(n) Anti-Corruption Laws; Anti-Money Laundering Laws; Sanctions.

(i) Maintain, and cause each of its Subsidiaries to maintain, policies and procedures designed to promote compliance by each Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with all Anti-Corruption Laws and Anti-Money Laundering Laws.

(ii) Comply, and cause each of its Subsidiaries to comply, with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions.

(iii) Neither Loan Party nor, to the best knowledge of any Loan Party, any director, officer, employee or any Person acting on behalf of any Loan Party will engage in any activity that would breach any Anti-Corruption Law.

(iv) Promptly notify the Administrative Agent in writing of any action, suit or investigations by any court or Governmental Authority in relation to an alleged breach of the Anti-Corruption Law.

(v) Not directly or indirectly use, lend or contribute the proceeds of any Loan for any purpose that would breach any Anti-Corruption Law.

(vi) Each Loan Party and Affiliate, officer, employee or director, acting on behalf of the Loan Party is (and will take no action which would result in any such Person not being) in compliance with (A) all applicable OFAC rules and regulations, (B) all applicable United States of America, United Kingdom, United Nations, European Union, German, Canadian, Australian and all other reasonable internationally respected national autonomous sanctions, embargos and trade restrictions and (C) all applicable provisions of the USA Patriot Act. In addition, none of the activities or business of any Loan Party includes any kind of



activities or business of or with any Person or in any country or territory that is subject to any Sanctions.

(vii) In order to comply with the “know your customer/borrower” requirements of the Anti-Money Laundering Laws, promptly provide to each Agent and each Lender upon its reasonable request from time to time (A) information relating to individuals and entities affiliated with any Loan Party that maintain a business relationship with such Agent or such Lender, and (B) such identifying information and documentation as may be available for such Loan Party in order to enable any Agent or any Lender to comply with Anti-Money Laundering Laws.

(viii)

(ix) Without limiting the foregoing, the provisions of Section 7.01(n) shall not be interpreted to contravene, or require any notification to the Attorney General of Canada under, the Foreign Extraterritorial Measures Act (Canada) or the Foreign Extraterritorial Measures (United States) Order, 1992 issued thereunder, by any Canadian Loan Party.

(o) [Reserved].

(p) Board Information Rights. The Lenders shall be entitled to receive all information provided to the members of the Board of Directors or any similar group performing an executive oversight or similar function (or any relevant committee thereof) of the Parent (or its direct or indirect ultimate parent holding company) and any of its Subsidiaries in anticipation of or at such meeting (regular or special and whether telephonic or otherwise), in addition to copies of the records of the proceedings or minutes of such meeting, when provided to the members, and the Lenders shall keep such materials and information confidential in accordance with Section 12.19 of this Agreement.

(q) [Reserved].

(r) Post-Effective Date. Satisfy the requirements set forth on Schedule 7.01(r), on or before the date set forth opposite such requirements or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) the Administrative Agent or the Collateral Agent (in each case acting at the direction of the Required Lenders).

(s) Further Assurances. Take such action and execute, acknowledge and deliver, and cause each of its Subsidiaries to take such action and execute, acknowledge and deliver, at its sole cost and expense, such agreements, instruments or other documents as any Agent or the Required Lenders may require from time to time in order (i) to carry out more effectively the purposes of this Agreement and the other Loan Documents, (ii) to subject to valid and perfected first priority Liens any of the Term Priority Collateral or any other property of any Loan Party and its Subsidiaries and perfected Liens in any of the ABL Priority Collateral with the priority set forth in the ABL Intercreditor Agreement, (iii) to establish and maintain the validity and effectiveness of any of the Loan Documents and the validity, perfection and priority of the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer and confirm unto each Secured Party the rights now or hereafter intended to be granted

to it under this Agreement or any other Loan Document. In furtherance of the foregoing, to the maximum extent permitted by applicable Requirements of Law, each Loan Party (i) authorizes each Agent to execute any such agreements, instruments or other documents in such Loan Party's name and to file such agreements, instruments or other documents in any appropriate filing office, (ii) authorizes each Agent to file any financing statement required hereunder or under any other Loan Document, and any continuation statement or amendment with respect thereto, in any appropriate filing office without the signature of such Loan Party, and (iii) ratifies the filing of any financing statement, and any continuation statement or amendment with respect thereto, filed without the signature of such Loan Party prior to the date hereof.

Section 7.02 Negative Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, the Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to do any of the following, unless the Required Lenders shall otherwise consent in writing:

(a) Liens, Etc.

(i) The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to, directly or indirectly, create, Incur or suffer to exist any Lien (except Permitted Liens) on any asset or property of the Borrowers or such Subsidiary securing Indebtedness of the Borrowers or any of the Borrowers' Subsidiaries.

(ii) For purposes of determining compliance with this Section 7.02(a), (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 7.02(a)(i) but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 7.02(a)(i), the Borrowers may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien or such item of Indebtedness secured by such Lien (or any portion thereof) in one of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 7.02(a)(i) and, in such event, such Lien securing such item of Indebtedness (or any portion thereof) will be treated as being Incurred or existing pursuant to only such clause or clauses (or any portion thereof) or pursuant to Section 7.02(a)(i) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be Incurred pursuant to any other clause or paragraph (or portion thereof) at such time. In addition, with respect to any revolving loan Indebtedness or commitment to Incur Indebtedness that is designated to be Incurred on any Deemed Date pursuant to Section 7.02(v)(iii)(C), any Lien that does or that shall secure such Indebtedness may also be designated by the Borrowers or any Subsidiary to be Incurred on such Deemed Date and, in such event, any related subsequent actual Incurrence of such Lien shall be deemed for all purposes under this Agreement to be Incurred on such prior date, including for purposes of



calculating usage of any “Permitted Lien” (and any calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed Incurrence or issuance and related transactions in connection therewith).

(iii) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The “Increased Amount” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Borrowers, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (3) of the definition of “Indebtedness.”

(b) [Reserved].

(c) Fundamental Changes; Dispositions.

(i) Fundamental Changes.

(A) [Reserved].

(B) Exela Finance may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not Exela Finance is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless Exela Finance is the surviving Person.

(C) No Guarantor shall, and the Borrowers shall not permit any Subsidiary that is a Guarantor to, consolidate, amalgamate or merge with or into or wind up into (whether or not such Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, any Person unless (A) such Guarantor is the surviving Person or (B) such sale or disposition or consolidation, amalgamation or merger is not in violation of Section 7.02(c)(ii).

Notwithstanding the foregoing, a Subsidiary that is a Guarantor may merge, amalgamate or consolidate with a Borrower or any other Subsidiary that is a Guarantor.

In addition, notwithstanding the foregoing, a Guarantor may consolidate, amalgamate or merge with or into or wind up into, liquidate, dissolve, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets (collectively, a “Transfer”) to the Borrowers or any of the Borrowers’ Subsidiaries that is a Guarantor.

(ii) Dispositions. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to make any Disposition, whether in one transaction or a series of related transactions, of all or any part of its business, property or assets, whether now owned or hereafter acquired (or agree to do any of the foregoing), or permit any of its Subsidiaries to do any of the foregoing; provided, however, that any Loan Party and its Subsidiaries may make Permitted Dispositions.

(d) Change in Nature of Business.

(i) The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to make, or permit any of its Subsidiaries to make, any change in the nature of its business as described in Section 6.01(l).

(ii) The Borrowers shall not permit the Parent to own material assets (other than the equity interests of its subsidiaries), or engage in operations or business activities, except to the extent such assets, operations, or activities are (A) customary or incidental to the Parent's status and functions as a publicly traded holding company, including raising capital, administering equity plans, compliance with applicable laws, regulations, and reporting obligations, or (B) related to the ownership, management, or oversight of its subsidiaries.

(e) Loans, Advances, Investments, Etc. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to make or commit or agree to make, or permit any of its Subsidiaries make or commit or agree to make, any Investment in any other Person except for Permitted Investments.

(f) Sale/Leaseback Transactions. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to enter into, or permit any of its Subsidiaries to enter into, any Sale/Leaseback Transaction.

(g) [Reserved].

(h) Restricted Payments.

(i) The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to, directly or indirectly:

(A) declare or pay any dividend or make any distribution on account of any of the Borrowers or any of its Subsidiaries including any payment made in connection with any merger, amalgamation or consolidation involving the Borrowers (other than (A) dividends or distributions payable solely in Equity Interests (other than Disqualified Stock) of the Borrowers; or (B) dividends or distributions by a Subsidiary, so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Subsidiary that is not a Wholly Owned Subsidiary, the Borrowers or a Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities), respectively;

(B) purchase or otherwise acquire or retire for value any Equity Interests of the Borrowers or any direct or indirect parent of the Borrowers;

(C) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment or scheduled maturity, any Subordinated Indebtedness of a Borrower or any Guarantor (other than the payment, redemption, repurchase, defeasance, acquisition or retirement of (A) Subordinated Indebtedness other than the Exit Notes in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement, (B) the Exit Notes in accordance with the terms of the Super Senior Intercreditor Agreement, (C) the B. Riley Credit Agreement and (D) Indebtedness permitted under clauses (G) and (I) of Section 7.02(v)(ii));

(D) make any Restricted Investment;

(E) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, at maturity thereof or otherwise, any Indebtedness (other than the Loans and the Exit Notes) owed to any Affiliate of the Borrowers that is not a Borrower, a Subsidiary of the Borrowers or a Guarantor; or

(F) [reserved];

(all such payments and other actions set forth in clauses (A) through (E) above being collectively referred to as "Restricted Payments").

(ii) The provisions of Section 7.02(h)(i) shall not prohibit:

(A) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration thereof, if at the date of declaration or the giving notice of such redemption, as applicable, such payment would have otherwise complied with the provisions of this Agreement;

(B) [reserved];

(C) the redemption, repurchase, defeasance, or other acquisition or retirement of Subordinated Indebtedness of a Borrower or Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Subordinated Indebtedness of such Borrower or Guarantor, which is Incurred in accordance with Section 7.02(v) so long as:

(1) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable), plus any accrued and unpaid interest, of the Subordinated Indebtedness being so redeemed, repurchased, defeased, acquired or retired for value (plus the amount of any premium required to be paid under the terms of the instrument governing the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired, any tender premiums, plus any defeasance costs, fees and expenses incurred in connection therewith),

(2) such Indebtedness is subordinated to the Obligations or the related Guaranty of such Guarantor, as the case may be, on terms acceptable to the Agents and the Required Lenders, at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value,

(3) such Indebtedness has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Obligations then outstanding, and

(4) such Indebtedness has a Weighted Average Life to Maturity at the time Incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, repurchased, defeased, acquired or retired and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Subordinated Indebtedness being redeemed, repurchased, defeased, acquired or retired that were due on or after the date that is one year following the last maturity date of any Exit Notes then outstanding were instead due on such date;

(D) [reserved];

(E) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Borrowers or any Subsidiary issued or incurred in accordance with Section 7.02(v);

(F) [reserved].

(G) [reserved];

(H) [reserved];

(I) [reserved];

(J) [reserved];

(K) [reserved];

(L) with respect to any taxable period (or portion thereof) for which the Borrowers and any of their Subsidiaries are members (or are disregarded from a member) of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state or local income tax purposes of which Parent is the common parent, dividends or distributions by the Borrowers or such applicable Subsidiaries, as the case may be, to such direct or indirect parent of the Borrowers in an amount not to exceed the lesser of (i) the sum of the amount of the relevant U.S. federal, state, local or foreign income Taxes reduced by any such income Taxes directly paid or withheld at the level of the Borrowers or such Subsidiaries or (ii) the amount of any U.S. federal, state, local or non-U.S. income taxes that the Borrowers and/or its Subsidiaries, as applicable, would have paid for such taxable period (taking into account prior year losses) had the Borrowers and/or its Subsidiaries, as applicable, been a stand-alone corporate taxpayer or a stand-alone corporate group; provided that distributions pursuant to this clause shall not exceed the actual Tax liability of Parent in respect of the relevant U.S. federal, state, local or non-U.S. income Taxes;

(M) any Restricted Payment in amounts required for any direct or indirect parent of the Lead Borrower to pay fees and expenses (including franchise or similar taxes) required to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any direct or indirect parent of the Lead Borrower and general corporate operating and overhead expenses of any direct or indirect parent of the Lead Borrower in each case to the extent such fees and expenses are attributable to the ownership or operation of the Lead Borrower if applicable, and its Subsidiaries, provided that the allocation of such fees and expenses attributable to the ownership or operation of the Lead Borrower and its Subsidiaries shall be determined in the aggregate based on the proportion of revenues of the Lead Borrower and its Subsidiaries to the revenues of all subsidiaries of such direct or indirect parent of the Lead Borrower;

(N) repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(O) [reserved];

(P) [reserved];

(Q) [reserved];

(R) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of the Borrowers and the Subsidiaries, taken as a whole, that complies with Section 7.02(c)(i);

(S) any Restricted Payment used to fund amounts owed by and attributable to the Borrowers in connection with the Transactions and the payment of fees and expenses Incurred by and attributable to the Borrowers in connection with the Transactions or owed by the Borrowers in each case to the extent permitted by Section 7.02(j);

(T) any Restricted Payment used to fund the payment of professional fees and expenses of Loeb & Loeb LLP in connection with the Transactions and Specified Professional Fees;

(U) [reserved]; and

(V) any Person may make distributions to minority shareholders of any Subsidiary that is acquired pursuant to an acquisition or Investment permitted under this Agreement pursuant to appraisal or dissenters' rights with respect to shares of such Subsidiary held by such shareholders;

provided, that any Restricted Payments made with property other than cash shall be calculated using the Fair Market Value (as determined in good faith by the Borrower) of such property.

Notwithstanding the foregoing or any other term of this Agreement, the Lead Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, invest, transfer, dispose, sell or otherwise convey any Material Property, a material portion of the assets constituting Collateral or Intellectual Property to any Affiliate of the Lead Borrower other than the Lead Borrower or any Guarantor; provided, however the foregoing shall not prohibit the entry into the non-exclusive intellectual property licenses (i) set forth on Schedule 7.02(h) hereto as of the date hereof and (ii) on and after the date consistent with Schedule 7.02(h) or otherwise in the ordinary course of business consistent with past practice.

The Borrowers, in their sole discretion, may classify any Restricted Payment or Permitted Investment as being made in part under one of the clauses or subclauses of this Section 7.02(h) or under one of the clauses or subclauses of the definition of "Permitted Investments" and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section 7.02(h) to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (9), (11), (16), (18) and (21) of the definition of "Permitted Investments."

(i) Federal Reserve Regulations. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to permit any Loan or the proceeds of any Loan under this Agreement to be used for any purpose that would cause such Loan to be a margin loan under the provisions of Regulation T, U or X of the Board.

(j) Transactions with Affiliates.

(i) The Borrowers shall not and shall not permit any of their Subsidiaries, to, in each case, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Borrowers (each of the foregoing, an “Affiliate Transaction”) involving aggregate consideration in excess of \$5,000,000, unless:

(A) such Affiliate Transaction is in the ordinary course of business and on terms that are not materially less favorable to the Borrowers or the relevant Subsidiary than those that could have been obtained in a comparable transaction by the Borrowers or such Subsidiary with an unrelated Person; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25,000,000, the Borrowers delivers to the Administrative Agent (i) a resolution adopted in good faith by a majority of disinterested directors of the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions), approving such Affiliate Transaction and set forth in an Officer’s Certificate certifying that such Affiliate Transaction complies with clause (i) above or (ii) if there are no directors on the Board of Directors of the Parent (or in the committee thereof comprised of disinterested directors tasked with the review of such transactions), that are disinterested with respect to such transaction(s), a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrowers or Subsidiary from a financial point of view.

(ii) The provisions of Section 7.02(j)(i) shall not apply to the following:

(A) transactions between or among the Borrowers and/or any of their Subsidiaries (or an entity that becomes a Subsidiary as a result of such transaction) in the ordinary course of business and any merger, consolidation or amalgamation of the Borrowers and any direct parent of the Borrowers; provided, that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Borrowers and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Agreement and effected for a bona fide business purpose;

(B) (i) sales or contributions of Receivables Assets by (A) each Exar Originator to Exar SPV and (B) Exar SPV to the Exar Buyer pursuant to the Exar Facility in effect as of the date hereof or (ii) the purchase of participation interests by any Loan Party in the B. Riley Credit Agreement;

(C) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Borrowers, any Subsidiary, or any direct or indirect parent of the Borrowers in the ordinary course of business; provided, that the payment of any such fees or reimbursements to, on behalf of, or for the account of, shareholders of Parent, Affiliates of Parent or any of their respective Affiliates (other than the Parent and its Subsidiaries) shall not be



permitted other than payment or reimbursement of fees and expenses incurred by Ernst & Young in connection with Ernst & Young's determination or re-determination (if any) of the Transaction Tax Liability (as defined in the Restructuring Plan), and provided, further, that no such payments shall be permitted under this clause (C) to any of ETI or its Affiliates (other than the Parent and its Subsidiaries) for, or in respect of, or as reimbursement for, any consultants;

(D) transactions in which the Borrowers or any Subsidiary of the Borrowers as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrowers or such Subsidiary from a financial point of view or meets the requirements of clause (A) of Section 7.02(j)(i);

(E) payments of compensation in the ordinary course of business to officers, directors, employees or consultants which are approved by a majority of the Board of Directors of the Lead Borrower in good faith;

(F) issuance, transfer or assignment of Loans in accordance with the terms hereof and performance of the Obligations hereunder and issuance, transfer or assignment of Exit Notes in accordance with the terms of the Exit Notes Indenture and performance of the obligations thereunder.

(G) the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under the terms of, any stockholders or similar agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Effective Date and any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Effective Date shall only be permitted by this clause (G) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the Lenders in any material respect than the original transaction, agreement or arrangement as in effect on the Effective Date, as determined in good faith by the Borrowers;

(H) the execution of the Transactions and the payment of professional fees and expenses in connection therewith;

(I) (1) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement, which are fair to the Borrowers and the Subsidiaries of the Borrowers in the reasonable determination of the Board of Directors of the Lead Borrower or (2) transactions with joint ventures entered into in the ordinary course of business;

- Financing;
- (J) transactions pursuant to any Permitted Securitization
- (K) the issuance of Equity Interests (other than Disqualified Stock) of the Borrowers to any Person;
- (L) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of Borrower or any direct or indirect parent of the Borrowers or of a Subsidiary of the Borrowers as appropriate, in good faith;
- (M) the entering into of any tax sharing agreement or arrangement that complies with Section 7.02(h)(ii)(L) and the performance under any such agreement or arrangement;
- (N) any contribution to the capital of the Borrower;
- (O) transactions permitted by, and complying with, Section 7.02(c)(i);
- (P) transactions between the Borrowers or any of their Subsidiaries and any Person that would constitute an Affiliate Transaction solely because a director of such other Person is also a director of the Borrowers or any direct or indirect parent of the Borrower; provided, however, that such director abstains from voting as a director of the Borrowers or such direct or indirect parent, as the case may be, on any matter involving such other Person;
- (Q) [reserved];
- (R) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business;
- (S) [reserved];
- (T) [reserved];
- (U) intercompany transactions for the purpose of improving the consolidated tax efficiency of the Borrowers and their respective Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement;
- (V) [reserved]; and
- (W) any agreements or arrangements between a third party and an Affiliate of the Borrowers that are acquired or assumed by the Borrowers or any Subsidiary in connection with an acquisition or merger of such third party (or assets of such third party) by or with the Borrowers or any Subsidiary; provided, that (A) such acquisition or merger is permitted

under this Agreement and (B) such agreements or arrangements are undertaken in good faith and not entered into in contemplation of such acquisition or merger or otherwise for the purpose of avoiding the restrictions imposed by this Section 7.02(j).

(iii) Notwithstanding the foregoing or anything in this Agreement to the contrary, with respect to any Disposition or other sale, lease, transfer or other disposition of any property or asset with a Fair Market Value of or involving aggregate consideration in excess of \$5,000,000 to an Affiliate (other than to the Borrowers or a Subsidiary of the Borrower), whether in a single transaction or series of related transactions, such Disposition or other disposition (A) shall be on terms that are not less favorable to the Borrowers or Subsidiary of the Borrowers than those that could have been obtained in a comparable transaction by the Borrowers or such Subsidiary with an unrelated Person, and the transferor shall have received a letter from an Independent Financial Advisor hired by a majority of the disinterested directors of the Board of Directors of the Lead Borrower stating that such transaction is fair to the transferor from a financial point of view, (B) shall be made for no less than Fair Market Value, and (C) 100% of the consideration therefor shall be in cash.

(k) Limitations on Dividends and Other Payment Restrictions Affecting Subsidiaries. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries, to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Subsidiary, to:

(i) (A) pay dividends or make any other distributions to the Borrowers or any Subsidiary, respectively, (1) on its Capital Stock; or (2) with respect to any other interest or participation in, or measured by, its profits; or (B) pay any Indebtedness owed to the Borrowers or any Subsidiary of the Borrowers, respectively;

(ii) make loans or advances to the Borrowers or any Subsidiary of the Borrowers, respectively; or

(iii) sell, lease or transfer any of its properties or assets to the Borrowers or any Subsidiary of the Borrowers, respectively;

except in each case for such encumbrances or restrictions existing under or by reason of:

(1) (A) contractual encumbrances or restrictions in effect on the Effective Date and described in Schedule 7.02(k)(iii)(1) hereto and (B) contractual encumbrances or restrictions pursuant to the Exit Notes Indenture and related documents, the ABL Facility and related documents, the B. Riley Credit Agreement and related documents and, in each case, any similar contractual encumbrances or restrictions or any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of such agreements or instruments to the extent not materially more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing;

- (2) the Loan Documents;
- (3) applicable law or any applicable rule, regulation or order;
- (4) any agreement or other instrument of a Person acquired by the Borrowers or any Subsidiary which was in existence at the time of such acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;
- (5) contracts or agreements for the sale of assets, including any restriction with respect to a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Capital Stock or assets of such Subsidiary;
- (6) Secured Indebtedness otherwise permitted to be Incurred pursuant to Section 7.02(v) that limit the right of the debtor to dispose of the assets securing such Indebtedness;
- (7) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;
- (8) customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;
- (9) purchase money obligations for property acquired and Capitalized Lease Obligations in the ordinary course of business that impose restrictions of the nature discussed in Section 7.02(k)(iii) above on the property so acquired;
- (10) customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business or consistent with industry norm;
- (11) in the case of Section 7.02(k)(iii) above, any encumbrance or restriction that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any such lease, license (including without limitation, licenses of intellectual property) or other contracts;
- (12) any encumbrances or restrictions of a Special Purpose Securitization Subsidiary effected in connection with a Permitted Securitization Financing; provided, however, that such restrictions apply only to such Special Purpose Securitization Subsidiary;
- (13) other Indebtedness, Disqualified Stock or Preferred Stock (a) of the Borrowers or any Subsidiary that is a Borrower, a Guarantor or a

Foreign Subsidiary or (b) of any Subsidiary that is not a Borrower, a Guarantor or a Foreign Subsidiary so long as such encumbrances and restrictions contained in any agreement or instrument will not materially affect the Borrowers' ability to make anticipated principal or interest payments on the Exit Notes (as determined in good faith by the Borrower), provided, that in the case of each of clauses (a) and (b), such Indebtedness, Disqualified Stock or Preferred Stock is permitted to be Incurred subsequent to the Effective Date pursuant to Section 7.02(v);

(14) any Restricted Investment not prohibited by Section 7.02(h) and any Permitted Investment; or

(15) any encumbrances or restrictions of the type referred to in Section 7.02(k)(i), (ii) or (iii) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (14) above; provided, that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrowers, not materially more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

For purposes of determining compliance with this Section 7.02(k), (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (ii) the subordination of loans or advances made to the Borrowers or a Subsidiary to other Indebtedness Incurred by the Borrowers or any such Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

(l) Limitations on Negative Pledges. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to enter into, incur or permit to exist, or permit any Subsidiary to enter into, incur or permit to exist, directly or indirectly, any agreement, instrument, deed, lease or other arrangement that prohibits, restricts or imposes any condition upon the ability of any Loan Party or any Subsidiary of any Loan Party to create, incur or permit to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired, or that requires the grant of any security for an obligation if security is granted for another obligation, except the following: (i) this Agreement and the other Loan Documents, (ii) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by Section 7.02(v) of this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (iii) any customary restrictions and conditions contained in agreements relating to the sale or other disposition of assets or of a Subsidiary pending such sale or other disposition; provided, that such restrictions and conditions apply only to the assets or Subsidiary to be sold or disposed of and such sale or disposition is permitted hereunder, and (iv) customary provisions in leases restricting the assignment or sublet thereof.

(m) Modifications of Indebtedness, Organizational Documents and Certain Other Agreements; Etc. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to:

(i) other than as permitted under the Intercreditor Agreements, amend, modify or otherwise change (or permit the amendment, modification or other change in any manner of) any of the provisions of any of its or its Subsidiaries' Indebtedness or of any instrument or agreement (including, without limitation, any purchase agreement, indenture, loan agreement or security agreement) relating to any such Indebtedness if such amendment, modification or change would shorten the final maturity or average life to maturity of, or require any payment to be made earlier than the date originally scheduled on such Indebtedness, or would change the subordination provision, if any, of such Indebtedness, or would otherwise be adverse to the Lenders or the issuer of such Indebtedness in any respect;

(ii) except for the Obligations or as permitted by the Intercreditor Agreements, make any payment, prepayment, redemption, defeasance, sinking fund payment or repurchase of any Subordinated Indebtedness in violation of the subordination provisions thereof or any subordination agreement with respect thereto or the Intercreditor Agreements;

(iii) (a) amend, modify or otherwise change, or permit any Subsidiary to amend, modify or otherwise change, any of its Governing Documents (including, without limitation, by the filing or modification of any certificate of designation, or any agreement or arrangement entered into by it) with respect to any of its Equity Interests (including any shareholders' agreement), or enter into any new agreement with respect to any of its Equity Interests, except any such amendments, modifications or changes or any such new agreements or arrangements pursuant to this clause (iii) that either individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect, provided, that no such amendment, modification or change or new agreement or arrangement shall provide for any plan of division pursuant to Section 18-217 of the Delaware Limited Liability Company Act (or other comparable event under any jurisdiction's law) or (b) amend, modify or otherwise change the tax designation (i.e. corporation, partnership, etc.) of Parent or its Subsidiaries (or any direct or indirect parent of Parent) in a manner that would cause an adverse tax consequence to the Parent or any of its Subsidiaries; or

(n) Investment Company Act of 1940. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to engage in any business, enter into any transaction, use any securities or take any other action or permit any of its Subsidiaries to do any of the foregoing, that would cause it or any of its Subsidiaries to become subject to the registration requirements of the Investment Company Act of 1940, as amended, by virtue of being an "investment company" or a company "controlled" by an "investment company" not entitled to an exemption within the meaning of such Act.

(o) ERISA and Canadian Pension Events. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to (i) cause or fail to prevent, or permit any of its ERISA Affiliates to cause or fail to prevent, an ERISA Event or Canadian Pension Event, or (ii) adopt, or permit any of its ERISA Affiliates to adopt, any employee welfare benefit plan within



the meaning of Section 3(1) of ERISA that provides benefits to employees after termination of employment other than as required by Section 601 of ERISA or other Requirements of Law.

(p) Environmental. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to permit the use, handling, generation, storage, treatment, Release or disposal of Hazardous Materials on, in, at, under or from any property owned, leased or operated by it or any of its Subsidiaries, except in compliance with Environmental Laws (other than any noncompliance that could not reasonably be expected to result in any material Environmental Liability).

(q) Accounting Methods. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to modify or change, or permit any of its Subsidiaries to modify or change, its method of accounting or accounting principles from those utilized in the preparation of the Financial Statements (other than as may be required to conform to GAAP or as may be necessary in connection with the Borrowers' emergence from bankruptcy, including adjustments made to reflect fresh-start accounting or other similar restructuring adjustments).

(r) Sanctioned Persons; Anti-Corruption Laws; Anti-Money Laundering Laws. The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to make to:

(i) conduct, nor permit any of its Subsidiaries to conduct, any business or engage in any transaction or deal with or for the benefit of any Sanctioned Person, including the making or receiving of any contribution of funds, goods or services to, from or for the benefit of any Sanctioned Person; or

(ii) use, nor permit any of its Subsidiaries to use, directly or indirectly, any of the proceeds of any Loan, (A) to fund any activities or business of or with any Sanctioned Person or in any other manner that would result in a violation of any Sanctions by any Person (including by any Person participating in any Loan, whether as underwriter, advisor, investor or otherwise), or (B) for the purpose 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 Law.

(s) Liability Management Transactions. The Borrowers shall not, and shall not permit any of their Subsidiaries to, enter into any Liability Management Transaction; provided, that Borrowers and/or its Subsidiaries shall be permitted to enter into a Liability Management Transaction so long as each Lender is offered a bona fide right to participate in such Liability Management Transaction, on a pro rata basis, on not less than five (5) Business Days' notice prior to the deadline established by Borrowers to elect to participate in such Liability Management Transaction.

(t) Canadian Defined Benefit Plans. No Loan Party shall establish, sponsor, maintain, administer, contribute to or otherwise incur liability under any Canadian Defined Benefit Plan or acquire an interest in any Person that sponsors, maintains, administers, contributes to or otherwise has incurred liability under any Canadian Defined Benefit Plan.

(u) Reserved.

(v) Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

(i) (A) The Borrowers shall not, and shall not permit any of the Borrowers' Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock and (B) the Borrowers shall not permit any of their Subsidiaries (other than any Subsidiary that is a Guarantor) to issue any shares of Preferred Stock; provided, however, that a Borrower and any Guarantor may Incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, in each case, in an aggregate amount not to exceed \$25,000,000, if (I) the Fixed Charge Coverage Ratio of the Borrowers for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Administrative Agent immediately preceding the date on which such additional Indebtedness is Incurred or such Disqualified Stock is issued would have been at least 2.00 to 1.00 determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been Incurred, or the Disqualified Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period and (II) such Indebtedness is subordinated in right of payment to the Obligations and if secured, subordinated in respect of lien priority to the Liens securing the Obligations on terms acceptable to the Agents and the Required Lenders; provided, further, that (x) any Subsidiary that is not a Borrower or a Guarantor may not incur Indebtedness or issue shares of Disqualified Stock or Preferred Stock; and (y) any Indebtedness Incurred pursuant to this Section 7.02(v)(i) shall be subordinated in right of payment to the Obligations and if secured, subordinated in respect of lien priority to the Liens securing the Obligations on terms acceptable to the Agents and the Required Lenders.

(ii) The limitations set forth in Section 7.02(v)(i) shall not apply to:

(A) the Incurrence by the Borrowers or any Subsidiary of (1) the Obligations, (2) Permitted Securitization Financings, plus (3) up to an additional aggregate principal amount of \$5,000,000, so long as the Senior Secured Leverage Ratio for the most recently ended four full fiscal quarters for which financial statements have been delivered to the Administrative Agent, determined on a pro forma basis, does not exceed 3.75 to 1.00;

(B) Indebtedness of the Borrowers or any Subsidiary in respect of (1) the Exit Notes issued on the Effective Date, (2) (I) the ABL Facility in an aggregate principal amount outstanding at any time not to exceed the lesser of (x) \$150,000,000 and (y) the Borrowing Base (as defined in the ABL Credit Agreement as in effect as of the date hereof) at such time and (II) the B. Riley Credit Agreement in an aggregate principal amount outstanding at any time (after giving effect to the transactions occurring on the Effective Date) not to exceed \$22,500,000; provided that such Indebtedness under the B. Riley Credit Agreement shall not be permitted after March 31, 2027, (3) the GUC Payment Obligations, (4) Additional Notes issued in connection with the ETI Funding Obligation and (5) Additional Notes issued other than in connection with the ETI Funding Obligation in an amount not to exceed \$10,000,000;

(C) Indebtedness existing on the Effective Date and described on Schedule 7.02(v) hereto (other than Indebtedness described in clauses (A) or (B) of this Section 7.02(v)(ii));

(D) (1) Indebtedness (including Capitalized Lease Obligations) Incurred by the Borrowers or any Subsidiary, Disqualified Stock issued by the Borrowers or any Subsidiary and Preferred Stock issued by any Subsidiary to finance (whether prior to or within 180 days after) the acquisition, lease, construction, repair, replacement or improvement by such Person of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) in an aggregate principal amount that, when aggregated with the principal amount or liquidation preference of all other Indebtedness, Disqualified Stock or Preferred Stock then outstanding and Incurred pursuant to this clause (D)(1), together with any Refinancing Indebtedness in respect thereof Incurred pursuant to clause (O) below, does not exceed \$35,000,000 (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount); and (2) Capitalized Lease Obligations or other obligations or deferrals attributable to capital spending or other funds made available by suppliers in connection with any sale and leaseback arrangements not in violation of this Agreement;

(E) Indebtedness Incurred by the Borrowers or any Subsidiary of the Borrowers owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Borrowers or any of the Borrowers' Subsidiaries, respectively, pursuant to reimbursement or indemnification obligations to such Person, in each case, provided in the ordinary course of business or consistent with industry practices;

(F) Indebtedness arising from agreements of the Borrowers or any Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, Incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition, in each case, to the extent such obligation or transaction is permitted by this Agreement;

(G) Indebtedness of the Borrowers to any of its Subsidiaries; provided, that (x) any such Indebtedness owed to a Subsidiary that is not a Borrower or a Subsidiary that is a Guarantor is subordinated in right of payment to the Obligations on terms acceptable to the Agents and the Required Lenders and (y) the aggregate amount of all Indebtedness owed to a Loan Party by any Subsidiary that is not a Loan Party shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (G);

(H) shares of Preferred Stock of a Subsidiary issued to the Borrowers or another Subsidiary; provided, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Subsidiary that holds such shares of Preferred Stock of another Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Borrowers or another Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock not permitted by this clause (H);

(I) Indebtedness of any Subsidiary to the Borrowers or any other Subsidiary; provided, that (x) if a Subsidiary that is a Guarantor incurs such Indebtedness to a Subsidiary that is not a Borrower or a Guarantor, such Indebtedness is subordinated in right of payment to the Guaranty of such Subsidiary pursuant to the Intercompany Subordination Agreement and (y) if any Subsidiaries that are not a Guarantor incur Indebtedness to any Borrower or Guarantor, the aggregate amount of such Indebtedness shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Subsidiary of the Borrowers holding such Indebtedness ceasing to be a Subsidiary of the Borrowers or any other subsequent transfer of any such Indebtedness (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (I);

(J) Hedging Obligations by a Person that are not incurred for speculative purposes but (A) for the purpose of fixing or hedging interest rate risk with respect to any Indebtedness of such Person that is permitted by the terms of this Agreement to be outstanding; (B) for the purpose of fixing or hedging currency exchange rate risk of such Person with respect to any currency exchanges; or (C) for the purpose of fixing or hedging commodity price risk of such Person with respect to any commodity purchases or sales and, in each case, extensions or replacements thereof;

(K) Indebtedness of the Borrowers and the Subsidiaries in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case, reasonably required in the conduct of their respective business (giving effect to any growth or expansion of such business permitted hereunder), including those incurred to secure health, safety, insurance and environmental obligations of the Borrowers and the Subsidiaries, respectively, as conducted in accordance with good and prudent business industry practices and otherwise as permitted by this Agreement;

(L) Indebtedness (x) incurred to finance an acquisition or (y) of Persons that are acquired, in each case so long as (A)(i) the Borrowers would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in clause (v)(i) above or (ii) the Fixed Charge Coverage Ratio of the Borrowers would be no less than immediately prior to such acquisition, (B) the aggregate principal amount of Indebtedness under clause (L)(x) shall not exceed \$10,000,000, and (C) any such Indebtedness shall be subordinated in right of payment to the Obligations on terms acceptable to the Agents and the Required Lenders;



(M) [reserved];

(N) any guarantee by the Borrowers or any Subsidiary of Indebtedness or other obligations of the Borrowers or any Subsidiary so long as the Incurrence of such Indebtedness or other obligations by the Borrowers or such Subsidiary is permitted under the terms of this Agreement; provided, that (A) if such Indebtedness is by its express terms subordinated in right of payment to the Obligations or the Guaranty of the Borrowers or such Subsidiary, as applicable, any such guarantee with respect to such Indebtedness shall be subordinated in right of payment to the Obligations or such Guaranty, as applicable, substantially to the same extent as such Indebtedness is subordinated to the Obligations or the Guaranty, as applicable, and (B) if such guarantee is of Indebtedness of the Borrowers such guarantee is Incurred in accordance with, or not in contravention of, Section 7.01(b) solely to the extent Section 7.01(b) is applicable;

(O) the Incurrence by the Borrowers or any of their Subsidiaries of Indebtedness or Disqualified Stock or Preferred Stock of a Subsidiary that serves to refund, refinance or defease any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued as permitted under clauses (A)(3), (B)(2)(II), (C), (D)(1), (L), (P), (T) and (W) of this Section 7.02(v) (ii) in an aggregate amount not to exceed the then- outstanding principal amount (or, if applicable, the liquidation preference face amount of the Indebtedness, Disqualified Stock or Preferred Stock being so refunded, refinanced or defeased), together with any accrued interest and any related fees, expenses and premiums (subject to the following proviso, “Refinancing Indebtedness”) prior to its respective maturity; provided, however, that such Refinancing Indebtedness:

(1) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced or defeased and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Indebtedness, Disqualified Stock and Preferred Stock being refunded or refinanced that were due on or after the date that is one year following the last maturity date of the Obligations;

(2) to the extent such Refinancing Indebtedness refinances (a) Indebtedness subordinated in right of payment to the Obligations or a Guaranty, as applicable, such Refinancing Indebtedness is subordinated in rights of payment to the Obligations or the Guaranty, as applicable, on terms acceptable to the Agents and the Required Lenders or (b) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock;

(3) shall not have any of the Lead Borrower or any Subsidiary of the Lead Borrower as an obligor thereon except to the extent such Person was an obligor on the Indebtedness being extended, refinanced or modified, and shall not be secured by any Lien on any asset other than the assets



that secured such Indebtedness being extended, refinanced or modified or, if applicable, shall be unsecured;

(4) shall not (if secured) have a Lien priority greater than such Indebtedness being extended, refinanced or modified; and

(5) shall not include Indebtedness (including any guarantees) of a Subsidiary that is not a Borrower or a Guarantor that refinances Indebtedness of a Borrower or a Subsidiary that is a Guarantor;

(P) Indebtedness, Disqualified Stock or Preferred Stock of (A) the Borrowers or any Subsidiary incurred to finance an acquisition or (B) Persons that are acquired by the Borrowers or any Subsidiary or merged, consolidated or amalgamated with or into the Borrowers or any Subsidiary in accordance with the terms of this Agreement; provided, that after giving effect to such acquisition or merger, consolidation or amalgamation, either:

(1) the Borrowers would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 7.02(v)(i); or

(2) the Fixed Charge Coverage Ratio of the Borrowers would be no less than immediately prior to such acquisition or merger, consolidation or amalgamation;

provided, further, that (x) the aggregate principal amount of Indebtedness under this clause (P) (solely if incurred in contemplation of such acquisition or merger, consolidation or amalgamation), together with any Refinancing Indebtedness in respect thereof incurred under clause (O) hereof, shall not exceed \$10,000,000 (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount) (y) any Indebtedness Incurred pursuant to this clause (P) shall be subordinated in right of payment to the Obligations on terms acceptable to the Agents and the Required Lenders;

(Q) [reserved];

(R) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business (provided, that such Indebtedness is extinguished within five Business Days of its Incurrence) or other cash management services in the ordinary course of business;

(S) Indebtedness of the Borrowers or Subsidiary supported by a letter of credit or bank guarantee issued pursuant to Bank Indebtedness, in a principal amount not in excess of the stated amount of such letter of credit;

(T) Indebtedness of any Subsidiary that is not a Borrower or a Guarantor; provided, however, that the aggregate principal amount of Indebtedness Incurred under this clause (T), when aggregated with the principal amount of all other Indebtedness then outstanding and Incurred pursuant to this clause (T), together with Refinancing Indebtedness in



respect thereof Incurred pursuant to clause (O) hereof, does not exceed \$4,000,000 (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(U) Indebtedness of the Borrowers or Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(V) Indebtedness of the Borrowers and its respective Subsidiaries in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support their respective performance obligations and trade letters of credit (other than obligations in respect of other Indebtedness) in the ordinary course of business;

(W) Indebtedness, Incurred on behalf of, or representing guarantees of Indebtedness of, joint ventures of the Borrowers and any Subsidiary; provided, however, that the aggregate principal amount of Indebtedness Incurred under this clause (W), when aggregated with the principal amount of all other Indebtedness then outstanding and Incurred pursuant to this clause (W), together with any Refinancing Indebtedness in respect thereof Incurred pursuant to clause (O) hereof, does not exceed \$10,000,000 and provided, further, that any Indebtedness Incurred or guaranteed by a Loan Party pursuant to this clause (W) shall be subordinated in right of payment to the Obligations on terms acceptable to the Agents and the Required Lenders;

(X) to the extent constituting Indebtedness of the Borrowers and the Subsidiaries, all premium (if any), defeasance costs, interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Indebtedness otherwise permitted to be incurred pursuant to this Section 7.02(v);

(Y) Indebtedness in respect of Obligations of the Borrowers or Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services for such Person; provided, that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedging Obligations;

(Z) [reserved].

(AA) deposits raised by any Subsidiary that is subject to state and/or federal banking regulations that constitute Indebtedness owing to such depositor;

(BB) Indebtedness consisting of earn outs and obligations of the Borrowers or Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with any Permitted Investment by such Person;

(CC) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business; and

(DD) obligations in respect of Cash Management Agreements.

(iii) For purposes of determining compliance with this Section 7.02(v):

(A) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness described in clauses (A) through (DD) of Section 7.02(v)(ii) above or is entitled to be Incurred or issued pursuant to Section 7.02(v)(i), then the Borrowers may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this Section 7.02(v); provided, that (1) any Exit Notes issued on the Effective Date (but for the avoidance of doubt, not any Additional Notes) and Indebtedness under the ABL Facility and B. Riley Credit Agreement shall be incurred under clauses (B)(1) and (B)(2) of Section 7.02(v)(ii), (2) the Obligations shall be incurred under clause (A)(1) of Section 7.02(v)(ii), (3) any Permitted Securitization Financing shall be incurred under clause (A)(3) of Section 7.02(v)(ii), (4) the GUC Payment Obligations shall be incurred under clause (B)(3) of Section 7.02(v)(ii), (5) Additional Notes incurred in connection with the ETI Funding Obligation shall be incurred under clause (B)(4) of Section 7.02(v)(ii) and (6) Additional Notes, other than those issued pursuant to clause (B)(4) of Section 7.02(v)(ii) shall be incurred under clause (B)(5) of Section 7.02(v)(ii), and in each case, may not be reclassified.

(B) at the time of Incurrence, classification or reclassification, the Borrowers will be entitled to divide and classify an item of Indebtedness in more than one of the categories of Indebtedness described in Section 7.02(v)(i) or clauses (A) through (DD) of Section 7.02(v)(ii) (or any portion thereof) without giving pro forma effect to the Indebtedness Incurred, classified or reclassified pursuant to any other clause or paragraph of this Section 7.02(v) (or any portion thereof) when calculating the amount of Indebtedness that may be Incurred, classified or reclassified pursuant to any such clause or paragraph (or any portion thereof) at such time; provided, that, for the avoidance of doubt, it is understood and agreed that for any Indebtedness Incurred, classified or reclassified in reliance on a category of permitted Indebtedness involving the calculation of a ratio, such Indebtedness will be included in the calculation of such ratio at the time of such Incurrence, classification or reclassification; and

(C) in connection with (x) the Incurrence or issuance, as applicable, of revolving loan Indebtedness under this Section 7.02(v) or (y) any commitment to Incur or issue Indebtedness, Disqualified Stock or Preferred Stock under this Section 7.02(v), the Borrowers or applicable Subsidiary may designate such Incurrence or issuance as having occurred on the date of first Incurrence of such revolving loan Indebtedness or commitment (such date, the “Deemed Date”), and any related subsequent actual Incurrence or issuance will be deemed for all purposes under this Agreement to have been Incurred or issued on such Deemed Date, including without limitation for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets hereunder (if applicable), the Senior Secured Leverage Ratio and Consolidated EBITDA (and all such calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed Incurrence or issuance and related transactions in connection therewith).



Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as applicable, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an Incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 7.02(v). Guarantees of, or obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; provided, that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 7.02(v).

For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower U.S. dollar equivalent), in the case of revolving credit debt. However, if the Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and the refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Indebtedness does not exceed the principal amount of the Indebtedness being refinanced.

Notwithstanding any other provision of this Section 7.02(v), the maximum amount of Indebtedness that Borrowers and their respective Subsidiaries may Incur pursuant to this Section 7.02(v) shall not be deemed to be exceeded, with respect to any outstanding Indebtedness, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Indebtedness is denominated that is in effect on the date of the refinancing.

Section 7.03 Financial Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party shall not, unless the Required Lenders shall otherwise consent in writing:

(a) Senior Leverage Ratio. Permit the Senior Leverage Ratio of the Parent and its Subsidiaries for any period of 12 consecutive fiscal months of the Parent and its Subsidiaries as of the last day of the fiscal quarter of the Borrowers most recently ended to be greater than 1.00:1.00.

(b) Liquidity. Permit Liquidity at any time to be less than (x) prior to the incurrence of any Incremental Facility (excluding the 2026 Incremental Term Loan and the 2026 Incremental Term Loan Commitment) in accordance with the terms of Section 2.14 hereof after



[the Second Amendment Effective Date](#), \$2,000,000, and (y) from and after the incurrence of any Incremental Facility ([excluding the 2026 Incremental Term Loan and the 2026 Incremental Term Loan Commitment](#)) in accordance with Section 2.14 hereof [after the Second Amendment Effective Date](#), \$10,000,000.

ARTICLE VIII

[RESERVED]

ARTICLE IX

EVENTS OF DEFAULT

Section 9.01 Events of Default. Each of the following events shall constitute an event of default (each, an “Event of Default”):

(a) any Borrower shall fail to pay, when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), (i) any interest on any Loan or any fee, indemnity or other amount payable under this Agreement (other than any portion thereof constituting principal of the Loans) or any other Loan Document, and such failure continues for a period of three (3) Business Days or (ii) all or any portion of the principal of the Loans;

(b) any representation or warranty made or deemed made by or on behalf of the Parent, the Parent’s Subsidiaries or any of the Borrowers’ Subsidiaries or by any officer of the foregoing under or in connection with any Loan Document or under or in connection with any certificate or other writing delivered to any Secured Party pursuant to any Loan Document shall have been incorrect in any material respect (or in any respect if such representation or warranty is qualified or modified as to materiality or “Material Adverse Effect” in the text thereof) when made or deemed made;

(c) the Borrowers or any of the Borrowers’ Subsidiaries shall fail to perform or comply with any covenant or agreement contained in Section 7.01(a), Section 7.01(c), Section 7.01(d), Section 7.01(f), Section 7.01(h), Section 7.01(k), Section 7.01(m), Section 7.02 or Section 7.03, the Borrowers, or any of the Borrowers’ Subsidiaries shall fail to perform or comply with any covenant or agreement contained in the Security Agreement, the Canadian Security Agreement or any Mortgage to which it is a party;

(d) the Borrowers, the Parent or any of the Borrowers’ Subsidiaries shall fail to perform or comply with any other term, covenant or agreement contained in any Loan Document to be performed or observed by it and, except as set forth in subsections (a), (b) and (c) of this Section 9.01, such failure, if capable of being remedied, shall remain unremedied for 15 days after the earlier of the date a senior officer of the Lead Borrower, or any of the Borrowers’ Subsidiaries has knowledge of such failure and the date written notice of such default shall have been given by any Agent to the Borrowers, or any of the Borrowers’ Subsidiaries;

(e) the Borrowers, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) shall fail to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any principal, interest or other amount payable in respect of (i) the Exit Notes, (ii) the ABL Facility, (iii) the B. Riley Credit Agreement, (iv) the GUC Payment Obligation or (v) other Indebtedness (excluding Indebtedness evidenced by this Agreement) having an aggregate amount outstanding in excess of \$25,000,000 and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness, or any other default under any agreement or instrument relating to any such Indebtedness, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such Indebtedness; or any such Indebtedness shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), redeemed, purchased or defeased or an offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case, prior to the stated maturity thereof;

(f) any of the Borrowers, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) (i) shall institute any proceeding or voluntary case seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, interim receiver, receiver and manager, trustee, monitor, custodian or other similar official for any such Person or for any substantial part of its property, (ii) shall be generally not paying its debts as such debts become due or shall admit in writing its inability to pay its debts generally, (iii) shall make a general assignment for the benefit of creditors, or (iv) shall take any action to authorize or effect any of the actions set forth above in this subsection (f);

(g) any proceeding shall be instituted against any of the Borrowers, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, interim receiver, receiver and manager, trustee, monitor, custodian or other similar official for any such Person or for any substantial part of its property, and either such proceeding shall remain undismissed or unstayed for a period of 30 days or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against any such Person or the appointment of a receiver, interim receiver, receiver and manager, trustee, monitor, custodian or other similar official for it or for any substantial part of its property) shall occur;

(h) the Security Agreement, the Canadian Security Agreement, the Intercreditor Agreements, any Mortgage or any other Collateral Document, after delivery thereof



pursuant hereto, shall for any reason fail or cease to create a valid and perfected and, except to the extent permitted by the terms hereof or thereof, first priority Lien on Term Priority Collateral and a Lien on ABL Priority Collateral with the priority set forth in the ABL Intercreditor Agreement, in each case in favor of the Collateral Agent for the benefit of the Secured Parties on any Collateral purported to be covered thereby;

(i) any Borrower, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) is enjoined, restrained or in any way prevented by the order of any court or any Governmental Authority from conducting, or otherwise ceases to conduct for any reason whatsoever, all or any material part of its business for more than 15 days;

(j) any material damage to, or loss, theft or destruction of, any Collateral, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than 15 consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of any Borrower, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary), if any such event or circumstance could reasonably be expected to have a Material Adverse Effect;

(k) the loss, suspension or revocation of, or failure to renew, any license or permit now held or hereafter acquired by the Borrowers, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary), if such loss, suspension, revocation or failure to renew could reasonably be expected to have a Material Adverse Effect;

(l) the indictment, or the threatened indictment of the Parent, the Borrowers, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) under any criminal statute, or commencement or threatened commencement of criminal or civil proceedings against the Parent, Borrower, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary), pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture to any Governmental Authority of any material portion of the property of such Person;

(m) (i) there shall occur one or more ERISA Events and/or Canadian Pension Events that individually or in the aggregate results in, or could reasonably be expected to result in, liability of the Parent, any Borrower, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) or any of its ERISA Affiliates in excess of \$25,000,000, (ii) there exists any fact or circumstance that could reasonably be expected to result in the imposition of a Lien pursuant to Section 430(k) of the Internal Revenue Code or Section 4068 of ERISA upon the property or rights to property of the Parent, any Borrower, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) or any of its ERISA Affiliates, or (iii) a Lien (choate or inchoate) arises in respect of a Loan Party or its property in connection with any Canadian Pension Plan (save for contribution amounts not yet due);

(n) one or more judgments, orders or awards (or any settlement of any litigation or other proceeding that, if breached, could result in a judgment, order or award) for the payment of money exceeding \$25,000,000 in the aggregate (except to the extent fully covered (other than to the extent of customary deductibles) by insurance pursuant to which the insurer



has been notified and has not denied coverage) shall be rendered against any of the Parent, Borrower, or any Significant Subsidiary (other than any Special Purpose Securitization Subsidiary) (or any group of Subsidiaries that together would constitute a Significant Subsidiary, other than any Special Purpose Securitization Subsidiary) and remain unsatisfied and (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order, award or settlement or (ii) there shall be a period of 10 consecutive days after entry thereof during which (A) a stay of enforcement thereof is not be in effect or (B) the same is not vacated, discharged, stayed or bonded pending appeal;

(o) any material provision of any Loan Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against any Loan Party intended to be a party thereto, or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by any Loan Party or any Governmental Authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or any Loan Party shall deny in writing that it has any liability or obligation purported to be created under any Loan Document;

(p) (i) there shall occur and be continuing any “Event of Default” (or any comparable term) under, and as defined in the documents evidencing or governing any Subordinated Indebtedness, (ii) any of the Obligations for any reason shall cease to be “Senior Indebtedness” or “Designated Senior Indebtedness” (or any comparable terms) under, and as defined in the documents evidencing or governing any Subordinated Indebtedness, (iii) any Indebtedness other than the Obligations shall constitute “Designated Senior Indebtedness” (or any comparable term) under, and as defined in, the documents evidencing or governing any Subordinated Indebtedness, (iv) any holder of Subordinated Indebtedness shall fail to perform or comply with any of the subordination provisions of the documents evidencing or governing such Subordinated Indebtedness, or (v) the subordination provisions of the documents evidencing or governing any Subordinated Indebtedness shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness;

(q) there is a failure by a Borrower or any Guarantor to comply for 60 days after notice to such Borrower or Guarantor with its other agreements contained in the Collateral Documents except for a failure that would not be material to the Lenders and would not materially affect the value of the Collateral taken as a whole;

(r) a Change of Control shall have occurred;

(s) [reserved]; or

(t) an event or development occurs which could reasonably be expected to have a Material Adverse Effect;

then, and in any such event, the Administrative Agent may, and shall at the request of the Required Lenders, by notice to the Administrative Borrower, (i) terminate or reduce all Commitments, whereupon all Commitments shall immediately be so terminated or reduced, (ii) declare all or any portion of the Obligations then outstanding to be accelerated and due and

payable, whereupon all or such portion of the aggregate principal of all Loans, all accrued and unpaid interest thereon, all fees and all other Obligations payable under this Agreement and the other Loan Documents shall become due and payable immediately, together with the payment of the Applicable Premium with respect to the Commitments so terminated and the Loans so accelerated, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by each Loan Party and (iii) exercise any and all of its other rights and remedies under applicable law, hereunder and under the other Loan Documents; provided, however, that upon the occurrence of any Event of Default described in subsection (f) or (g) of this Section 9.01 with respect to any Loan Party, without any notice to any Loan Party or any other Person or any act by any Agent or any Lender, all Commitments shall automatically terminate and all Loans then outstanding, together with all accrued and unpaid interest thereon, all fees and all other Obligations due under this Agreement and the other Loan Documents, including, without limitation, the Applicable Premium, shall be accelerated and become due and payable automatically and immediately, without presentment, demand, protest or notice of any kind, all of which are expressly waived by each Loan Party.

Section 9.02 Cure Right. In the event that the Borrowers fail to comply with the requirements of any financial covenant set forth in Section 7.03(a), until the expiration of the 10th day after the date on which financial statements are required to be delivered with respect to the applicable fiscal quarter hereunder, the Parent shall have the right to issue Permitted Cure Equity for cash or otherwise receive cash contributions to the capital of the Parent, and, in each case, to contribute any such cash to the capital of the Borrowers, and apply the amount of the proceeds thereof to increase Covenant Consolidated EBITDA with respect to such applicable quarter (the "Cure Right"); provided, that (a) such proceeds are actually received by the Borrowers no later than 10 days after the date on which financial statements are required to be delivered with respect to such fiscal quarter hereunder, (b) such proceeds do not exceed the aggregate amount necessary to cure (by addition to Covenant Consolidated EBITDA) such Event of Default under Section 7.03(a) for such period, (c) the Cure Right shall not be exercised more than 4 times during the term of the Loans, (d) in each period of four fiscal quarters, there shall be at least 2 consecutive fiscal quarters during which the Cure Right is not exercised, (e) the aggregate amount of all Cure Right proceeds during the term of this Agreement shall not exceed \$10,000,000, (f) there shall be no pro forma reduction in Indebtedness with the proceeds of the Cure Right for purposes of determining compliance with the financial covenants in Section 7.03(a) or for determining any pricing, financial covenant based conditions or baskets with respect to the covenants contained in this Agreement, in each case in the fiscal quarter in which the Cure Right is used or subsequent periods that include such fiscal quarter, and (g) such proceeds shall be applied to prepay the Loans in accordance with Section 2.05(c)(v). If, after giving effect to the foregoing pro forma adjustment (but not, for the avoidance of doubt, giving pro forma adjustment to any repayment of Indebtedness in connection therewith), the Borrowers are in compliance with the financial covenants set forth in Section 7.03(a), the Borrowers shall be deemed to have satisfied the requirements of such Section as of the relevant date of

determination with the same effect as though there had been no failure to comply on such date, and the applicable breach or default of such Section 7.03(a) that had occurred shall be deemed cured for purposes of this Agreement. The parties hereby acknowledge that this Section may not be relied on for purposes of calculating any financial ratios other than as applicable to Section 7.03(a) and shall not result in any adjustment to any amounts other than the amount of the Covenant Consolidated EBITDA referred to in the immediately preceding sentence.

ARTICLE X

AGENTS

Section 10.01 Appointment. Each Lender (and each subsequent maker of any Loan by its making thereof) hereby irrevocably appoints, authorizes and empowers the Administrative Agent and the Collateral Agent to perform the duties of each such Agent as set forth in this Agreement and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto, including: (i) to receive on behalf of each Lender any payment of principal of or interest on the Loans outstanding hereunder and all other amounts accrued hereunder for the account of the Lenders and paid to such Agent, and, subject to Section 2.02 of this Agreement, to distribute promptly to each Lender its Pro Rata Share of all payments so received; (ii) to distribute to each Lender copies of all material notices and agreements received by such Agent and not required to be delivered to each Lender pursuant to the terms of this Agreement, provided, that the Agents shall not have any liability to the Lenders for any Agent's inadvertent failure to distribute any such notices or agreements to the Lenders; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to this Agreement or any other Loan Document; (v) to make the Loans and Collateral Agent Advances, for such Agent or on behalf of the applicable Lenders as provided in this Agreement or any other Loan Document; (vi) to perform, exercise, and enforce any and all other rights and remedies of the Lenders with respect to the Loan Parties, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by such Agent of the rights and remedies specifically authorized to be exercised by such Agent by the terms of this Agreement or any other Loan Document; (vii) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Agreement or any other Loan Document; (viii) subject to Section 10.03, to take such action as such Agent deems appropriate on its behalf to administer the Loans and the Loan Documents and to exercise

such other powers delegated to such Agent by the terms hereof or the other Loan Documents (including, without limitation, the power to give or to refuse to give notices, waivers, consents, approvals and instructions and the power to make or to refuse to make determinations and calculations); and (ix) to act with respect to all Collateral under the Loan Documents, including for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations. As to any matters not expressly provided for by this Agreement and the other Loan Documents (including, without limitation, enforcement or collection of the Loans), the Agents shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of 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), and such instructions of 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) shall be binding upon all Lenders and all makers of Loans; provided, however, the Agents shall not be required to take any action which, in its opinion or the opinion of its counsel, may (i) expose such Agent to liability or which is contrary to this Agreement or any other Loan Document or applicable Requirements of Law or (ii) be in violation of the automatic stay under any Requirement of Law relating to bankruptcy, insolvency, reorganization, or relief of debtors; provided, further, that if any Agent so requests, it shall first be indemnified and provided with adequate security to its sole satisfaction (including reasonable advances as may be requested by such Agent) by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such directed action; provided, further, that any Agent may seek clarification or further direction from 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) prior to taking any such directed action and may refrain from acting until such clarification or further direction has been provided.

Section 10.02 Nature of Duties; Delegation. (a) The Agents shall have no duties or responsibilities except those expressly set forth in this Agreement or in the other Loan Documents. The permissive rights of each Agent to take any actions permitted by this Agreement or any other Loan Document shall not be construed as an obligation or duty to do so. The duties of the Agents shall be mechanical and administrative in nature. The Agents shall not have by reason of this Agreement or any other Loan Document a fiduciary, principal-agency, or trustee relationship in respect of any Lender, regardless of whether a Default or Event of Default has occurred or is continuing. Nothing in this Agreement or any other Loan Document, express or implied, is intended to or shall be construed to impose upon the Agents any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this

Agreement or any other Loan Document or otherwise exist against any Agent. Each Lender has made its own independent investigation of the financial condition and affairs of the Loan Parties in connection with the making and the continuance of the Loans hereunder and shall make its own appraisal of the creditworthiness of the Loan Parties and the value of the Collateral without reliance upon any Agent or any other Lender or any of their respective Related Parties, and neither the Agents nor any of their Related Parties shall have any duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into their possession before the initial Loan hereunder or at any time or times thereafter; provided, that, upon the reasonable request of a Lender, each Agent shall provide to such Lender any documents or reports delivered to such Agent by the Loan Parties pursuant to the terms of this Agreement or any other Loan Document. Each Lender has made its own independent investigation of the financial condition and affairs of the Loan Parties in connection with the making and the continuance of the Loans hereunder and has made its own appraisal of the creditworthiness of the Loan Parties and the value of the Collateral without reliance upon any Agent or any other Lender or any of their respective Related Parties, and neither the Agents nor any of their Related Parties shall have any duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into their possession before the initial Loan hereunder or at any time or times thereafter, provided, that, upon the reasonable request of a Lender, each Agent shall provide to such Lender any documents or reports delivered to such Agent by the Loan Parties pursuant to the terms of this Agreement or any other Loan Document. Each Lender acknowledges that it will, independently and without reliance upon any Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any other agreement or document furnished hereunder or thereunder. Each Lender acknowledges that no Agent or its Related Parties have made any representation or warranty to it, and that no act by any Agent or its Related Parties hereinafter taken shall be deemed to constitute any representation or warranty by such Agent or its Related Parties to any Lender. Each Lender agrees that it will not assert any claim against any Agent based on an alleged breach of fiduciary duty by such Agent in connection with this Agreement, the other Loan Documents, or the transactions contemplated hereby or thereby.

(b) Except for notices, reports, and other documents expressly herein required to be furnished to the Lenders by any Agent, such Agent and its Related Parties shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Loan Parties or any other Person party to a Loan Document that may come into the possession or control of such Agent or its Related Parties.



(c) Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents or of exercising any rights and remedies thereunder) by or through any one or more co-agents, sub-agents and attorneys-in-fact appointed by such Agent, and shall be entitled to advice of counsel, both internal and external, and other consultants or experts concerning all matters pertaining to such duties. Each Agent and any such co-agents, sub-agents and attorneys-in-fact may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. All provisions of this Article X and Article XII (including Section 12.04 and Section 12.15) and all other rights, privileges, protections, immunities, and indemnities granted to each Agent hereunder and under the other Loan Documents shall apply to any such co-agents, sub-agents and attorneys-in-fact, and to the Related Parties of each Agent and any such co-agents, sub-agents and attorneys-in-fact. Each Agent shall not be responsible for the negligence or misconduct of any such co-agents, sub-agents and attorneys-in-fact except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such co-agents, sub-agents and attorneys-in-fact.

Section 10.03 Rights, Exculpation, Etc.

(a) The Agents and their Related Parties shall not be liable for any action taken or omitted to be taken by them under or in connection with this Agreement or the other Loan Documents, (i) with the consent or at the request of 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) (and such consent or request and such action or action not taken pursuant thereto shall be binding upon all the Secured Parties) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment (which shall not include any action taken or omitted to be taken in accordance with clause (i), for which the Agents and their Related Parties shall have no liability).

(b) Without limiting the generality of the foregoing, the Agents and their Related Parties (i) are entitled to treat the holder of any Loan as set forth in the Register as the owner thereof until such Loan is assigned in accordance with Section 12.07 hereof; (ii) may consult with legal counsel (including, without limitation, counsel to any Agent or counsel to the Loan Parties), independent public accountants, and other consultants or experts selected by any of them and shall be entitled to rely, shall be fully protected in relying, and shall not incur any liability for relying (including taking any action or omitting to take any action in reliance), upon advice and statements of such counsel, accountants, consultants or experts; (iii) make no warranty or representation; and (iv) shall not be responsible or liable for or have any duty to ascertain or inquire into or monitor (A) any recital, statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (B) the contents of any certificate, report, statement, or other document referred to, provided for, or delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein, the use of proceeds of the New Money Loans, or the occurrence or possible existence of any Default or Event of Default, (D) the execution, validity, legality, validity, enforceability, effectiveness, genuineness, collectability or sufficiency or value of this Agreement, any other Loan Document



or any other agreement, instrument or document or the creation, preservation, perfection, maintenance or continuation of perfection, or priority of any Lien purported to be created by the Collateral Documents, (E) the value or the sufficiency of any Collateral, (F) whether the Collateral exists, is owned by Borrower or its Subsidiaries, is cared for, protected, insured, or maintained, or has been encumbered, or meets the eligibility criteria applicable in respect thereof, (G) the satisfaction of any condition set forth in Article V or elsewhere, other than to confirm receipt of items expressly required to be delivered to such Agent, or the inspection of the properties (including any Collateral), books or records of any Loan Party or any Affiliate thereof, or (H) the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations.

(c) The Agents shall not be liable for any apportionment or distribution of payments made in good faith pursuant to Section 4.03, and if any such apportionment or distribution is subsequently determined to have been made in error, and the sole recourse of any Lender to whom payment was due but not made shall be to recover from other Lenders any payment in excess of the amount which they are determined to be entitled. The Agents may at any time request instructions from 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) with respect to any actions or approvals which by the terms of this Agreement or of any of the other Loan Documents the Agents are permitted or required to take or to grant, and the Agents shall be absolutely entitled to refrain from taking any action or to withhold any approval under any of the Loan Documents until they shall have received such instructions from 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), and the Agents shall be entitled to rely, shall be fully protected in relying, and shall not incur any liability for relying, upon such instructions. Without limiting the foregoing, no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of 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).

(d) The Agents and their Related Parties shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers, the Loan Parties, or any of their Affiliates that is communicated to or obtained by the Person serving as any Agent or any of its Related Parties in any capacity.

(e) Nothing in this Agreement or any other Loan Document shall require any Agent or its Related Parties to expend or risk its own funds or otherwise incur any financial liability in the performance of any duties, obligations or responsibilities or in the exercise of any right, power, authority or discretion hereunder or under the other Loan Documents.

(f) No Agent or its Related Parties shall be responsible or liable for any failure or delay in the performance of its obligations under this Agreement or any other Loan Document, in each case, arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism;

civil or military disturbances; sabotage; epidemics; pandemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

(g) If at any time, any Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process (including orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of any Collateral), such Agent is authorized to comply therewith in any manner as it or its legal counsel of its own choosing deems appropriate, and if such Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, such Agent shall not be liable to any of the Loan Parties, the Secured Parties, or to any other Person even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

(h) Any corporation or association into which any Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate agency business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which such Agent is a party, will be and become the successor Agent under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

(i) For the avoidance of doubt, and without limiting the other protections set forth in this Article X, with respect to any approval, determination, designation, or judgment to be made by any Agent herein or in the other Loan Documents, such Agent shall be entitled to request that the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as such Agent shall believe in good faith shall be necessary) make or confirm such approval, determination, designation, or judgment.

(j) No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default and stating that such notice is a "notice of default" is given to such Agent by a Borrower or a Lender.

Section 10.04 Reliance. Each Agent shall be entitled to rely, shall be fully protected in relying, and shall not incur any liability for relying, upon any instrument, writing, resolution, notice, consent, request, certificate, affidavit, letter, facsimile, telecopy, telex or teletype message, statement, order or other document, communication or conversation (including any electronic message, Internet or intranet website posting or other distribution and any statement made orally or by telephone) believed by it to be genuine and correct and to have been signed, sent, made or otherwise authenticated by the proper Person, and with respect to all matters pertaining to



this Agreement or any of the other Loan Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

Section 10.05 Indemnification. To the extent that any Agent or any Related Party of the foregoing is not reimbursed and indemnified by any Loan Party, and whether or not such Agent has made demand on any Loan Party for the same, the Lenders will, within five days of written demand by such Agent, reimburse such Agent and such Related Parties for and indemnify such Agent and such Related Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, fees, costs, expenses (including, without limitation, client charges and expenses of counsel or any other advisor to such Agent and such Related Parties), advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against such Agent and such Related Parties in any way relating to or arising out of the Commitments, the Loans, this Agreement or any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby, the performance of its duties or exercise of any of its rights or powers hereunder or thereunder, or any action taken or omitted by such Agent and such Related Parties under this Agreement or any of the other Loan Documents, in proportion to each Lender's Pro Rata Share (or, if indemnification is sought after the date upon which the Loans shall have been paid in full, ratably in accordance with their Pro Rata Share in effect immediately prior to such date), including, without limitation, advances and disbursements made pursuant to Section 10.08; provided, however, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements for which there has been a final and non-appealable judgment of a court of competent jurisdiction that such liability resulted from such Agent's or such Related Party's gross negligence or willful misconduct; provided, that, no action taken by any Agent in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or the other Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.05. In the case of any investigation, litigation or proceeding giving rise to any such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, fees, costs, expenses, advances or disbursements, this Section 10.05 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limiting the foregoing, each Lender shall reimburse any Agent upon demand for its ratable share of any fees, costs or out-of-pocket expenses (including attorneys' fees and expenses) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrowers,



provided, that such reimbursement by the Lenders shall not affect the Borrowers' continuing reimbursement obligations with respect thereto. The obligations of the Lenders under this Section 10.05 shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

Section 10.06 [Reserved].

Section 10.07 Successor Agent. (a) Any Agent may at any time give at least 30 days prior written notice of its resignation to the Lenders and the Administrative Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor Agent. If no such successor Agent shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring 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 Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Agent. Whether or not a successor Agent has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by such Collateral Agent on behalf of the Secured Parties under any of the Loan Documents, the retiring Collateral Agent shall continue to hold such collateral security until such time as a successor Collateral Agent is appointed) and (ii) all payments, communications and determinations provided to be made by, to or through such retiring Agent shall instead be made by or to each Lender directly, until such time, if any, as a successor Agent shall have been appointed as provided for above. Upon the acceptance of a successor Agent's appointment as Agent hereunder, such successor Agent shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 10.07). After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article X, Section 12.04 and Section 12.15 shall continue in effect for the benefit of such retiring Agent, its co-agents, sub-agents and attorneys-in-fact and their respective Related Parties in respect of any actions taken or omitted to be taken by it while the retiring Agent was acting as Agent.

Section 10.08 Collateral Matters.

(a) The Collateral Agent may from time to time make such disbursements and advances ("Collateral Agent Advances") which the Collateral Agent, in its sole discretion, deems necessary or desirable to preserve, protect, prepare for sale or lease or dispose of the Collateral or

any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrowers of the Loans and other Obligations or to pay any other amount chargeable to the Borrowers pursuant to the terms of this Agreement, including, without limitation, costs, fees and expenses as described in Section 12.04. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Loans that are Reference Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder. The Collateral Agent shall notify each Lender and the Administrative Borrower in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Without limitation to its obligations pursuant to Section 10.05, each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Pro Rata Share of each such Collateral Agent Advance. If such funds are not made available to the Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three Business Days and thereafter at the Reference Rate.

(b) The Lenders hereby irrevocably authorize the Collateral Agent, at its option and in its discretion, to release any Lien granted to or held by the Collateral Agent upon any Collateral upon termination of the Total Commitment and payment and satisfaction of all Loans and all other Obligations (other than Contingent Indemnity Obligations) in accordance with the terms hereof; or constituting property being sold or disposed of in the ordinary course of any Loan Party's business or otherwise in compliance with the terms of this Agreement and the other Loan Documents; or constituting property in which the Loan Parties owned no interest at the time the Lien was granted or at any time thereafter; or if approved, authorized or ratified in writing by the Lenders in accordance with Section 12.02. Upon request by the Collateral Agent at any time, the Lenders will confirm in writing the Collateral Agent's authority to release particular types or items of Collateral pursuant to this Section 10.08(b).

(c) Without in any manner limiting the Collateral Agent's authority to act without any specific or further authorization or consent by the Lenders (as set forth in Section 10.08(b)), each Lender agrees to confirm in writing, upon request by the Collateral Agent, the authority to release Collateral conferred upon the Collateral Agent under Section 10.08(b). Upon receipt by the Collateral Agent of confirmation from the Lenders of its authority to release any particular item or types of Collateral, and upon prior written reasonable request by and at the expense of any Loan Party, the Collateral Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Liens granted to the Collateral Agent for the benefit of the Secured Parties upon such Collateral; provided, however, that (i) the Collateral Agent shall not be required to execute any such document or take any action to evidence such release on terms which, in the Collateral Agent's opinion or the opinion of its counsel, could expose the Collateral Agent to liability or create any obligations or entail any consequence other than the release of such Liens without recourse to or representation or warranty by the Collateral Agent of any kind, (ii) the Loan Parties shall have provided the Collateral Agent with such certifications or documents as the Collateral Agent shall reasonably request in order to demonstrate that the requested release is permitted hereunder, and (iii) such release shall not in any manner discharge, affect or impair the Obligations or any Lien

upon (or obligations of any Loan Party in respect of) all interests in the Collateral retained by any Loan Party.

(d) Anything contained in any of the Loan Documents to the contrary notwithstanding, the Loan Parties, each Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral under any Loan Document or to enforce any Guaranty, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Collateral Agent for the benefit of the Secured Parties in accordance with the terms thereof, (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale, the Administrative Agent or the Collateral Agent (including pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code or any similar or equivalent provision of any other Debtor Relief Law), or any Lender (except with respect to a “credit bid” pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the Bankruptcy Code or any similar or equivalent provision of any other Debtor Relief Law), may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition and (iii) the Collateral Agent, as agent for and representative of the Secured Parties (but not any other Agent or any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled (either directly or through one or more acquisition vehicles) for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral to be sold (A) at any public or private sale, (B) at any sale conducted by the Collateral Agent under the provisions of the Uniform Commercial Code (including pursuant to Sections 9-610 or 9-620 of the Uniform Commercial Code) or the PPSA, (C) at any sale or foreclosure conducted by the Collateral Agent (whether by judicial action or otherwise) in accordance with applicable law or (D) any sale conducted pursuant to the provisions of any Debtor Relief Law (including Section 363 of the Bankruptcy Code), to use and apply all or any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Collateral Agent at such sale. For the avoidance of doubt, no Agent shall be required to take title to any Collateral without its prior written consent.

(e) The Collateral Agent shall have no obligation whatsoever to any Lender to assure that the Collateral exists or is owned by the Loan Parties or is cared for, protected or insured or has been encumbered or that the Lien granted to the Collateral Agent pursuant to this Agreement or any other Loan Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Collateral Agent in this Section 10.08 or in any other Loan Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Collateral Agent may act in any manner it may deem appropriate, in its sole discretion, given the Collateral Agent’s own interest



in the Collateral as one of the Lenders (if applicable) and that the Collateral Agent shall have no duty or liability whatsoever to any other Lender, except as otherwise provided herein.

Section 10.09 Agency for Perfection. Each Agent and each Lender hereby appoints each other Agent and each other Lender as its sub-collateral agent and gratuitous bailee for the purpose of perfecting the security interests in and liens upon the Collateral in assets which, in accordance with Article 9 of the Uniform Commercial Code or the PPSA, can be perfected only by possession or control (or where the security interest of a secured party with possession or control has priority over the security interest of another secured party) and each Agent and each Lender hereby acknowledges that it holds possession of or otherwise controls any such Collateral for the benefit of the Secured Parties as secured party. Should the Administrative Agent or any Lender obtain possession or control of any such Collateral, the Administrative Agent or such Lender shall notify the Collateral Agent in writing thereof, and, promptly upon the Collateral Agent's request therefor shall deliver possession or control of such Collateral to the Collateral Agent and take such other actions as sub-collateral agent or gratuitous bailee in accordance with the Collateral Agent's instructions. In addition, the Collateral Agent shall also have the power and authority hereunder to appoint such other sub-agents as may be necessary or required under applicable state law or otherwise to perform its duties and enforce its rights with respect to the Collateral and under the Loan Documents. Each Loan Party by its execution and delivery of this Agreement hereby consents to the foregoing.

Section 10.10 No Reliance on any Agent's Customer Identification Program. Each Lender acknowledges and agrees that neither such Lender, nor any of its Related Parties, participants or assignees, may rely on any Agent to carry out such Lender's, Related Parties', participant's or assignee's customer identification program, or other requirements imposed by the USA PATRIOT Act or the regulations issued thereunder, including the regulations set forth in 31 C.F.R. §§ 1010.100(yy), (iii), 1020.100, and 1020.220 (formerly 31 C.F.R. § 103.121), as hereafter amended or replaced ("CIP Regulations"), or any other Anti-Money Laundering Laws, including any programs involving any of the following items relating to or in connection with any of the Loan Parties, their Related Parties or their agents, the Loan Documents or the transactions hereunder or contemplated hereby: (1) any identity verification procedures, (2) any recordkeeping, (3) comparisons with government lists, (4) customer notices or (5) other procedures required under the CIP Regulations or other regulations issued under the USA PATRIOT Act. Each Lender, Affiliate, participant or assignee subject to Section 326 of the USA PATRIOT Act will perform the measures necessary to satisfy its own responsibilities under the CIP Regulations.

Section 10.11 No Third-Party Beneficiaries. The provisions of this Article are solely for the benefit of the Secured Parties, and



no Loan Party shall have rights as a third-party beneficiary of any of such provisions.

Section 10.12 No Fiduciary Relationship. It is understood and agreed that the use of the term “agent” herein or in any other Loan Document (or any other similar term) with reference to any 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.

Section 10.13 Reports; Confidentiality; Disclaimers. By becoming a party to this Agreement, each Lender:

(a) is deemed to have requested that each Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report with respect to the Parent or any of its Subsidiaries (each, a “Report”) prepared by or at the request of such Agent, and each Agent shall so furnish each Lender with each such Report,

(b) expressly agrees and acknowledges that the Agents (i) do not make any representation or warranty as to the accuracy of any Reports, and (ii) shall not be liable for any information contained in any Reports,

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that any Agent or other party performing any audit or examination will inspect only specific information regarding the Parent and its Subsidiaries and will rely significantly upon the Parent’s and its Subsidiaries’ books and records, as well as on representations of their personnel,

(d) agrees to keep all Reports and other material, non-public information regarding the Parent and its Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 12.19, and

(e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold any Agent and any other Lender preparing a Report harmless from any action the indemnifying Lender may take or fail to take or any conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to the Borrowers, or the indemnifying Lender’s participation in, or the indemnifying Lender’s purchase of, a loan or loans of the Borrowers, and (ii) to pay and protect, and indemnify, defend and hold any Agent and any other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including, attorneys’ fees and costs) incurred by any such Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

Section 10.14 Collateral Custodian. Upon the occurrence and during the continuance of any Default or Event of Default, the Collateral

Agent or its designee may at any time and from time to time employ and maintain on the premises of any Loan Party a custodian selected by the Collateral Agent or its designee who shall have full authority to do all acts necessary to protect the Secured Parties' interests. Each Loan Party hereby agrees to, and to cause its Subsidiaries to, cooperate with any such custodian and to do whatever the Collateral Agent or its designee may reasonably request to preserve the Collateral. All costs and expenses incurred by the Collateral Agent or its designee by reason of the employment of the custodian shall be the responsibility of the Borrowers.

Section 10.15 Intercreditor Agreements; Authorization to Execute Other Loan Documents. Each Lender hereby acknowledges that it has received and reviewed the Intercreditor Agreements and agrees to be bound by the terms thereof. Each Lender (and each Person that becomes a Lender under this Agreement) hereby authorizes and directs the Agents to enter into, and agrees to be bound by, this Agreement, the Collateral Documents, the Intercreditor Agreements, and the other Loan Documents to be executed by the Agents and agrees that each Agent may take such actions on its behalf as is contemplated by the terms of the Intercreditor Agreements. In addition, each Lender and Agent acknowledge and agree that (a) the rights and remedies of the Agents and Lenders hereunder and under the other Loan Documents are subject to the Intercreditor Agreements and (b) in the event of a conflict, the provisions of the Intercreditor Agreements shall control. Each Lender hereby acknowledges and agrees that (i) the foregoing instructed actions constitute an instruction from all the Lenders under this Section and (ii) this Article X and Section 12.04 and Section 12.15 and all other rights, privileges, protections, immunities, and indemnities in favor of the Agents hereunder and under the other Loan Documents shall apply to any and all actions taken or not taken by the Agents in accordance with such instruction. Each Lender agrees that any actions taken by any Agent in accordance with the terms of this Agreement or the other Loan Documents relating to the Collateral and the exercise by such Agent of its powers set forth therein or herein, together with such powers that are reasonably incidental thereto, shall be binding upon all of the Lenders.

Section 10.16 [Reserved].

Section 10.17 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 Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on the Borrowers) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

- (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid

and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties and their respective Related Parties (including any claim for the compensation, expenses, indemnities, disbursements and advances of the Secured Parties and their respective Related Parties and all other amounts due the foregoing hereunder and under the other Loan Documents) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, interim receiver, receiver and manager, assignee, trustee, monitor, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Secured Party 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 Secured Parties, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, indemnities, disbursements and advances of any Agent and its Related Parties, and any other amounts due to any Agent and its Related Parties hereunder and under the other Loan Documents. Nothing contained herein shall be deemed to authorize any Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize any Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 10.18 Erroneous Payment.

(a) If any Agent notifies a Lender or Secured Party, or any Person who has received funds on behalf of a Lender or Secured Party (any such Lender, Secured Party or other recipient, and each of their respective successors and assigns, a “Payment Recipient”) that such Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice form such Agent) received by such Payment Recipient from such Agent or any of its Related Parties were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Secured Party or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “Erroneous Payment”) and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of such Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of such Agent, and such Lender or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two (2) Business Days thereafter, return to such Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to such Agent in same day funds at the greater of the (x) a rate determined by such Agent to represent its cost of overnight or short-term funds (which determination shall be conclusive absent manifest error) and (y) a rate determined by such in accordance with banking industry rules on interbank compensation from time to time in effect.

A notice of any Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting the immediately preceding clause (a), each Lender or Secured Party (or any Payment Recipient who received such funds on its behalf), hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from any Agent (or any of its Related Parties) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by such Agent (or any of its Related Parties) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by such Agent (or any of its Related Parties), or (z) that such Lender or Secured Party, or other such Payment Recipient otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) then in each such case:

(i) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from such Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly (and, in all events, within one (1) Business Day of any of the circumstances described in immediately preceding clauses (x), (y), and (z)) notify such Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying such Agent pursuant to this Section 10.18.

For the avoidance of doubt, the failure to deliver a notice to such Agent pursuant to this Section 10.18 shall not have any effect on a Payment Recipient's obligations pursuant to Section 10.18 or on whether or not an Erroneous Payment has been made.

(c) Each Lender or Secured Party hereby authorizes the Agents to set off, net and apply any and all amounts at any time owing to such Lender or Secured Party under any Loan Document, or otherwise payable or distributable by any Agent to such Lender or Secured Party from any source, against any amount due to any Agent under immediately preceding clause (a), Section 10.05, or any other indemnity obligations from such Lender to any Agent or its Related Parties under the Loan Documents.

(d) The parties hereto agree that (x) irrespective of whether an Agent may be equitably subrogated, in the event that 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, such Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender or other Secured Party, to the rights and interests of such Lender or other Secured Party, as the case may be) under the Loan Documents with respect to such amount (the "Erroneous Payment Subrogation Rights") and (y) an Erroneous Payment shall not pay, prepay,



repay, discharge or otherwise satisfy any Obligations owed by the Borrowers or any other Loan Party; provided, that this Section 10.18(d) shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrowers relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by such Agent; provided, further, that for the avoidance of doubt, the immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by such Agent from the Borrowers for the purpose of making such Erroneous Payment.

(e) Notwithstanding anything to the contrary contained herein, and for the avoidance of doubt, in no event shall the occurrence of an Erroneous Payment (or the existence of any Erroneous Payment Subrogation Rights or other rights of any Agent in respect of an Erroneous Payment) result in such Agent becoming, or being deemed to be, a Lender hereunder or the holder of any Loans hereunder.

(f) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrowers or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by such Agent from the Borrowers or any other Loan Party for the purpose of making such Erroneous Payment.

(g) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by any Agent for the return of any Erroneous Payment received, including, without limitation, waiver of any defense based on “discharge for value” or any similar doctrine.

Section 10.19 Appointment as Hypothecary Representative.

Without limiting the powers of the Collateral Agent, for the purposes of holding any hypothec granted to the Attorney (as defined below) pursuant to the laws of the Province of Quebec to secure the prompt payment and performance of any and all Obligations by any Loan Party, each of the Secured Parties hereby irrevocably appoints and authorizes the Collateral Agent and, to the extent necessary, ratifies the appointment and authorization of the Collateral Agent, to act as the hypothecary representative of the creditors as contemplated under Article 2692 of the Civil Code of Quebec (in such capacity, the “Attorney”), and to enter into, to take and to hold on their behalf, and for their benefit, any hypothec, and to exercise such powers and duties that are conferred upon the Attorney under any related deed of hypothec. The Attorney shall: (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Attorney pursuant to any such deed of hypothec and applicable law, and (b) benefit from all rights, privileges, protections, immunities, and indemnities of the Collateral Agent and be subject to all provisions hereof with respect to the Collateral Agent mutatis mutandis, including, without limitation, all such provisions with respect to the liability or responsibility to and reimbursement and indemnification by the Secured Parties and Loan Parties. Any person who becomes a Secured Party shall, by its execution of an Assignment and Acceptance, be deemed to have consented to and confirmed the Attorney as the person acting as hypothecary representative holding the aforesaid hypothecs as aforesaid and to have ratified, as of the date it becomes a Secured Party, all actions taken by the Attorney in such capacity. The substitution of the Collateral Agent pursuant to the provisions of this Article X also constitutes the substitution of the Attorney.

Section 10.20 Survival. The agreements in this Article X shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

ARTICLE XI

GUARANTY

Section 11.01 Guaranty. Each Guarantor hereby jointly and severally and unconditionally and irrevocably guarantees the punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all Obligations of the Borrowers now or hereafter existing under any Loan Document, whether for principal, interest (including, without limitation, all interest that accrues after the commencement of any Insolvency Proceeding of any Borrower, whether or not a claim for post-filing interest is allowed in such Insolvency Proceeding) fees, commissions, expense reimbursements,

indemnifications or otherwise (such obligations, to the extent not paid by the Borrowers, being the “Guaranteed Obligations”), and agrees to pay any and all expenses (including reasonable counsel fees and expenses) incurred by the Secured Parties in enforcing any rights under the guaranty set forth in this Article XI. Without limiting the generality of the foregoing, each Guarantor’s liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by the Borrowers to the Secured Parties under any Loan Document but for the fact that they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Borrower. Notwithstanding any of the foregoing, Guaranteed Obligations shall not include any Excluded Swap Obligations. In no event shall the obligation of any Guarantor hereunder exceed the maximum amount such Guarantor could guarantee under any Debtor Relief Law.

Section 11.02 Guaranty Absolute. Each Guarantor jointly and severally guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Loan Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Secured Parties with respect thereto. Each Guarantor agrees that this Article XI constitutes a guaranty of payment when due and not of collection and waives any right to require that any resort be made by any Secured Party to any Collateral. The obligations of each Guarantor under this Article XI are independent of the Guaranteed Obligations, and a separate action or actions may be brought and prosecuted against each Guarantor to enforce such obligations, irrespective of whether any action is brought against any Loan Party or whether any Loan Party is joined in any such action or actions. The liability of each Guarantor under this Article XI shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses it may now or hereafter have in any way relating to, any or all of the following:

- (a) any lack of validity or enforceability of any Loan Document or any agreement or instrument relating thereto;
- (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from any Loan Document, including, without limitation, any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Loan Party or otherwise;
- (c) any taking, exchange, release or non-perfection of any Collateral, or any taking, release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;

(d) the existence of any claim, set-off, defense or other right that any Guarantor may have at any time against any Person, including, without limitation, any Secured Party;

(e) any change, restructuring or termination of the corporate, limited liability company or partnership structure or existence of any Loan Party; or

(f) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by the Secured Parties that might otherwise constitute a defense available to, or a discharge of, any Loan Party or any other guarantor or surety.

This Article XI shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by Secured Parties or any other Person upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise, all as though such payment had not been made.

Section 11.03 Waiver. Each Guarantor hereby waives (i) promptness and diligence, (ii) notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and this Article XI and any requirement that the Secured Parties exhaust any right or take any action against any Loan Party or any other Person or any Collateral, (iii) any right to compel or direct any Secured Party to seek payment or recovery of any amounts owed under this Article XI from any one particular fund or source or to exhaust any right or take any action against any other Loan Party, any other Person or any Collateral, (iv) any requirement that any Secured Party protect, secure, perfect or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any Loan Party, any other Person or any Collateral, and (v) any other defense available to any Guarantor. Each Guarantor agrees that the Secured Parties shall have no obligation to marshal any assets in favor of any Guarantor or against, or in payment of, any or all of the Obligations. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated herein and that the waiver set forth in this Section 11.03 is knowingly made in contemplation of such benefits. Each Guarantor hereby waives any right to revoke this Article XI, and acknowledges that this Article XI is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

Section 11.04 Continuing Guaranty; Assignments. This Article XI is a continuing guaranty and shall (a) remain in full force and effect until the later of the cash payment in full of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI and the Final Maturity Date, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by the Secured Parties and their successors, pledgees, transferees and assigns. Without limiting the generality of the foregoing clause (c), any

Agent or any Lender may pledge, assign or otherwise transfer all or any portion of its rights and obligations under this Agreement (including, without limitation, all or any portion of its Commitments, its Loans owing to it) to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to such Agent or such Lender herein or otherwise, in each case as provided in Section 12.07.

Section 11.05 Subrogation. No Guarantor will exercise any rights that it may now or hereafter acquire against any Loan Party or any other guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's obligations under this Article XI, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Secured Parties against any Loan Party or any other guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from any Loan Party or any other guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until all of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI shall have been paid in full in cash and the Final Maturity Date shall have occurred. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the later of the payment in full in cash of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI and the Final Maturity Date, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Secured Parties to be credited and applied to the Guaranteed Obligations and all other amounts payable under this Article XI, whether matured or unmatured, in accordance with the terms of this Agreement, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under this Article XI thereafter arising. If (i) any Guarantor shall make payment to the Secured Parties of all or any part of the Guaranteed Obligations, (ii) all of the Guaranteed Obligations and all other amounts payable under this Article XI shall be paid in full in cash and (iii) the Final Maturity Date shall have occurred, the Secured Parties will, at such Guarantor's reasonable request and expense, execute and deliver to such Guarantor appropriate documents, without recourse to and without representation or warranty by the Secured Parties of any kind, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment by such Guarantor.

Section 11.06 Contribution. All Guarantors desire to allocate among themselves, in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Guarantor under this Guaranty such that its Aggregate Payments exceeds its Fair Share as of such date, such Guarantor

shall be entitled to a contribution from each of the other Guarantors in an amount sufficient to cause each Guarantor's Aggregate Payments to equal its Fair Share as of such date. "Fair Share" means, with respect to any Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Guarantor, to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Guarantors multiplied by, (b) the aggregate amount paid or distributed on or before such date by all Guarantors under this Guaranty in respect of the obligations guaranteed. "Fair Share Contribution Amount" means, with respect to any Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Guarantor under this Guaranty that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of state law; provided, solely for purposes of calculating the "Fair Share Contribution Amount" with respect to any Guarantor for purposes of this Section 11.06, any assets or liabilities of such Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Guarantor. "Aggregate Payments" means, with respect to any Guarantor as of any date of determination, an amount equal to (A) the aggregate amount of all payments and distributions made on or before such date by such Guarantor in respect of this Guaranty (including, without limitation, in respect of this Section 11.06), minus (B) the aggregate amount of all payments received on or before such date by such Guarantor from the other Guarantors as contributions under this Section 11.06. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Guarantor. The allocation among Guarantors of their obligations as set forth in this Section 11.06 shall not be construed in any way to limit the liability of any Guarantor hereunder. Each Guarantor is a third party beneficiary to the contribution agreement set forth in this Section 11.06.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Notices, Etc.

(a) Notices Generally. All notices and other communications provided for hereunder or under any other Loan Document shall be in writing and shall be delivered by hand, sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, or telecopier. In the case of notices or other communications to any Loan Party, Administrative Agent or the Collateral Agent, as the case may be, they shall be sent to the respective address set forth below (or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties complying as to delivery with the terms of this Section 12.01):



c/o Exela Technologies BPA, LLC
6641 N. Belt Line Road, Suite 100
Irving, TX 75063 USA
Attention: President
Email: legalnotices@exelatech.com
with a copy to:

Latham & Watkins LLP
Attention: Hugh Murtagh
1271 Avenue of the Americas
New York, NY 10020
Email: Hugh.Murtagh@lw.com

if to the Administrative Agent or the Collateral Agent, to it at the following address:

Ankura Trust Company, LLC
140 Sherman Street, 4th Floor
Fairfield, CT 06824
Attention: Beth Micena
Email: Beth.Micena@ankura.com

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

Ropes & Gray LLP
1211 Avenue of the Americas
New York, NY 10036-8704
Attention: Mark Somerstein, Patricia Chen
Email: mark.somerstein@ropesgray.com; patricia.chen@ropesgray.com

All notices or other communications sent in accordance with this Section 12.01, shall be deemed received on the earlier of the date of actual receipt or 3 Business Days after the deposit thereof in the mail; provided, that (i) notices sent by overnight courier service shall be deemed to have been given when received, (ii) notices 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), provided, further that any notice or other communication to any Agent shall not be effective until received by such Agent during its normal business hours, and (iii) notices by electronic communications shall be deemed given as provided in Section 12.01(b); provided, further, that, in no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

(b) Electronic Communications.

(i) Each Agent and the Administrative 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. Notices and other

communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agents, provided, that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Agents that it is incapable of receiving notices under such Article by electronic communication.

(ii) Unless the Administrative Agent otherwise prescribes, (A) 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 (B) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (A), of notification that such notice or communication is available and identifying the website address therefor; provided, that, for both clauses (A) and (B) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient. Notwithstanding any other provision of this Agreement, none of the Agents or their Related Parties will be responsible or liable to the Borrowers or any other Person for damages arising from the use by others of any information or other materials obtained through internet, electronic, telecommunications or other information transmission systems.

Section 12.02 Amendments, Etc. (a) No amendment or waiver of any provision of this Agreement or any other Loan Document (excluding the Fee Letter), and no consent to any departure by any Loan Party therefrom, shall in any event be effective unless the same shall be in writing and signed (x) in the case of an amendment, consent or waiver to cure any ambiguity, omission, defect or inconsistency or grant a new Lien for the benefit of the Secured Parties or extending an existing Lien over additional property, by the Agents and the Borrowers (or by the Administrative Borrower on behalf of the Borrowers), (y) in the case of any other waiver or consent, by the Required Lenders (with a copy to the Agents) (or by the Agents with the consent of the Required Lenders) and (z) in the case of any other amendment, by the Required Lenders (with a copy to the Agents) (or by the Agents with the consent of the Required Lenders) and the Borrowers (or by the Administrative Borrower on behalf of the Borrowers), and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall:

(i) other than pursuant to Section 2.14, increase the Commitment of any Lender, reduce the principal of, or interest on, the Loans payable to any Lender, reduce the amount of any fee payable for the account of any Lender, or postpone or extend any scheduled date fixed for any payment of principal of, or interest or fees on, the Loans payable to any Lender, in each case, without the written consent of such Lender;

(ii) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans that is required for the Lenders or any of them to take any action hereunder without the written consent of each Lender;

(iii) amend the definition of “Required Lenders” or “Pro Rata Share” without the written consent of each Lender;

(iv) release all or a substantial portion of the Collateral (except as otherwise provided in this Agreement and the other Loan Documents), subordinate any Lien granted in favor of the Collateral Agent for the benefit of the Secured Parties, or release any Borrower or any Guarantor (except in connection with a Disposition of the Equity Interests thereof permitted by Section 7.02(c)(ii)), in each case, without the written consent of each Lender; provided, that the Required Lenders may elect to release all or a substantial portion of the Collateral without the requirement to obtain the written consent of each Lender if such release is in connection with (x) an exercise of remedies by the Collateral Agent at the direction of the Required Lenders pursuant to Section 9.01 or (y) any Disposition of all or a substantial portion of the Collateral by one or more of the Loan Parties with the consent of the Required Lenders after the occurrence and during the continuance of an Event of Default so long as such Disposition is conducted in a commercially reasonable manner as if such Disposition were a disposition of collateral by a secured creditor in accordance with Article 9 of the UCC or the applicable provisions of the PPSA;

(v) amend, modify or waive Section 4.02, Section 4.03 or this Section 12.02 of this Agreement without the written consent of each Lender;

(vi) amend, modify or waive the definition of Liability Management Transaction or Section 7.02(s) of this Agreement without the written consent of the Required Supermajority Lenders; or

(vii) amend, waive or otherwise modify Section 12.07(m) or any provision of the Loan Documents to allow for purchases of any Loans (by open market purchase, Dutch auction, through assignments or otherwise) without the written consent of each Lender directly and adversely affected thereby.

(b) Notwithstanding anything to the contrary in Section 12.02(a):

(i) no amendment, waiver or consent shall, unless in writing and signed by each Agent, affect the rights or duties of, or any fees or other amounts payable to, such Agent (but not in its capacity as a Lender) under this Agreement or the other Loan Documents; provided, that, only the consent of the parties to the Fee Letter shall be required to amend, modify or supplement the terms thereof;

(ii) any amendment, waiver or consent to any provision of this Agreement (including Sections 4.01 and 4.02) that permits any Loan Party to purchase Loans on a non-pro rata basis, become an eligible assignee pursuant to Section 12.07 and/or make offers to make optional prepayments on a non-pro rata basis shall require the prior written consent of the Required Lenders rather than the prior written consent of each Lender directly affected thereby;

(iii) any Control Agreement, Guaranty, Mortgage, Security Agreement, Canadian Security Agreement, collateral access agreement, landlord waiver or other agreement or document purporting to create or perfect a security interest in any of the Collateral (a “Collateral Document”) may be amended, waived or otherwise modified with the consent of the applicable Agent and the applicable Loan Party without the need to obtain the consent of any Lender or any other Person if such amendment, modification, supplement or waiver is delivered in order (A) to comply with local Requirements of Law (including foreign law or regulatory requirements) or advice of local counsel, (B) to cure any ambiguity, inconsistency, omission, mistake or defect or (C) to cause such Collateral Document to be consistent with this Agreement and the other Loan Documents, and if the Administrative Agent and the Administrative Borrower shall have jointly identified an ambiguity, inconsistency, omission, mistake or defect, in each case, in any provision of any Loan Document (other than a Collateral Document), then the Administrative Agent and the Administrative Borrower shall be permitted to amend such provision; any amendment, waiver or modification pursuant to this paragraph shall become effective without any further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof;

(iv) no consent of any Loan Party shall be required to change any order of priority set forth in Section 2.05(d) and Section 4.03; and

(v) the Administrative Agent and the Administrative Borrower may enter into an amendment to this Agreement pursuant to Section 2.13 to reflect an alternative service or index rate and such other related changes to this Agreement as may be applicable, and the Administrative Agent may make Conforming Changes pursuant to Section 2.13; and

(vi) no Defaulting Lender or any Affiliate of a Defaulting Lender that is a Lender shall have any right to approve or disapprove any amendment, waiver or consent under the Loan Documents and any Loans held by such Person for purposes hereof shall be automatically deemed to be voted pro rata according to the Loans of all other Lenders in the aggregate (other than such Defaulting Lender or Affiliate).

(c) [Reserved].

(d) [Reserved].

Section 12.03 No Waiver; Remedies, Etc. No failure on the part of any Agent or any Lender to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right under any Loan Document preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Agents and the Lenders provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Agents and the Lenders under any Loan Document against any party thereto are not conditional or contingent on any attempt by the Agents and the Lenders

to exercise any of their rights under any other Loan Document against such party or against any other Person.

Section 12.04 Expenses; Attorneys' Fees. The Borrowers will pay on demand, all costs and expenses incurred by or on behalf of each Agent (and, in the case of clauses (b) through (m) below, each Lender), regardless of whether the transactions contemplated hereby are consummated, including, without limitation, reasonable fees, costs, client charges and expenses of counsel for each Agent (and, in the case of clauses (b) through (m) below, each Lender), accounting, due diligence, periodic field audits, physical counts, valuations, investigations, searches and filings, monitoring of assets, appraisals of Collateral, the rating of the Loans, title searches and reviewing environmental assessments, miscellaneous disbursements, examination, travel, lodging and meals, arising from or relating to: (a) the negotiation, preparation, execution, delivery, performance and administration of this Agreement and the other Loan Documents (including, without limitation, the preparation of any additional Loan Documents pursuant to Section 7.01(b) or the review of any of the agreements, instruments and documents referred to in Section 7.01(f)), (b) any requested amendments, supplements, waivers, modifications or consents to this Agreement or the other Loan Documents whether or not such documents become effective or are given, (c) the preservation, protection and enforcement of the Agents' or any of the Lenders' rights under this Agreement or the other Loan Documents, (d) the defense of any claim or action asserted or brought against any Agent or any Lender by any Person that arises from or relates to this Agreement, any other Loan Document, the Agents' or the Lenders' claims against any Loan Party, or any and all matters in connection therewith, (e) the commencement or defense of, or intervention in, any court proceeding arising from or related to this Agreement or any other Loan Document, (f) the filing of any petition, complaint, answer, motion or other pleading by any Agent or any Lender, or the taking of any action in respect of the Collateral or other security, in connection with this Agreement or any other Loan Document, (g) the protection, collection, lease, sale, taking possession of or liquidation of, any Collateral or other security in connection with this Agreement or any other Loan Document, (h) any attempt to enforce any Lien or security interest in any Collateral or other security in connection with this Agreement or any other Loan Document, (i) any attempt to collect from any Loan Party, (j) any Environmental Claim, Environmental Liability or Remedial Action arising from or in connection with the past, present or future operations of, or any property currently, formerly or in the future owned, leased or operated by, any Loan Party, any of its Subsidiaries or any predecessor in interest, (k) any Environmental Lien, (l) the rating of the Loans by one or more rating agencies in connection with any Lender's Securitization, or (m) the receipt by any Agent or any Lender of any advice from professionals with respect to any of the foregoing. Without limitation of the foregoing or any other provision of any Loan Document: (x) the Borrowers agree to pay all broker fees that may become due in connection with the transactions contemplated by this Agreement and the other Loan Documents and (y) if the Borrowers fail to



perform any covenant or agreement contained herein or in any other Loan Document, any Agent may itself perform or cause performance of such covenant or agreement, and the expenses of such Agent incurred in connection therewith shall be reimbursed on demand by the Borrowers. The obligations of the Borrowers under this Section 12.04 shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

Section 12.05 Right of Set-off. Upon the occurrence and during the continuance of any Event of Default, any Agent or any Lender may, and is hereby authorized to, at any time and from time to time, without notice to any Loan Party (any such notice being expressly waived by the Loan Parties) and to the fullest extent permitted by law, set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing by such Agent or such Lender or any of their respective Affiliates to or for the credit or the account of any Loan Party against any and all obligations of the Loan Parties either now or hereafter existing under any Loan Document, irrespective of whether or not such Agent or such Lender shall have made any demand hereunder or thereunder and although such obligations may be contingent or unmatured; provided, that in the event that any Defaulting Lender shall exercise any such right of set-off, (a) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 4.04 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Secured Parties, and (b) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of set-off. Each Agent and each Lender agrees to notify the Administrative Agent and such Loan Party in writing promptly after any such set-off and application made by such Agent or such Lender or any of their respective Affiliates provided, that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Agents and the Lenders under this Section 12.05 are in addition to the other rights and remedies (including other rights of set-off) which the Agents and the Lenders may have under this Agreement or any other Loan Documents of law or otherwise.

Section 12.06 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 12.07 Assignments and Participations.

(a) This Agreement and the other Loan Documents shall be binding upon and inure to the benefit of each Loan Party and each Agent and each Lender and their respective successors and assigns; provided, however, that none of the Loan Parties may assign or transfer any of its rights hereunder or under the other Loan Documents without the prior written consent of each Agent and any such assignment without the Agents' prior written consent shall be null and void.

(b) Subject to the conditions set forth in clause (c) below, each Lender may assign all or a portion of its rights and obligations under this Agreement with respect to all or a portion of its Term Loan Commitment and any Term Loan made by it to one or more other Persons (other than a natural person) that is primarily engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities, with the written consent of the Administrative Agent;

provided, however, that no written consent of the Administrative Agent shall be required in connection with any assignment by a Lender to a Lender, an Affiliate of such Lender or a Related Fund of such Lender.

(c) Assignments shall be subject to the following additional conditions:

(i) Each such assignment shall be in an amount which is at least \$1,000,000 or a multiple of \$500,000 in excess thereof (or the remainder of such Lender's Commitment) (except such minimum amount shall not apply to an assignment by a Lender to (A) a Lender, an Affiliate of such Lender or a Related Fund of such Lender or (B) a group of new Lenders, each of whom is an Affiliate or Related Fund of each other to the extent the aggregate amount to be assigned to all such new Lenders is at least \$1,000,000 or a multiple of \$500,000 in excess thereof);

(ii) The parties to each such assignment shall execute and deliver to the Administrative Agent, for its acceptance, an Assignment and Acceptance and such parties shall deliver to the Administrative Agent, for its own benefit, a processing and recordation fee of \$3,500 (which may be waived by the Administrative Agent in its sole discretion), and if such assignee is not a Lender, such assignee shall deliver to the Administrative Agent, a completed Administrative Questionnaire, all tax forms required under Section 2.09 and all documentation and other information that each Agent reasonably requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering or terrorist financing rules and regulations, including the USA PATRIOT Act; and

(iii) No such assignment shall be made to (A) any Defaulting Lender or any of its Affiliates, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (A) or (B) any Natural Person.

(d) Upon such execution, delivery and acceptance, from and after the effective date specified in each Assignment and Acceptance and recordation on the Register, which effective date shall be at least 3 Business Days after the delivery thereof to the Administrative Agent (or such shorter period as shall be agreed to by the Administrative Agent and the parties to

such assignment), (A) the assignee thereunder shall become a “Lender” hereunder and, in addition to the rights and obligations hereunder held by it immediately prior to such effective date, have the rights and obligations hereunder that have been assigned to it pursuant to such Assignment and Acceptance and (B) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto).

(e) By executing and delivering an Assignment and Acceptance, the assigning Lender and the assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or any other Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto; (ii) the assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Loan Party or any of its Subsidiaries or the performance or observance by any Loan Party of any of its obligations under this Agreement or any other Loan Document furnished pursuant hereto; (iii) such assignee confirms that it has received a copy of this Agreement and the other Loan Documents, together with such other documents and information it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (iv) such assignee will, independently and without reliance upon the assigning Lender, any Agent or any Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents; (v) such assignee appoints and authorizes the Agents to take such action as agents on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Agents by the terms hereof and thereof, together with such powers as are reasonably incidental hereto and thereto; and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement and the other Loan Documents are required to be performed by it as a Lender.

(f) The Administrative Agent shall, acting for this purpose as a non-fiduciary agent of the Borrowers, solely for tax purposes, maintain, or cause to be maintained at one of its offices, a copy of each Assignment and Acceptance delivered to and accepted by it and a register (the “Register”) for the recordation of the names and addresses of the Lenders and the Commitments of, and the principal amount of the Loans (and stated interest thereon) (the “Registered Loans”) owing to each Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrowers, the Agents and the Lenders shall treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Administrative Borrower and any Lender (solely with respect to its own outstanding Obligations) at any reasonable time and from time to time upon reasonable prior written notice. This Section 12.07(i) and Section 12.07(f) shall be construed so that the Loans are at all times maintained in “registered form” within the meaning of Sections 163(f), 871(h)(2) and

881(c)(2) of the Code and Treasury Regulations thereunder, and the right, title and interest of each Lender in and to such Loans shall be transferable only upon notation of such transfer in the Register.

(g) Upon receipt by the Administrative Agent of a completed Assignment and Acceptance, and subject to any consent required from the Administrative Agent pursuant to Section 12.07(b) (which consent of the applicable Agent must be evidenced by the Administrative Agent's execution of an acceptance to such Assignment and Acceptance), the Administrative Agent shall accept such assignment, record the information contained therein in the Register (as adjusted to reflect any principal payments on or amounts capitalized and added to the principal balance of the Loans and/or Commitment reductions made subsequent to the effective date of the applicable assignment, as confirmed in writing by the corresponding assignor and assignee in conjunction with delivery of the assignment to the Administrative Agent).

(h) A Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide). Any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any, evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon, at the request of the designated assignee(s) or transferee(s) to the Administrative Borrower, one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s).

(i) If any Lender sells participations in a Registered Loan, such Lender shall, acting for this purpose as a non-fiduciary agent on behalf of the Borrowers, maintain, or cause to be maintained, a register, on which it enters the name of all participants in the Registered Loans held by it and the principal amount (and stated interest thereon) of the portion of the Registered Loan that is the subject of the participation (the "Participant Register"). A Registered Loan (and the registered note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register. The Participant Register shall be available for inspection by the Administrative Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(j) Any Foreign Lender who purchases or is assigned or participates in any portion of such Registered Loan shall comply with Section 2.09(d).

(k) Each Lender may sell participations to one or more banks or other entities in or to all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including, without limitation, all or a portion of its Commitments and the Loans made by it); provided, that (i) such Lender's obligations under this Agreement (including without limitation, its Commitments hereunder) and the other Loan Documents shall remain unchanged;

(ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and the Borrowers, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents; and (iii) a participant shall not be entitled to require such Lender to take or omit to take any action hereunder except (A) action directly effecting an extension of the maturity dates or decrease in the principal amount of the Loans, (B) action directly effecting an extension of the due dates or a decrease in the rate of interest payable on the Loans or the fees payable to such Lender under this Agreement, or (C) actions directly effecting a release of all or a substantial portion of the Collateral or any Loan Party (except as set forth in Section 10.08 of this Agreement or any other Loan Document). The Loan Parties agree that each participant shall be entitled to the benefits of Section 2.09 and Section 2.10 of this Agreement with respect to its participation in any portion of the Commitments and the Loans as if it was a Lender.

(l) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or loans made to, or other indebtedness issued by, such Lender pursuant to a securitization transaction (including any structured warehouse credit facility, collateralized loan obligation transaction or similar facility or transaction, and including any further securitization of the indebtedness or equity issued under such a transaction) (a "Securitization"); 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. The Loan Parties shall cooperate with such Lender and its Affiliates to effect a Securitization, including, without limitation, by providing such information as may be reasonably requested by such Lender in connection with the rating of its Loans or any Securitization.

(m) Any Lender may, so long as no Event of Default has occurred and is continuing or would result therefrom, assign all or a portion of its rights and obligations with respect to the Term Loans and the Term Loan Commitments under this Agreement to the Lead Borrower, any of the Lead Borrower's Subsidiaries through (i) Dutch auctions open to all Lenders using solely cash consideration (and not the proceeds of Indebtedness (including for the avoidance of doubt, revolving indebtedness) or (ii) open market purchases using solely cash consideration (and not the proceeds of Indebtedness (including for the avoidance of doubt, revolving indebtedness) and solely offered on a pro rata basis to all Lenders, in each case subject to the following limitations; provided, that:

(i) if the assignee is a Subsidiary of the Lead Borrower (but not a Borrower), upon such assignment, transfer or contribution, the applicable assignee shall automatically be deemed to have contributed or transferred the principal amount of such Term Loans, plus all accrued and unpaid interest thereon, to a Borrower; or

(ii) if the assignee is a Borrower (including through contribution or transfers set forth in clause (i) above), either (1) (x) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, so contributed, assigned or transferred to such Borrower shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer and (y) such Borrower shall promptly provide written notice

to the Administrative Agent of such contribution, assignment or transfer of such Term Loans (which notice shall set forth the effective date and amount of such contribution, assignment or transfer), and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register as of the effective date set forth in such notice or (2) the Obligations in respect of such Term Loans shall become subordinated to the Term Loans of the other Lenders on terms and conditions satisfactory to the Borrowers, the Agents and the Required Lenders.

Section 12.08 Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telecopier or electronic mail shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telecopier or electronic mail also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document *mutatis mutandis*.

Section 12.09 GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.

Section 12.10 CONSENT TO JURISDICTION; SERVICE OF PROCESS AND VENUE.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE FEDERAL COURTS SITTING IN THE SOUTHERN DISTRICT OF NEW YORK IN THE STATE OF NEW YORK, OR IF SUCH FEDERAL COURTS DO NOT HAVE JURISDICTION, THEN TO THE COMMERCIAL DIVISION OF THE STATE COURTS RESIDING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK, OR, TO THE EXTENT THAT ANY ACTION IS NOT ELIGIBLE FOR FILING IN THE COMMERCIAL DIVISION, THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH LOAN PARTY HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURT. EACH LOAN PARTY HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS AND IN ANY SUCH ACTION OR PROCEEDING BY ANY MEANS PERMITTED BY APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, BY THE MAILING OF

COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE BORROWER AT ITS ADDRESS FOR NOTICES AS SET FORTH IN SECTION 12.01, SUCH SERVICE TO BECOME EFFECTIVE 10 DAYS AFTER SUCH MAILING. THE LOAN PARTIES AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE AGENTS AND THE LENDERS TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY LOAN PARTY IN ANY OTHER JURISDICTION. EACH LOAN PARTY HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY LOAN PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH LOAN PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

(b) Each Loan Party irrevocably and unconditionally agrees that it will not commence any action or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against any Agent, any 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.

(c) [Reserved].

Section 12.11 WAIVER OF JURY TRIAL, ETC. EACH LOAN PARTY, EACH AGENT AND EACH LENDER HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS, OR UNDER ANY AMENDMENT, WAIVER, CONSENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION THEREWITH, OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION, PROCEEDINGS OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH LOAN PARTY CERTIFIES THAT NO OFFICER, REPRESENTATIVE, AGENT OR ATTORNEY OF ANY AGENT OR ANY LENDER HAS REPRESENTED, EXPRESSLY OR



OTHERWISE, THAT ANY AGENT OR ANY LENDER WOULD NOT, IN THE EVENT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM, SEEK TO ENFORCE THE FOREGOING WAIVERS. EACH LOAN PARTY HEREBY ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE AGENTS AND THE LENDERS ENTERING INTO THIS AGREEMENT.

Section 12.12 Consent by the Agents and Lenders. Except as otherwise expressly set forth herein to the contrary or in any other Loan Document, if the consent, approval, satisfaction, determination, judgment, acceptance or similar action (an “Action”) of any Agent or any Lender shall be permitted or required pursuant to any provision hereof or any provision of any other agreement to which any Loan Party is a party and to which any Agent or any Lender has succeeded thereto, such Action shall be required to be in writing and may be withheld or denied by such Agent or such Lender, in its sole discretion, with or without any reason, and without being subject to question or challenge on the grounds that such Action was not taken in good faith.

Section 12.13 No Party Deemed Drafter. Each of the parties hereto agrees that no party hereto shall be deemed to be the drafter of this Agreement.

Section 12.14 Reinstatement; Certain Payments. If any claim is ever made upon any Secured Party for repayment or recovery of any amount or amounts received by such Secured Party in payment or on account of any of the Obligations, such Secured Party shall give prompt notice of such claim to the Administrative Agent and the Administrative Borrower, and if such Secured Party repays all or part of such amount by reason of (i) any judgment, decree or order of any court or administrative body having jurisdiction over such Secured Party or any of its property, or (ii) any good faith settlement or compromise of any such claim effected by such Secured Party with any such claimant, then and in such event each Loan Party agrees that (A) any such judgment, decree, order, settlement or compromise shall be binding upon it notwithstanding the cancellation of any Indebtedness hereunder or under the other Loan Documents or the termination of this Agreement or the other Loan Documents, and (B) it shall be and remain liable to such Secured Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by such Secured Party.

Section 12.15 Indemnification; Limitation of Liability for Certain Damages.

(a) In addition to each Loan Party’s other Obligations under this Agreement, each Loan Party agrees to, jointly and severally, defend, protect, indemnify and hold harmless each Secured Party and all of their respective Related Parties (collectively called the “Indemnitees”) from and against any and all losses, damages, liabilities, actions, suits,

judgments, obligations, penalties, fees, claims, reasonable costs and expenses (including, without limitation, reasonable attorneys' fees, costs and expenses) incurred by such Indemnitees, whether prior to or from and after the Effective Date, whether direct, indirect or consequential, as a result of or arising from or relating to or in connection with any of the following: (i) the negotiation, preparation, execution, performance, delivery, administration or enforcement of this Agreement, any other Loan Document, of any Environmental Claim or any other document executed in connection with the transactions contemplated by the Loan Documents, (ii) any Agent's or any Lender's furnishing of funds to the Borrowers under this Agreement or the other Loan Documents, including, without limitation, the management of any such Loans or the Borrowers' use of the proceeds thereof, (iii) the Agents and the Lenders relying on any instructions of the Administrative Borrower or the handling of the Collateral of the Borrowers as provided in the Loan Documents, (iv) any matter relating to the financing transactions contemplated by this Agreement or the other Loan Documents or by any document executed in connection with the transactions contemplated by this Agreement or the other Loan Documents, or (v) any claim, including any Environmental Claim, investigation or proceeding relating to or arising out of any of the foregoing, whether or not any Indemnatee is a party thereto (collectively, the "Indemnified Matters"); provided, however, that the Loan Parties shall not have any obligation to any Indemnatee under this subsection (a) for any Indemnified Matter caused by the gross negligence or willful misconduct of such Indemnatee, as determined by a final non-appealable judgment of a court of competent jurisdiction. This Section 12.15 and Section 12.04 shall not apply with respect to Taxes other than any Taxes that represent losses, damages, liabilities, actions, suits, judgments, obligations, penalties, fees, claims, or reasonable costs and expenses arising from any non-Tax claim.

(b) To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section 12.15 may be unenforceable because it is violative of any law or public policy, each Loan Party shall, jointly and severally, contribute the maximum portion which it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all Indemnified Matters incurred by the Indemnitees.

(c) No Loan Party shall assert, and each Loan Party hereby waives, any claim against the Indemnitees, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each Loan Party hereby waives, releases and agrees not to sue upon any such claim or seek any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(d) The indemnities and waivers set forth in this Section 12.15 shall survive the resignation or replacement of any Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments, the repayment, satisfaction or discharge of the Loans and all other Obligations payable hereunder and under any other Loan Document, and the termination of this Agreement or any other Loan Document.

Section 12.16 Records. The unpaid principal of and interest on the Loans, the interest rate or rates applicable to such unpaid principal and interest, the duration of such applicability, the Commitments, and the accrued and unpaid fees payable pursuant to Section 2.06 hereof, shall at all times be ascertained from the records of the Agents, which shall be conclusive and binding absent manifest error.

Section 12.17 Binding Effect. This Agreement shall become effective when it shall have been executed by each Loan Party, each Agent and each Lender and when the conditions precedent set forth in Section 5.01 hereof have been satisfied or waived in writing by the Agents and the Required Lenders, and thereafter shall be binding upon and inure to the benefit of each Loan Party, each Agent and each Lender, and their respective successors and assigns, except that the Loan Parties shall not have the right to assign their rights hereunder or any interest herein without the prior written consent of each Agent and each Lender, and any assignment by any Lender shall be governed by Section 12.07 hereof.

Section 12.18 Highest Lawful Rate. It is the intention of the parties hereto that each Agent and each Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other Loan Document would be usurious as to any Agent or any Lender under laws applicable to it (including the laws of the United States of America and the State of New York, the federal laws of Canada (including the Criminal Code (Canada)) or any other jurisdiction whose laws may be mandatorily applicable to such Agent or such Lender notwithstanding the other provisions of this Agreement), then, in that event, notwithstanding anything to the contrary in this Agreement or any other Loan Document or any agreement entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to any Agent or any Lender that is contracted for, taken, reserved, charged or received by such Agent or such Lender under this Agreement or any other Loan Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by such Agent or such Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by such Agent (solely if such Agent is holding such excess) or such Lender, as applicable, to the Borrowers); and (ii) in the event that the maturity of the Obligations is accelerated by reason of any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest under law applicable to any Agent or any Lender may never include more than the maximum amount allowed by such applicable law, and excess interest, if any, provided for in this Agreement or otherwise shall, subject to the last sentence of this Section 12.18, be canceled automatically by such Agent or such Lender, as applicable, as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited by such Agent or such Lender, as applicable, on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations shall have been or would thereby be paid in full, refunded by such Agent (solely if such Agent is holding such excess) or such Lender to the Borrowers). All sums paid or agreed to be paid to any Agent or any Lender for the use, forbearance or detention of sums due hereunder shall, to the extent permitted by law applicable to such Agent or such Lender, be amortized, prorated, allocated and spread throughout the full term of the Loans until payment in full so that the rate or amount of interest on account of any Loans hereunder does not exceed the maximum amount allowed by such applicable law. If at any time and from time to time (x) the amount of interest payable to any Agent or any Lender on any date shall be computed at the Highest Lawful Rate applicable to such Agent or such Lender pursuant to this Section 12.18 and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to such Agent or such Lender would be less than the amount of interest payable to such Agent or such Lender

computed at the Highest Lawful Rate applicable to such Agent or such Lender, then the amount of interest payable to such Agent or such Lender in respect of such subsequent interest computation period shall continue to be computed at the Highest Lawful Rate applicable to such Agent or such Lender until the total amount of interest payable to such Agent or such Lender shall equal the total amount of interest which would have been payable to such Agent or such Lender if the total amount of interest had been computed without giving effect to this Section 12.18.

For purposes of this Section 12.18, the term “applicable law” shall mean that law in effect from time to time and applicable to the loan transaction between the Borrowers, on the one hand, and the Agents and the Lenders, on the other, that lawfully permits the charging and collection of the highest permissible, lawful non-usurious rate of interest on such loan transaction and this Agreement, including laws of the State of New York and, to the extent controlling, laws of the United States of America

The right to accelerate the maturity of the Obligations does not include the right to accelerate any interest that has not accrued as of the date of acceleration.

Section 12.19 Confidentiality. Each Agent and each Lender agrees (on behalf of itself and its Related Parties) to use reasonable precautions to keep confidential, in accordance with its customary procedures for handling confidential information of this nature and in accordance with safe and sound practices of comparable commercial finance companies, any non-public information supplied to it by the Loan Parties pursuant to this Agreement or the other Loan Documents which is identified in writing by the Loan Parties as being confidential at the time the same is delivered to such Person (and which at the time is not, and does not thereafter become, publicly available or available to such Person from another source not known to be subject to a confidentiality obligation to such Person not to disclose such information), provided, that nothing herein shall limit the disclosure by any Agent or any Lender of any such information (i) to its Affiliates, its Related Parties or the Related Parties of any Person described in clause (ii) or (iii) below) (it being understood that the Persons to whom such disclosure is made either will be informed of the confidential nature of such information and instructed to keep such information confidential in accordance with this Section 12.19 or is subject to other customary confidentiality obligations); (ii) to any other party hereto; (iii) to any assignee or participant (or prospective assignee or participant) or any party to a Securitization, so long as such assignee or participant (or prospective assignee or participant) or party to a Securitization agrees, in writing, to be bound by or is otherwise subject to customary confidentiality obligations (including, without limitation, confidentiality provisions similar in substance to this Section 12.19); (iv) to the extent required by any Requirement of Law or judicial process or as otherwise requested by any Governmental Authority; (v) to the National Association of Insurance Commissioners or any similar organization, any examiner, auditor or accountant or any nationally recognized Rating Agency; (vi) in connection with

any litigation to which any Agent or any Lender is a party; (vii) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder; (viii) to any other Person if such information is general portfolio information that does not identify the Loan Parties, or (ix) with the consent of the Administrative Borrower. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to any Agent or any Lender in connection with the administration of this Agreement, the other Loan Documents and the Commitments.

Section 12.20 Platform; Borrower Materials.

(a) Each Loan Party hereby acknowledges that (a) the Administrative Agent may make available to the Lenders communications, documents, materials or information provided by or on behalf of any Loan Party hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on IntraLinks or another similar electronic system (the “Platform”), and (b) certain of the Lenders may be “public-side” Lenders (i.e., Lenders that do not wish to receive information of a type that would constitute material non-public information with respect to the Borrowers or their securities) (each, a “Public Lender”). The Borrowers hereby agree that they will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (a) all such Borrower Materials shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, means that the word “PUBLIC” shall appear prominently on the first page thereof, (b) by marking Borrower Materials “PUBLIC,” the Borrowers shall be deemed to have authorized the Administrative Agent and the Lenders to treat the Borrower Materials as either publicly available information or not material information (although it may be sensitive and proprietary) with respect to the Borrowers or their securities for purposes of United States federal and state securities laws, (c) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Investor”; and (d) the Administrative Agent shall be entitled to treat the Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Investor.” Notwithstanding the foregoing, the following Borrower Materials may be posted on that portion of the Platform designated for Public Lenders unless the Borrowers notify the Administrative Agent promptly in writing that any such document contains material non-public information: (1) the Loan Documents, and (2) notification of changes in the terms of the Loans.

(b) Each of the Lenders and the Loan Parties acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that no Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Platform, and that there are confidentiality and other risks associated with such distribution. Each of the Lenders and the Loan Parties hereby approves distribution of the Borrower Materials through the Platform and understands and assumes the risks of such distribution.

(c) Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable law, including United States Federal and state securities laws, to make reference to Borrower Materials that are not made available through the “Public Investor” portion of the Platform and that may contain information of a type that would constitute material non-public information with respect to the Borrowers or their securities for purposes of United States Federal or state securities laws. In the event that any Public Lender has elected for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) the Agents and other Lenders may have access to such information and (ii) neither the Borrowers nor the Agents or other Lender with access to such information shall have (x) any responsibility for such Public Lender’s decision to limit the scope of information it has obtained in connection with this Agreement and the other Loan Documents or (y) any duty to disclose such information to such electing Lender or to use such information on behalf of such electing Lender, and shall not be liable for the failure to so disclose or use such information.

(d) Each Lender agrees that notice to it (as provided in the next sentence) specifying that Borrower Materials have been posted to the Platform shall constitute effective delivery of the Borrower Materials to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders and the Loan Parties agrees that each Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Borrower Materials on the Platform in accordance with such Agent’s generally applicable document retention procedures and policies.

(f) THE PLATFORM AND THE BORROWER MATERIALS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE AGENTS AND THEIR RELATED PARTIES DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS IN THE PLATFORM OR 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 OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall any Agent or its Related Parties have any liability to any Loan Party, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Loan Party’s or any Agent’s transmission of Borrower Materials through the internet or the Platform.

(g) Nothing herein shall prejudice the right of any Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

Section 12.21 Public Disclosure. Each Loan Party agrees that neither it nor any of its Affiliates will now or in the future issue any press release or other public disclosure using the name of an Agent, any Lender or any of their respective Affiliates or referring to this Agreement or any other Loan Document without the prior written consent of such Agent or such Lender, except to the extent that such Loan Party or such Affiliate is required to do so under applicable law (in which event, such Loan Party or such Affiliate will consult with such Agent or such Lender before issuing such press release or other public disclosure). Each Loan Party hereby authorizes each Agent and each Lender, after consultation with the Borrowers, to advertise the closing of the transactions contemplated by this Agreement, and to make appropriate announcements of the financial arrangements entered into among the parties hereto, as such Agent or such Lender shall deem appropriate, including, without limitation, on a home page or similar place for dissemination of information on the Internet or worldwide web, or in announcements commonly known as tombstones, in such trade publications, business journals, newspapers of general circulation and to such selected parties as such Agent or such Lender shall deem appropriate.

Section 12.22 Integration. This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof.

Section 12.23 USA PATRIOT Act. Each Agent and each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Borrowers that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies the entities composing the Borrowers, which information includes the name and address of each such entity and other information that will allow such Agent and such Lender to identify the entities composing the Borrowers in accordance with the USA PATRIOT Act. Each Loan Party agrees to take such action and execute, acknowledge and deliver at its sole cost and expense, such instruments and documents as any Agent or any Lender may reasonably require from time to time in order to enable such Agent or such Lender to comply with the USA PATRIOT Act.

Section 12.24 Judgment Currency. This is an international financial transaction in which the specification of a currency and payment in New York is of the essence. Dollars shall be the currency of account in the case of all payments pursuant to or arising under this Agreement or under any other Loan Document, and all such payments shall be made to the Administrative Agent's Accounts in New York in immediately available funds.



To the fullest extent permitted by applicable law, the obligations of each Loan Party to the Secured Parties under this Agreement and under the other Loan Documents shall not be discharged by any amount paid in any other currency or in a place other than to the Administrative Agent's Accounts in New York to the extent that the amount so paid after conversion under this Agreement and transfer to New York does not yield the amount of Dollars in New York due under this Agreement and under the other Loan Documents. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder in Dollars into another currency (the "Other Currency"), to the fullest extent permitted by applicable law, the rate of exchange used shall be that at which the Administrative Agent could, in accordance with normal procedures, purchase Dollars with the Other Currency on the Business Day preceding that on which final judgment is given. The obligation of each Loan Party in respect of any such sum due from it to the Secured Parties hereunder shall, notwithstanding any judgment in such Other Currency, be discharged only to the extent that, on the Business Day immediately following the date on which the Administrative Agent receives any sum adjudged to be so due in the Other Currency, the Administrative Agent may, in accordance with normal banking procedures, purchase Dollars with the Other Currency. If the Dollars so purchased are less than the sum originally due to the Secured Parties in Dollars, each Loan Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Secured Parties against such loss, and if the Dollars so purchased exceed the sum originally due to the Secured Parties in Dollars, the Secured Parties agrees to remit to the Loan Parties such excess.

Section 12.25 Waiver of Immunity. To the extent that any Loan Party has or hereafter may acquire (or may be attributed, whether or not claimed) any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service of process or notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) with respect to itself or any of its property, such Loan Party hereby irrevocably waives and agrees not to plead or claim, to the fullest extent permitted by law, such immunity in respect of (a) its obligations under the Loan Documents, (b) any legal proceedings to enforce such obligations and (c) any legal proceedings to enforce any judgment rendered in any proceedings to enforce such obligations. Each Loan Party hereby agrees that the waivers set forth in this Section 12.25 shall be to the fullest extent permitted under the Foreign Sovereign Immunities Act and are intended to be irrevocable for purposes of the Foreign Sovereign Immunities Act.

Section 12.26 English Language. This Agreement and each other Loan Document have been negotiated and executed in English. All certificates, reports, notices and other documents and communications given or delivered by any party hereto pursuant to this Agreement or any other Loan Document shall be in English or, if not in English, accompanied by a certified

English translation thereof. The English version of any such document shall control the meaning of the matters set forth herein.

Section 12.27 Parent. The parties hereto acknowledge and agree that Parent is not a party to this Agreement or any other Loan Document and shall not be deemed a Borrower, Guarantor, or other obligor with respect to the Obligations.

**[REMAINDER OF THIS PAGE SIGNATURE PAGES INTENTIONALLY LEFT
BLANK OMITTED]**

**FIRST AMENDMENT TO
AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT**

This **FIRST AMENDMENT TO AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT** (this “*Amendment*”), dated as of December 19, 2025, is entered into by and among XBP Americas, LLC (formerly known as Exela Technologies BPA, LLC,) a Delaware limited liability company, (the “*Borrower*”), the guarantors party thereto (the “*Guarantors*”), **BRF FINANCE CO. LLC**, a Delaware limited liability company, as administrative agent (the “*Agent*”), and the financial institutions or other entities from time to time parties hereto, each as a Lender.

RECITALS

WHEREAS, reference is made to that certain Amended and Restated Credit And Security Agreement, dated as of July 29, 2025, by and among the Borrower, the Guarantors, the Lenders, and the Agent (the “*Existing Credit Agreement*”, and as such Existing Credit Agreement is amended hereby or as may be amended, restated, amended and restated, supplemented or modified from time to time thereafter, the “*Credit Agreement*”);

WHEREAS, the Borrower has requested that the Agent and the Lenders consent to certain amendments to the negative covenants, and pursuant to Section 11.16 of the Credit Agreement, the Agent and the Lenders (including the Required Lenders) have agreed to the requested modification on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

Section 2. Acknowledgements; Reaffirmation.

2.1. Acknowledgment of Obligations. All Obligations are unconditionally owing by the Credit Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

2.2. Acknowledgment of Liens. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Agent on behalf of the Lenders has and shall continue to have valid, enforceable and perfected first-priority Liens (subject to certain Permitted Liens) upon and security interests in the Collateral heretofore granted by the Credit Parties to the Agent on behalf of the Lenders pursuant to the Financing Documents .

2.3. Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Credit Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Loan Parties grant Liens or security interests in their properties, in each case under the Financing Documents, hereby (A)

ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Financing Document to which it is a party, and (B) to the extent such Credit Party granted Liens on or security interests in any of its property pursuant to any such Financing Document (including, but not limited to, the Security Documents), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

Section 3. Amendment to Credit Agreement. As of the Effective Date (as defined below), subject to the satisfaction of the conditions precedent set forth in Section 4 of this Amendment:

3.1. All references in any Financing Document to “Exela Technologies BPA, LLC” are hereby replaced with and deemed to refer to “XBP Americas, LLC”;

3.2. Clause (c) of the definition of “Permitted Debt” is hereby amended and restated in its entirety to read as follows:

“(c) purchase money Debt to finance (whether prior to or within 180 days after) the acquisition of property or capital lease obligations not to exceed \$35,000,000 at any time (whether in the form of a loan or a lease and including any refinancing of such indebtedness pursuant to clause (ll) below) used solely to acquire, lease, construct, repair, replace or improve property or equipment used in the Ordinary Course of Business;”

3.3. Clause (i) of the definition of “Permitted Liens” is hereby amended and restated in its entirety to read as follows:

“(i) any Lien on any property or equipment securing Debt permitted under subpart (c) of the definition of Permitted Debt and on any proceeds thereof, accessions and additions thereto, customary security deposits and related property with respect to such property or equipment, *provided*, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates);”

3.4. In the penultimate paragraph of the definition of “Permitted Liens”, the reference to “**Error! Reference source not found**” shall be deleted and in lieu thereof the reference to “Section 5.2” to be added.

3.5. The parties acknowledge and agree that the page immediately following the Table of Contents (in the final pdf)(the page that starts with the definition of “Equity Interest” and ends with the definition of “Exar Originator” (or page 17)) was added to the final pdf copy of the Amended and Restated Credit Agreement in error and should be deleted. For the avoidance of doubt, page 17 occurring in numerical order shall remain.

Section 4. Conditions Precedent. Section 3 hereof shall become effective on the date (the “*Effective Date*”) upon which each of the following conditions precedent have been satisfied:

(a) receipt by the Agent and the Lenders of this Amendment, duly executed and delivered by the Borrower, the Lenders and the Agent, and acknowledged by the Guarantors;

(b) receipt by the Agent of a executed copy of the First Amendment to Credit and Security Agreement dated of even date herewith, executed by the Borrower, MidCap Funding IV Trust, as agent, and the Lenders identified therein and signatory thereto, and such First Amendment shall be effective concurrently with the effectiveness of this Amendment; and

(c) payment of all fees and other amounts due and payable on or prior to the date hereof pursuant to the Financing Documents, and the fees and disbursements invoiced at least one (1) Business Day prior to the Effective Date of the Agent's counsel, Duane Morris LLP.

Section 5. Miscellaneous.

5.1. **Incorporations by Reference.** The provisions of Sections 11.16 (*Amendments and Waivers*), 13.1 (*Survival*), 13.2 (*No Waivers*), 13.3 (*Notices*), 13.4 (*Severability*), 13.6 (*Confidentiality*), 13.8 (*Governing Law; Submission To Jurisdiction*), 13.9 (*Waiver of Jury Trial*), 13.14 (*Expenses; Indemnity*) and 13.17 (*Successors and Assigns*) of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

5.2. **Counterparts; Integration.** Section 13.11 is incorporated herein by reference, *mutatis mutandis* and shall apply to this Amendment.

5.3. **Amendment is a "Financing Document".** This Amendment is a Financing Document and all references to a "Financing Document" in the Credit Agreement and the other Financing Documents (including, without limitation, all such references in the representations and warranties in the Credit Agreement and the other Financing Documents) shall be deemed to include this Amendment.

5.4. **References to the Credit Agreement.** Upon the effectiveness of this Amendment, each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof", "herein", or words of like import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference to the Credit Agreement in any other document, instrument or agreement executed and/or delivered in connection with the Credit Agreement shall mean and be a reference to the Credit Agreement as amended hereby.

5.5. **Representations and Warranties.** The Borrower hereby represents and warrants that (a) this Amendment is the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, (b) no Default, Event of Default or, to the Borrower's knowledge, a potential Default shall have occurred and be continuing and (c) the representations and warranties set forth in the Credit Agreement and in the other Financing Documents are true and correct in all respects on and as of the Effective Date with the same force and effect as if made on and as of the Effective Date (except to the extent that any such representation or warranty expressly relates to an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date).

5.6. **Reaffirmation of Obligations.** The Borrower and each other Credit Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the Financing Documents, and (c) agrees that this Amendment and all

documents executed in connection herewith do not operate to reduce or discharge the Borrower's or such Credit Party's obligations under the Financing Documents.

5.7. **Reaffirmation of Security Interests.** The Borrower and each other Credit Party (a) affirms that each of the Liens granted in or pursuant to the Financing Documents is valid and subsisting, and (b) agrees that this Amendment and all documents executed in connection herewith shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Financing Documents.

5.8. **No Other Changes.** Except as specifically amended by this Amendment, the Credit Agreement, the other Financing Documents and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

BORROWER:

XBP AMERICAS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to First Amendment to Credit and Security Agreement]

AGENT:

BRF FINANCE CO. LLC

By: /s/ Bryant Riley

Name: Bryant Riley

Title: Authorized Signatory

[Signature Page to First Amendment to Amended and Restated Credit and Security Agreement]

LENDERS:

BRF FINANCE CO. LLC,
as Lender

By: /s/ Bryant Riley

Name: Bryant Riley

Title: Authorized Signatory

[Signature Page to First Amendment to Amended and Restated Credit and Security
Agreement]

**ACKNOWLEDGMENT TO FIRST AMENDMENT TO AMENDED AND RESTATED
CREDIT AGREEMENT**

Each of the undersigned Credit Parties hereby (a) acknowledges and consents to all of the terms and conditions of the Amendment to which this Acknowledgment is attached and the Credit Agreement, and the transactions contemplated hereby and thereby, (b) affirms and confirms all of its obligations under the Financing Documents to which it is a party, including as provided in the Amendment, and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge its obligations under the Financing Documents to which it is a party or affect the Liens and the priority of such Liens granted by such Credit Party to the Agent on behalf of the Lenders pursuant to the Financing Documents.

[Guarantor Signature Pages Follow]

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

GUARANTORS:

EXELA INTERMEDIATE LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

EXELA FINANCE, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCEHOV HOLDINGS, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCEHOV LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

CORPSOURCE HOLDINGS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

SOURCECORP, INCORPORATED

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCECORP BPS INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

DELIVEREX, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

UNITED INFORMATION SERVICES, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

ECONOMIC RESEARCH SERVICES, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCECORP LEGAL INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

RUST CONSULTING, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCEHOV HEALTHCARE, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

KINSELLA MEDIA LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

HOV SERVICES, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

HOV ENTERPRISE SERVICES, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

MERIDIAN CONSULTING GROUP, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

RUSTIC CANYON III, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

HOV SERVICES, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

CHARTER LASON, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

LASON INTERNATIONAL, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCECORP MANAGEMENT, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

PANGAEA ACQUISITIONS INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

BANCTEC GROUP LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

BANCTEC, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

BANCTEC (PUERTO RICO), INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

DOCUDATA SOLUTIONS, L.C.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

BTC VENTURES, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

RECOGNITION MEXICO HOLDING INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

**BANCTEC INTERMEDIATE HOLDING,
INC.**

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

RC4 CAPITAL, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

DFG2 HOLDINGS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

DFG2, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

PLEXUS GLOBAL FINANCE, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

HOVG, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

TRAC HOLDINGS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

MANAGED CARE PROFESSIONALS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

FTS PARENT INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

TRANSCENTRA, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

J & B SOFTWARE, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

REGULUS HOLDING INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

REGULUS GROUP LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

REGULUS GROUP II LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

REGULUS AMERICA LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

**REGULUS INTERGRATED SOLUTIONS
LLC**

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

EXELA RE LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

REGULUS WEST LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

NOVITEX HOLDINGS, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

NOVITEX INTERMEDIATE, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

**NOVITEX GOVERNMENT SOLUTIONS,
LLC**

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

EXELA XBP, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

GUARANTORS:

EXELA RECEIVABLES 3 HOLDCO, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: authorized signatory

EXELA RECEIVABLES 3, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

AFFILIATED GUARANTORS:

XCV-EMEA, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

NEON ACQUISITION, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

EXELA ENTERPRISE SOLUTIONS, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SERVICES INTEGRATION GROUP, L.P.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SIG - GP L.L.C.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Acknowledgment to First Amendment to Amended and Restated
Credit and Security Agreement]

**LIMITED WAIVER AND SECOND AMENDMENT TO
AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT**

This **LIMITED WAIVER AND SECOND AMENDMENT TO AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT** (this “*Amendment*”), dated as of January 21, 2026, is entered into by and among XBP Americas, LLC (*formerly known as* Exela Technologies BPA, LLC,) a Delaware limited liability company (the “*Borrower*”), **BRF FINANCE CO. LLC**, a Delaware limited liability company, as administrative agent (the “*Agent*”), and the financial institutions party to the Credit Agreement referred to below as a “Lender; and is acknowledged by the guarantors party to such Credit Agreement (the “*Guarantors*”).

RECITALS

WHEREAS, reference is made to that certain Amended and Restated Credit And Security Agreement, dated as of July 29, 2025, by and among the Borrower, the Guarantors, the Lenders, and the Agent (as amended by that certain First Amendment to Amended and Restated Credit Agreement, dated as of December 19, 2025, the “*Existing Credit Agreement*”, and as such Existing Credit Agreement is amended hereby or as may be amended, restated, amended and restated, supplemented or modified from time to time thereafter, the “*Credit Agreement*”);

WHEREAS, the Borrower has requested that the Agent consent to certain amendments to the Existing Credit Agreement, and pursuant to Section 11.16 of the Credit Agreement, the Agent and the Lenders (including the Required Lenders) have agreed to the requested modification on the terms and conditions set forth herein; and

WHEREAS, certain Specified Events of Default (as defined below) have occurred and are continuing and the Lenders under the Existing Credit Agreement are willing to waive the Specified Events of Default and make such amendments on the terms and subject to the conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the promises, covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

Section 2. Acknowledgements; Reaffirmation.

2.1. Acknowledgment of Obligations. All Obligations are unconditionally owing by the Credit Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

2.2. Acknowledgment of Liens. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Agent on behalf of the Lenders has and shall continue to have valid, enforceable and perfected first-priority Liens (subject to certain Permitted Liens) upon and security

interests in the Collateral heretofore granted by the Credit Parties to the Agent on behalf of the Lenders pursuant to the Financing Documents.

2.3. Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Credit Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Credit Parties grant Liens or security interests in their properties, in each case under the Financing Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Financing Document to which it is a party, and (B) to the extent such Credit Party granted Liens on or security interests in any of its property pursuant to any such Financing Document (including, but not limited to, the Security Documents), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

Section 3. Limited Waiver.

(a) Subject to the satisfaction of the conditions precedent set forth in Section 5 hereof, and in reliance upon the representations and warranties made by the Credit Parties set forth in Section 8 hereof, the Lenders hereby waive any Default or Event of Default arising under:

(i) Section 10.1(d) of the Existing Credit Agreement solely to the extent arising prior to the Effective Date from (A) any “Specified Event of Default” identified in the Limited Waiver and Second Amendment to ABL Agreement attached hereto as Exhibit 5.1(b)(i) and (B) any “Specified Event of Default” identified in the Limited Waiver and First Amendment to Term Loan Agreement attached hereto as Exhibit 5.1(b)(ii);

(ii) Section 10.1(a)(ii) of the Existing Credit Agreement resulting from the Borrower’s failure to comply with the covenant set forth in Section 5.9 of the Existing Credit Agreement as a result of the Borrower amending or otherwise modifying its Organizational Documents to change its legal name;

(iii) Section 10.1(b) of the Existing Credit Agreement resulting from the Borrower’s failure to comply with the covenant set forth in Sections 4.8(b), (c) and (f) resulting from failure to give prompt written notice upon any Credit Party becoming aware of the existence of any Default or Event of Default set forth in this Section 3, in each case, occurring prior to the Effective Date under the Existing Credit Agreement, the ABL Agreement or the Term Loan Agreement; and

(iv) Section 10.1(d) of the Existing Credit Agreement, solely to the extent arising from any default, condition or event under the ABL Agreement or the Term Loan Agreement resulting from the Defaults or Events of Default described in this Section 3 prior to the Effective Date; and

(v) Section 10.1(c) of the Existing Credit Agreement resulting from any incorrect or materially incorrect representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate,

financial statement or other document delivered pursuant to the Finance Documents, in any such case, solely with respect to the Defaults or Events of Default set forth in this Section 3 prior to the Effective

Date (the Defaults and Events of Default described in the foregoing clauses (i) through (v), collectively, the “*Specified Events of Default*”).

(b) The waiver provided in this Section 3 is limited and (i) shall only be relied upon and used for the express purposes set forth herein and shall be limited precisely as written, (ii) shall not constitute nor be deemed to be a consent, waiver, amendment or other modification of any other term or condition of the Existing Credit Agreement, the Credit Agreement or any other Financing Document, and shall not prejudice any right or remedy which the Agent or any Lender may now have or may have in the future under or in connection with the Credit Agreement or any other Financing Document (except as expressly set forth herein with respect to the Specified Events of Default), (iii) shall not constitute nor be deemed to constitute a waiver by the Agent or any Lender of anything other than for the specific purposes set forth herein, (iv) shall not constitute a custom or course of dealing among the parties hereto and (v) does not allow for any other or further departure from the terms and conditions of the Credit Agreement or any other Financing Document, which terms and conditions shall continue in full force and effect. The Agent and the Lenders hereby reserve all of their respective rights and remedies available under the Credit Agreement, the other Financing Documents and applicable law as a result of any Defaults or Events of Default (other than the Specified Events of Default) occurring at any time. Nothing contained herein, and no delay on the part of the Agent or any Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

Section 4. Amendment to Credit Agreement. As of the Effective Date (as defined below), subject to the satisfaction of the conditions precedent set forth in Section 5 of this Amendment,

4.1. the Existing Credit Agreement (excluding the Annexes, Schedules and Exhibits attached thereto) as hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text), each as set forth in the pages of a conformed copy of the amended Existing Credit Agreement attached hereto as Annex I; and

4.2. Schedule 7.4 of the Existing Credit Agreement is hereby amended and restated in its entirety as set forth in Annex II attached hereto.

Section 5. Conditions Precedent. The effectiveness of this Amendment, including the waiver provided in Section 3 above and amendments provided in Section 4 above, shall become effective on the date (the “*Effective Date*”) upon which each of the following conditions precedent have been satisfied:

(a) receipt by the Agent and the Lenders of this Amendment, duly executed and delivered by the Borrower, the Lenders and the Agent and the acknowledgement page hereto duly executed and delivered by each of the Guarantors;

(b) receipt by the Agent and the Lenders of an amendment and waiver to the ABL Agreement and the Term Loan Agreement, in each case, in substantially the forms

attached to this Amendment as Exhibit 5.1(b)(i) and Exhibit 5.1(b)(ii), respectively, which amendments and waivers shall be in form and substance satisfactory to the Agent; and

(c) payment of all fees and other amounts due and payable on or prior to the date hereof pursuant to the Financing Documents, and the fees and disbursements invoiced at least one (1) Business Day prior to the Effective Date of the Agent's counsel, Duane Morris LLP.

Section 6. [Reserved].

Section 7. Release; Waiver.

7.1. Release. Each Credit Party (on behalf of itself and its Affiliates) for itself and for its successors in title, legal representatives and assignees and, to the extent the same is claimed by right of, through or under any of the Credit Parties, for its past and present employees, agents, representatives, officers, directors, shareholders, and trustees (each, a "***Releasing Party***" and collectively, the "***Releasing Parties***"), does hereby remise, release and discharge the Agent and each Lender in their respective capacities as such under the Financing Documents, and the Agent's and each Lender's respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals and all other persons and entities to whom the Agent and each Lender or any of their respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals would be liable if such persons or entities were found to be liable to any Releasing Party or any of them (collectively, hereinafter the "***Releasees***"), from any and all manner of action and actions, cause and causes of action, claims, charges, demands, counterclaims, crossclaims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, rights of setoff and recoupment, controversies, damages, judgments, expenses, executions, liens, claims of liens, claims of costs, penalties, attorneys' fees, or any other compensation, recovery or relief on account of any liability, obligation, demand or cause of action of whatever nature, whether in law, equity or otherwise (including, without limitation, any claims relating to (i) the making or administration of the Loans, including, without limitation, any such claims and defenses based on mistake, duress, usury or misrepresentation, or any other claim based on so-called "lender liability" theories, (ii) any covenants, agreements, duties or obligations set forth in the Existing Credit Agreement, (iii) increased financing costs, interest or other carrying costs, (iv) penalties, (v) lost profits or loss of business opportunity, (vi) legal, accounting and other administrative or professional fees and expenses and incidental, consequential and punitive damages payable to third parties, (vii) damages to business reputation or (viii) to the extent allowed by applicable Law, any claims arising under 11 U.S.C. Sections 541 to 550 or any claims for avoidance or recovery under any other federal, state or foreign law equivalent), whether known or unknown, fixed or contingent, joint and/or several, secured or unsecured, due or not due, primary or secondary, liquidated or unliquidated, contractual or tortious, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen,

suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against any of the Releasees, whether held in a personal or representative capacity, and which are, in each case, based on any act, fact, event or omission or other matter, cause or thing occurring at any time prior to or on the date hereof in any way, directly or indirectly

arising out of, connected with or relating to the Existing Credit Agreement or any other Financing Document and the transactions contemplated thereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing (each, a “**Claim**” and collectively, the “**Claims**”). Each Releasing Party further represents that it has not sold or assigned any Claim and stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable Law, any and all provisions, rights, and benefits conferred by any Applicable Law, any applicable foreign Law or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 7.

The Borrower and each other Credit Party understands, acknowledges and agrees that its release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. The Borrower and each other Credit Party agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered, except as set forth above in this Section 7.1, shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

7.2. Waiver. Each Credit Party, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by the Borrower or any other Credit Party pursuant to this Section 7. If a Credit Party or any of its successors, assigns or other legal representatives violates the foregoing covenant, each Credit Party, each for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

7.3. Representation by Counsel. In entering into this Amendment, each Credit Party has consulted with and been represented by counsel and expressly disclaims any reliance on any representations, acts or omissions by the Agent, the Lenders or any of the Agent’s or the Lenders’ Affiliates and hereby agrees and acknowledges that the validity and effectiveness of the releases set forth above do not depend in any way on any such representations, acts and/or omissions or the accuracy, completeness or validity thereof. The provisions of this Section 7 shall survive the termination of this Amendment and the Credit Agreement and payment in full of all amounts owing thereunder.

Section 8. Miscellaneous.

8.1. **Incorporations by Reference**. The provisions of Sections 11.16 (*Amendments and Waivers*), 13.1 (*Survival*), 13.2 (*No Waivers*), 13.3 (*Notices*), 13.4 (*Severability*), 13.6 (*Confidentiality*), 13.8 (*Governing Law; Submission To Jurisdiction*), 13.9 (*Waiver of Jury Trial*), 13.14 (*Expenses and Indemnity*) and 13.17 (*Successors and Assigns*) of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

8.2. **Counterparts; Integration.** This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery

of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paperbased 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. As used herein, “Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Amendment constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

8.3. **Amendment is a “Financing Document”.** This Amendment is a Financing Document and all references to a “Financing Document” in the Credit Agreement and the Financing Documents (including, without limitation, all such references in the representations and warranties in the Credit Agreement and the other Financing Documents) shall be deemed to include this Amendment.

8.4. **References to the Credit Agreement.** Upon the effectiveness of this Amendment, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference to the Credit Agreement in any other document, instrument or agreement executed and/or delivered in connection with the Credit Agreement shall mean and be a reference to the Credit Agreement as amended hereby.

8.5. **Representations and Warranties.** The Borrower hereby represents and warrants that (a) this Amendment is the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, (b) no Default, Event of Default or, to the Borrower’s knowledge, a potential Default shall have occurred and be continuing (aside from the Specified Defaults) and (c) the representations and warranties set forth in the Credit Agreement and in the other Financing Documents are true and correct in all respects on and as of the Effective Date with the same force and effect as if made on and as of the Effective Date (except to the extent that any such representation or warranty expressly relates to an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date).

8.6. **Reaffirmation of Obligations.** The Borrower and each other Credit Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the Financing Documents, and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge the Borrower’s or such Credit Party’s obligations under the Financing Documents.

8.7. **Reaffirmation of Security Interests.** The Borrower and each other Credit Party (a) affirms that each of the Liens granted in or pursuant to the Financing Documents is valid and

subsisting, and (b) agrees that this Amendment and all documents executed in connection herewith shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Financing Documents.

8.8. **No Other Changes.** Except as specifically amended by this Amendment, the Credit Agreement, the other Financing Agreements and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

BORROWER:

XBP AMERICAS, LLC

By/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security Agreement (B. Riley)]

AGENT:

BRF FINANCE CO. LLC

By: /s/ Bryant Riley

Name: Bryant Riley

Title: Authorized Signatory

[Signature Page to Limited Waiver and Second Amendment to Amended and Restated Credit
and Security Agreement]

LENDERS:

BRF FINANCE CO. LLC,
as Lender

By: /s/ Bryant Riley

Name: Bryant Riley

Title: Authorized Signatory

[Signature Page to Limited Waiver and Second Amendment to Amended and Restated Credit
and Security Agreement]

**ACKNOWLEDGMENT TO LIMITED WAIVER AND SECOND AMENDMENT TO
AMENDED AND RESTATED CREDIT AGREEMENT**

Each of the undersigned Credit Parties hereby (a) acknowledges and consents to all of the terms and conditions of the Amendment to which this Acknowledgment is attached and the Credit Agreement, and the transactions contemplated hereby and thereby, (b) affirms and confirms all of its obligations under the Financing Documents to which it is a party, including as provided in the Amendment, (c) agrees to be bound by the terms and agreements set forth in the Amendment applicable to such Credit Party, including, without limitations, the acknowledgments set forth in Section 2 and the release and confirmations made in Sections 7 and 8 of the Amendment, and (d) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge its obligations under the Financing Documents to which it is a party or affect the Liens and the priority of such Liens granted by such Credit Party to the Agent on behalf of the Lenders pursuant to the Financing Documents.

[Guarantor Signature Pages Follow]

[Signature Page to Acknowledgement Page to Limited Waiver and Second Amendment to
Amended and Restated Credit and Security Agreement]

GUARANTORS:

EXELA INTERMEDIATE LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

EXELA FINANCE, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

SOURCEHOV HOLDINGS, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

SOURCEHOV LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

CORPSOURCE HOLDINGS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

SOURCECORP, INCORPORATED

By/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

SOURCECORP BPS INC.

By:

/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

DELIVEREX, LLC

By:

/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

UNITED INFORMATION SERVICES, INC.

By:

/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

ECONOMIC RESEARCH SERVICES, INC.

By:

/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

SOURCECORP LEGAL INC.

By/s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

RUST CONSULTING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

SOURCEHOV HEALTHCARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

KINSELLA MEDIA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

HOV SERVICES, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

HOV ENTERPRISE SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

MERIDIAN CONSULTING GROUP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

RUSTIC CANYON III, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

HOV SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

CHARTER LASON, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

LASON INTERNATIONAL, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

SOURCECORP MANAGEMENT, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

PANGAEA ACQUISITIONS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

BANCTEC GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

BANCTEC, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

BANCTEC (PUERTO RICO), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

DOCUDATA SOLUTIONS, L.C.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

BTC VENTURES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

RECOGNITION MEXICO HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

BANCTEC INTERMEDIATE HOLDING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

RC4 CAPITAL, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

DFG2 HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

DFG2, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

PLEXUS GLOBAL FINANCE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

HOVG, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

TRAC HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

MANAGED CARE PROFESSIONALS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

FTS PARENT INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

TRANSCENTRA, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

J & B SOFTWARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

REGULUS HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

REGULUS GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

REGULUS GROUP II LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

REGULUS AMERICA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

REGULUS INTERGRATED SOLUTIONS LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

EXELA RE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

REGULUS WEST LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

NOVITEX HOLDINGS, INC.

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized signatory

NOVITEX INTERMEDIATE, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

NOVITEX GOVERNMENT SOLUTIONS, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

EXELA XBP, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

EXELA RECEIVABLES 3 HOLDCO, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

EXELA RECEIVABLES 3, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Title: Authorized
signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

AFFILIATED GUARANTORS:

XCV-EMEA, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

NEON ACQUISITION, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

EXELA ENTERPRISE SOLUTIONS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

SERVICES INTEGRATION GROUP, L.P.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized
signatory

**SIG - GP L.L.C., A LIMITED LIABILITY
COMPANY**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Title: Authorized signatory

[Signature Page to Second Amendment to Amended and Restated Credit and Security
Agreement (B. Riley)]

ANNEX I

Conformed Credit Agreement

AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT

dated as of July 29, 2025 by and among

**XBP AMERICAS, LLC
(*FORMERLY* EXELA TECHNOLOGIES BPA, LLC),
as Borrower, and**

**BRF FINANCE CO. LLC,
as Agent, and**

THE LENDERS

FROM TIME-TO-TIME PARTY HERETO

[and](#)

[THE GUARANTORS FROM TIME TO TIME PARTY HERETO](#)

TABLE OF CONTENTS

	Page
ARTICLE 1 - DEFINITIONS	2
Section	2
1.1 Certain Defined Terms	
Section	51
1.2 Accounting Terms and Determinations	
Section	~~51~~ <u>52</u>
1.3 Other Definitional and Interpretive Provisions	
Section	52
1.4 Time is of the Essence	
ARTICLE 2 - LOANS	52
Section	52
2.1 Loans	
Section	~~54~~ <u>55</u>
2.2 Interest, Interest Calculations and Certain Fees	
Section	56
2.3 Notes	
Section	56
2.4 Extension of Termination Date	
Section	56
2.5 [Reserved]	
Section	56
2.6 General Provisions Regarding Payment; Loan Account	
Section	57
2.7 Maximum Interest	
Section Taxes; Capital Adequacy; Increased Costs; Inability to Determine	
2.8 Rates; Illegality	~~57~~ <u>58</u>
Section	63
2.9 Appointment of Borrower Representative	
Section Joint and Several Liability; Rights of Contribution; Subordination and	
2.10 Subrogation	64
Section	~~66~~ <u>67</u>
2.11 [Reserved]	
Section	~~66~~ <u>67</u>
2.12 Termination; Restriction on Termination	
ARTICLE 3 - REPRESENTATIONS AND WARRANTIES	67

Section	67
3.1 Existence and Power	
Section	
3.2 Organization and Governmental Authorization; No Contravention	~~67~~ <u>68</u>
Section	~~67~~ <u>68</u>
3.3 Binding Effect	
Section	68
3.4 Capitalization	
Section	68
3.5 Financial Information	
Section	68
3.6 Litigation	
Section	~~68~~ <u>69</u>
3.7 Ownership of Property	
Section	~~68~~ <u>69</u>
3.8 No Default	
Section	~~68~~ <u>69</u>
3.9 Labor Matters	

Section	69
3.10 Regulated Entities	
Section	69
3.11 Margin Regulations	
Section	69
3.12 Compliance With Laws; Anti-Terrorism Laws	
Section	~~69~~ <u>70</u>
3.13 Taxes	
Section	70
3.14 Compliance with ERISA	
Section	~~70~~ <u>71</u>
3.15 Consummation of Operative Documents; Brokers	
Section	~~70~~ <u>71</u>
3.16 Related Transactions	
Section	71
3.17 Material Contracts	
Section Compliance with Environmental Requirements; No Hazardous	
3.18 Materials	71
Section	~~71~~ <u>72</u>
3.19 Intellectual Property	
Section	72
3.20 Solvency	
Section	72
3.21 Full Disclosure	
Section	~~72~~ <u>73</u>
3.22 [Reserved]	
Section	~~72~~ <u>73</u>
3.23 Subsidiaries	
ARTICLE 4 - AFFIRMATIVE COVENANTS	73
Section	73
4.1 Financial Statements and Other Reports	
Section	~~75~~ <u>76</u>
4.2 Payment and Performance of Obligations	
Section	76
4.3 Maintenance of Existence	
Section	~~76~~ <u>77</u>
4.4 Maintenance of Property; Insurance	
Section	78
4.5 Compliance with Laws and Material Contracts	

Section	78
4.6 Inspection of Property, Books and Records	
Section	~~78~~ <u>79</u>
4.7 Use of Proceeds	
Section	~~78~~ <u>79</u>
4.8 Notices of Litigation and Defaults	
Section	79
4.9 Hazardous Materials; Remediation	
Section	~~79~~ <u>80</u>
4.10 Further Assurances	
Section	~~80~~ <u>81</u>
4.11 [Reserved]	
Section	81
4.12 Power of Attorney	
Section	81
4.13 [Reserved]	
Section	81
4.14 Maintenance of Management	
ARTICLE 5 - NEGATIVE COVENANTS	81
Section	~~81~~ <u>82</u>
5.1 Debt; Contingent Obligations	
Section	~~81~~ <u>82</u>
5.2 Liens	

Section	~~81~~ <u>82</u>
5.3 Restricted Distributions	
Section	82
5.4 Restrictive Agreements	
Section	~~82~~ <u>83</u>
5.5 Payments and Modifications of Subordinated Debt	
Section	83
5.6 Consolidations, Mergers and Sales of Assets; Change in Control	
Section	83
5.7 Purchase of Assets, Investments	
Section	~~83~~ <u>84</u>
5.8 Transactions with Affiliates	
Section	85
5.9 Modification of Organizational Documents	
Section	~~85~~ <u>86</u>
5.10 Modification of Certain Agreements	
Section	~~85~~ <u>86</u>
5.11 Conduct of Business	
Section	86
5.12 Lease Payments	
Section	86
5.13 Limitation on Sale and Leaseback Transactions	
Section Deposit Accounts and Securities Accounts; Payroll and Benefits	86
5.14 Accounts	
Section	~~86~~ <u>87</u>
5.15 Compliance with Anti-Terrorism Laws	
ARTICLE 6 - FINANCIAL COVENANTS	87
Section	87
6.1 Fixed Charge Coverage Ratio	
Section	87
6.2 Evidence of Compliance	
ARTICLE 7 - CONDITIONS	~~87~~ <u>88</u>
Section	~~87~~ <u>88</u>
7.1 Conditions to Closing	
Section	91
7.2 [Reserved]	
Section	91
7.3 Searches	

Section	~~91~~ <u>92</u>
7.4 Post Closing Requirements	
ARTICLE 8 - [RESERVED]	~~91~~ <u>92</u>
ARTICLE 9 - SECURITY AGREEMENT	~~91~~ <u>92</u>
Section	~~91~~ <u>92</u>
9.1 Generally	
Section Representations and Warranties and Covenants Relating to	
9.2 Collateral	92
ARTICLE 10 - EVENTS OF DEFAULT	96
Section	96
10.1 Events of Default	
Section	99
10.2 [Reserved]	
Section	99
10.3 UCC Remedies	
Section	101
10.4 [Reserved]	

Section		
10.5	Default Rate of Interest	~~101~~ 102
Section		
10.6	Setoff Rights	~~101~~ 102
Section		
10.7	Application of Proceeds	102
Section		
10.8	Waivers	~~102~~ 103
Section		
10.9	Injunctive Relief	~~104~~ 105
Section		
10.10	Marshalling; Payments Set Aside	105
ARTICLE 11 – AGENT		105
Section		
11.1	Appointment and Authorization	105
Section		
11.2	Agent and Affiliates	106
Section		
11.3	Action by Agent	106
Section		
11.4	Consultation with Experts	106
Section		
11.5	Liability of Agent	106
Section		
11.6	Indemnification	~~106~~ 107
Section		
11.7	Right to Request and Act on Instructions	107
Section		
11.8	Credit Decision	107
Section		
11.9	Collateral Matters	~~107~~ 108
Section		
11.10	Agency for Perfection	~~107~~ 108
Section		
11.11	Notice of Default	108
Section		
11.12	Assignment by Agent; Resignation of Agent; Successor Agent	108
Section		
11.13	Payment and Sharing of Payment	109

Section		
11.14	Right to Perform, Preserve and Protect	110
Section		
11.15	Additional Titled Agents	~~110~~ <u>111</u>
Section		
11.16	Amendments and Waivers	~~110~~ <u>111</u>
Section		
11.17	Assignments and Participations	112
Section		
11.18	[Reserved]	~~114~~ <u>115</u>
Section		
11.19	[Reserved]	~~114~~ <u>115</u>
Section		
11.20	Erroneous Payments	~~114~~ <u>115</u>
Section		
11.21	Definitions	117
ARTICLE 12 - GUARANTEE		~~117~~ <u>118</u>
Section		
12.1	[Reserved]	~~117~~ <u>118</u>
Section		
12.2	Guarantee; Limitation of Liability	118
Section		
12.3	Guarantee Absolute	118
Section		
12.4	Waivers and Acknowledgments	119

Section		
12.5	Subrogation	120
Section		
12.6	[Reserved]	121
Section		
12.7	Subordination	121
Section		
12.8	Continuing Guarantee; Assignments	~~121~~ 122
ARTICLE 13 - MISCELLANEOUS		~~121~~ 122
Section		
13.1	Survival	~~121~~ 122
Section		
13.2	No Waivers	122
Section		
13.3	Notices	122
Section		
13.4	Severability	123
Section		
13.5	Headings	123
Section		
13.6	Confidentiality	123
Section		
13.7	Waiver of Consequential and Other Damages	124
Section		
13.8	GOVERNING LAW; SUBMISSION TO JURISDICTION	124
Section		
13.9	WAIVER OF JURY TRIAL	125
Section		
13.10	Publication and Advertisement	~~125~~ 126
Section		
13.11	Counterparts; Integration	126
Section		
13.12	No Strict Construction	~~126~~ 127
Section		
13.13	Lender Approvals	~~126~~ 127
Section		
13.14	Expenses; Indemnity	~~126~~ 127

Section		
13.15	Confession of Judgment	~~128~~ 129
Section		
13.16	Reinstatement	129
Section		
13.17	Successors and Assigns	129
Section		
13.18	USA PATRIOT Act Notification	~~129~~ 130
Section		
13.19	Judgment Currency.	~~129~~ 130
Section	Acknowledgement and Consent to Bail-In of Affected Financial	
13.20	Institutions	130
Section		
13.21	Parent.	~~130~~ 131
Section		
13.22	ROFR.	~~130~~ 131
ARTICLE 14 AMENDMENT AND RESTATEMENT OF EXISTING 2L NOTE		~~130~~ 131
Section		
14.1	Acknowledgment of Assignment and Assumption	~~130~~ 131
Section		
14.2	Amendment and Restatement	131

AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT

THIS AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Agreement**”) is dated as of July 29, 2025 by and among **XBP AMERICAS, LLC** (*formerly* Exela Technologies BPA, LLC), a Delaware limited liability company, and any additional borrower that may hereafter be added to this Agreement (each individually as a “**Borrower**”, and collectively as “**Borrowers**”), **BRF FINANCE CO., LLC**, a Delaware limited liability company, individually as a Lender, and as Agent (as defined below), and the financial institutions or other entities from time to time parties hereto, each as a Lender (as defined below) and the Guarantors (as defined below) signatory hereto from time to time.

RECITALS

WHEREAS, on March 3, 2025 (the “**Petition Date**”), DocuData Solutions, L.C., the Borrower and certain other Affiliates (each, a “**Debtor**” and collectively, the “**Debtors**”) filed voluntary petitions with the Bankruptcy Court initiating their respective cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (such court, the “**Bankruptcy Court**”; and each such case of the Debtors, a “**Chapter 11 Case**” and collectively, the “**Chapter 11 Cases**”) and continued in the possession of their assets and the management of their business pursuant to Section 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on June 23, 2025, the Bankruptcy Court entered the Confirmation Order (as defined herein) approving the Plan of Reorganization of the Debtors, and concurrently with the making of the Loans hereunder, the effective date with respect to the Plan of Reorganization has occurred;

WHEREAS, Exela Receivables 3 Holdco, LLC, a Delaware limited liability company (“**ER3 Holdco**”), is currently a party to that certain Secured Promissory Note, dated as of February 27, 2023 (the “**Existing 2L Note**”), in favor of BRF Finance Co., LLC (the “**Existing 2L Noteholder**”);

WHEREAS, ER3 Holdco and the Existing 2L Noteholder have agreed to assign all the obligations of ER3 Holdco under the Existing 2L Note to the Borrowers;

WHEREAS, by execution and delivery of this Agreement and the other Financing Documents and entry of the Confirmation Order in respect of the Chapter 11 Cases, as applicable, agree to guarantee the Obligations, and the Borrower and each Guarantor agrees to secure all of the Obligations by granting to Agent, for the benefit of the Lenders, a lien and security interest in respect of, and on, the Collateral, on and subject to the terms and priorities set forth in the other Financing Documents.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto hereby agree as follows:

ARTICLE 1 - DEFINITIONS

Section 1.1 **Certain Defined Terms.** The following terms have the following meanings:

“**ABL Agreement**” means that certain Credit and Security Agreement, dated as of the Closing Date, among the Borrowers, the Guarantors, the lenders party thereto from time to time and MidCap Funding IV Trust, as administrative agent (the “**ABL Agent**”), and the other parties from time-to-time party thereto, as the same may be amended, restated, amended and restated, supplemented, waived or otherwise modified from time to time (in each case, to the extent permitted under the ABL Intercreditor Agreement).

“**ABL Documents**” means the collective reference to the ABL Agreement and any other document, agreement and instrument executed and/or delivered in connection therewith or relating thereto, together with any amendment, supplement, waiver, or other modification to any of the foregoing (in each case, to the extent permitted under the ABL Intercreditor Agreement).

“**ABL Intercreditor Agreement**” means that certain Intercreditor Agreement, dated as of the Closing Date, among the Borrowers, the Guarantors, the Agent, the ABL Agent, the administrative agent and collateral agent under the Term Loan Documents, the Trustee, the Exit Notes Collateral Agent, and the other parties from time-to-time party thereto, as the same may be amended, restated, amended and restated, supplemented, waived or otherwise modified from time to time.

“**ABL Priority Collateral**” has the meaning specified therefor in the ABL Intercreditor Agreement.

“**Acceleration Event**” means the occurrence of an Event of Default (a) in respect of which Agent has declared all or any portion of the Obligations to be immediately due and payable pursuant to Section 10.2 and/or (b) pursuant to either Section 10.1(e) and/or Section 10.1(f).

“**Account Debtor**” means “account debtor” as defined in Article 9 of the UCC.

“**Accounts**” means, collectively, (a) any right to payment of a monetary obligation, whether or not earned by performance, (b) without duplication, any “account” (as defined in the UCC), any accounts receivable (whether in the form of payments for services rendered or goods sold, rents, license fees or otherwise), any “health-care-insurance receivables” (as defined in the UCC), any “payment intangibles” (as defined in the UCC), and all other rights to payment and/or reimbursement of every kind and description, whether or not earned by performance, (c) all accounts, “general intangibles” (as defined in the UCC), Intellectual Property, rights, remedies, guarantees, “supporting obligations” (as defined in the UCC), “letter-of-credit rights” (as defined in the UCC) and security interests in respect of the foregoing, all rights of enforcement and collection, all books and records evidencing or related to the foregoing, and all rights under the Financing Documents in respect of the

foregoing, (d) all information and data compiled or derived by any Borrower or to which any Borrower is entitled in respect of or related to the foregoing, and (e) all proceeds of any of the foregoing.

“Additional Notes” means the notes issued under the terms of the Exit Notes Indenture subsequent to the Closing Date.

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

“Affiliate” means, with respect to any Person, (a) any Person that directly or indirectly controls such Person, (b) any Person which is controlled by or is under common control with such controlling Person, and (c) each of such Person’s (other than, with respect to any Lender, any Lender’s) officers or directors (or Persons functioning in substantially similar roles) and the spouses, parents, descendants and siblings of such officers, directors or other Persons. As used in this definition, the term “control” of a Person means the possession, directly or indirectly, of the power to vote ten percent (10%) or more of any class of voting securities of such Person or to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Agent” means B. Riley, in its capacity as administrative agent for itself and for Lenders hereunder, as such capacity is established in, and subject to the provisions of, Article 11, and the successors and assigns of B. Riley in such capacity.

“Agent Assignee” has the meaning specified therefor in Section 11.20(d).

“Anti-Terrorism Laws” means any Laws relating to terrorism or money laundering, including, without limitation, Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the Laws comprising or implementing the Bank Secrecy Act and the Laws administered by OFAC.

“Applicable Law” means, with respect to any Person, any Law (x) that is applicable to such Person or any of its property, (y) to which such Person is a party or (z) by which any of such Person’s property is bound. For the avoidance of doubt, FATCA shall constitute an “Applicable Law” for all purposes of this Agreement.

“Applicable Rate” means the per annum rate equal to the Term SOFR Rate plus 7.5%.

“Asset Disposition” means any sale, lease, license, transfer, assignment or other consensual disposition (including by merger, allocation of assets (including allocation of assets to any series of a limited liability company), division, consolidation or amalgamation) by any Credit Party of any asset.

“B. Riley” means BRF Finance Co. LLC, a Delaware limited liability company.

“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 Title 11 of the United States Code entitled “Bankruptcy”, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto.

“Blocked Person” means any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224, or (e) that is named a “specially designated national” or “blocked person” on the most current list published by OFAC, or other similar list or is named as a “listed person” or “listed entity” on other lists made under any Anti-Terrorism Law.

“Borrower” and **“Borrowers”** mean the entity(ies) described in the first paragraph of this Agreement and each of their successors and permitted assigns.

“Borrower Representative” means Exela Technologies BPA, LLC, in its capacity as Borrower Representative pursuant to the provisions of Section 2.9, or any successor Borrower Representative selected by Borrowers and approved by Agent.

“Borrowing Base Certificate” refers to the “Borrowing Base Certificate” (or any substitute or replacement definition thereof) in the ABL Agreement.

“Business Day” means any day except a Saturday, Sunday or other day on which either the New York Stock Exchange is closed, or on which commercial banks in Washington, DC and New York City are authorized by law to close; provided, however, that when used in the context of a SOFR Loan, the term “Business Day” shall also exclude any day that is not also a SOFR Business Day.

“Capital Expenditures” means any expenditure that would be classified as a capital expenditure on a statement of cash flow of Borrowers prepared in accordance with GAAP.

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

“Capital Stock” means:

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

- (2) in the case of an association or business entity, any and all shares,
- (3) interests, participations, rights or other equivalents (however designated) of corporate stock;
- (4) in the case of a partnership or limited liability company, partnership or
- (5) membership interests (whether general or limited); and
- (6) 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.

“Cash Equivalents” means, as of any date of determination, any of the following: (a) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States government, or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one (1) year after such date; (b) marketable direct obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s; (c) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally; (d) certificates of deposit or bankers’ acceptances maturing within one (1) year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States or any state thereof or the District of Columbia that (i) is at least “adequately capitalized” (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; and (e) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (a) and (b) above, (ii) has net assets of not less than \$500,000,000, and (iii) has the highest rating obtainable from either S&P or Moody’s.

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

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. § 9601 *et seq.*, as the same may be amended from time to time.

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

5

(1) the sale, lease or transfer, in one or a series of related transactions, of all or substantially all the assets of the Borrowers and their respective Subsidiaries, taken as a whole, to a Person;

(2) the Borrowers become aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the direct or indirect acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than the holders of such interests as of the Closing Date, in a single transaction or in a related series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), of more than 50% of the total voting power of the voting equity interests of the Borrower Representative or the Parent; or

(3) except as expressly permitted pursuant to Section 5.6, the Borrower shall cease to, directly or indirectly own and control one hundred percent (100%) of each class of the outstanding equity interests of any Subsidiary the assets of which contribute more than \$5,000,000 to the Borrowing Base.

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

“Claims Administration Bank” means any third-party financial institution having capital and surplus in excess of \$250,000,000 and whole long-term debt is rated “A” or the equivalent by Moody’s or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) that is designated by any Exar Originator to hold and distribute certain legal settlement funds administered by any Exar Originator in connection with such Exar Originator’s claims administration business.

“Claims Administration Indebtedness” means Indebtedness for borrowed money of any Exar Originator in favor of the Claims Administration Bank in respect of loans made pursuant to Claims Administration Arrangements.

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

“Claims Administration Liens” means Liens in favor of the Claims Administration Bank on Claims Administration Investments and related segregated deposit and securities accounts securing Claims



Administration Indebtedness solely to the extent the amount of such Claims Administration Investment equals or exceeds the amount of such Claims Administration Indebtedness.

“Closing Date” means the date of this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended from time to time, any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

“Collateral” means, subject to the ABL Intercreditor Agreement, all property, now existing or hereafter acquired, mortgaged or pledged to, or purported to be subjected to a Lien in favor of, Agent, for the benefit of Agent and Lenders, pursuant to this Agreement and the Security Documents, including, without limitation, all of the property described in Schedule 9.1 hereto.

“Collateral Monitoring Fee” shall have the meaning set forth in Section 2.2(b).

“Compliance Certificate” means a certificate, duly executed by a Responsible Officer of Borrower Representative, appropriately completed and substantially in the form of Exhibit B hereto.

“Confirmation Order” means the Order (I) Approving Debtors’ Disclosure Statement and (II) Confirming Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code Docket No. 834 entered by the Bankruptcy Court on June 23, 2025.

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

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

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

(1) consolidated interest expense of such Person and its Consolidated Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including the interest component of capitalized lease obligations and net payments and receipts (if any) pursuant to interest rate Swap Contracts and excluding amortization of deferred financing fees and original issue discount, debt issuance costs, commissions, fees and expenses, expensing of any bridge, commitment or other

financing fees and non-cash interest expense attributable to movement in mark to market valuation of Swap Contracts or other derivatives (in each case permitted hereunder) under GAAP); plus

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

(3) interest income for such period.

For purposes of this definition, interest on a capitalized lease obligation shall be deemed to accrue at an interest rate reasonably determined by the Borrowers to be the rate of interest implicit in such capitalized lease obligation in accordance with GAAP.

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

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

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

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

(4) (i) cash received from landlords for tenant allowances shall be included and (ii) to the extent not already included in Net Income, the cash portion of sublease rentals received shall be included;

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

(6) non cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(7) any gain, loss, income, expense or charge resulting from the application of any LIFO shall be excluded; and

(8) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with clause (e) of the definition of “Permitted Distributions” shall be included as though such amounts had been paid as



income taxes directly by such Person for such period.

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

“Consolidated Subsidiary” means, at any date, any Subsidiary the accounts of which would be consolidated with those of “parent” Borrower (or any other Person, as the context may require hereunder) in its consolidated financial statements if such statements were prepared as of such date.

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

“Consolidated Total Indebtedness” means, as of any date of determination, an amount equal to the sum (without duplication) of (1) the aggregate principal amount of all outstanding Debt of the Borrowers and their respective Subsidiaries (excluding letters of credit or bank guarantees, to the extent undrawn, cash collateralized or backstopped) consisting of capitalized lease obligations and Debt for borrowed money, plus (2) the aggregate amount of all outstanding customary disqualified equity interests of the Borrowers and their respective Subsidiaries and all preferred stock of the Subsidiaries, with the amount of such disqualified equity interests and preferred stock equal to the greater of their respective voluntary or involuntary liquidation preferences, in each case determined on a consolidated basis in accordance with GAAP.

“Contingent Obligation” means, with respect to any Person, any direct or indirect liability of such Person: (a) with respect to any Debt of another Person (a **“Third Party Obligation”**) if the purpose or intent of such Person incurring such liability, or the effect thereof, is to provide assurance to the obligee of such Third Party Obligation that such Third Party Obligation will be paid or discharged, or that any agreement relating thereto will be complied with, or that any holder of such Third Party Obligation will be protected, in whole or in part, against loss with respect thereto; (b) with respect to any undrawn portion of any letter of credit issued for the account of such Person or as to which such Person is otherwise liable for the reimbursement of any drawing; (c) under any Swap Contract, to the extent not yet due and payable; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for any obligations of another Person pursuant to any guarantee or pursuant to any agreement to purchase,

repurchase or otherwise acquire any obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to preserve the solvency, financial condition or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or

otherwise supported or, if not a fixed and determinable amount, the maximum amount so guaranteed or otherwise supported.

“Control Agreement” means any Deposit Account Control Agreement or Securities Account Control Agreement.

“Controlled Group” means all members of any group of corporations and all members of a group of trades or businesses (whether or not incorporated) under common control which, together with any Borrower, are treated as a single employer under Section 414(b), (c), (m) or (o) of the Code or Section 4001(b) of ERISA.

“Credit Party” means each Borrower and each Guarantor; and **“Credit Parties”** means all such Persons, collectively.

“Debt” of a Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business, (d) all capital leases of such Person, (e) all non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit, banker’s acceptance or similar instrument, (f) all equity securities of such Person subject to repurchase or redemption other than at the sole option of such Person, (g) all obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person, (h) “earnouts” (until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP), purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts, (i) all Debt of others guaranteed by such Person, (j) off-balance sheet liabilities and/or Pension Plan or Multiemployer Plan liabilities of such Person, (k) obligations arising under non-compete agreements, and (l) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business. Without duplication of any of the foregoing, Debt of Borrowers shall include any and all Loans.

Notwithstanding the foregoing, Debt shall be deemed not to include (1) Contingent Obligations incurred in the Ordinary Course of Business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) [reserved]; (5) trade and other ordinary course payables, accrued expenses and intercompany liabilities, including with respect to working capital advancements, arising in the Ordinary Course of Business; (6) obligations in respect of Third Party Funds; (7) in the case of the Borrowers and their respective Subsidiaries (x) all intercompany Debt having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the Ordinary Course of Business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries; (8) any Claims Administration Indebtedness of

the Exar Originators (except to the extent that any such Claims Administration Indebtedness exceeds the Claims Administration Investments of such Exar Originator); and (9) any obligations under Swap Contracts, provided, that such agreements are entered into for bona

fide hedging purposes of the Borrowers or their respective Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Borrower Representative, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Borrowers or their Subsidiaries entered into in the Ordinary Course of Business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Debt of the Borrowers or their Subsidiaries incurred without violation of this Agreement.

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

“Debtor Relief Laws” means the Bankruptcy Code, any corporate statute which is used by a Person to propose an arrangement in connection with a compromise of such Person’s debt obligations each as now and hereafter in effect, any successors to such statutes, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become an Event of Default.

“Default Rate” means the Applicable Rate plus two percent (2.0%).

“Defined Period” means, for purposes of calculating the Fixed Charge Coverage Ratio for any given calendar month, the twelve (12) month period immediately preceding any such calendar month.

“Deposit Account” means a “deposit account” (as defined in Article 9 of the UCC), bank account or an investment account, or other account in which funds are deposited, held or invested for credit to or for the benefit of any Credit Party.

“Deposit Account Control Agreement” means either (i) an account control agreement, in form and substance satisfactory to the ABL Agent, among ABL Agent, any Credit Party and each financial institution in which such Credit Party maintains a Deposit

Account or (ii) an account control agreement, in form and substance satisfactory to the Agent, among Agent, any Credit Party and each financial institution in which such Credit Party maintains a Deposit Account.

“**Dollars**” means the lawful currency of the United States of America.

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

(1) Consolidated Taxes; *plus*

(2) (i) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, (ii) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person and its Consolidated Subsidiaries and (iii) costs of surety bonds in connection with financing activities; *plus*

(3) Consolidated Depreciation and Amortization Expense; *plus*

(4) Consolidated Non-Cash Charges; *plus*

(5) any (x) net after-tax extraordinary, nonrecurring or unusual losses (plus all fees and expenses relating thereto) or (y) expenses or charges, including, without limitation, severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any New Project or any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facility rebranding costs, acquisition integration costs, facility opening costs, project and contract start-up costs, business optimization costs, recruiting costs, signing, retention or completion bonuses, and any fees, expenses, charges or change in control payments related to the Transactions (including any costs relating to auditing prior periods, any transition-related expenses, and transaction expenses incurred before, on or after the Closing Date) for such period, in each case, to the extent not already added back in clause (21) or (23) below; *plus*

(6) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Consolidated Subsidiaries and including, without limitation, the effects of adjustments to (A) deferred rent, (B) capitalized lease obligations or other obligations or deferrals attributable to capital spending funds with suppliers or (C) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, for such period; *plus*

(7) any net after-tax loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets during such period; *plus*

(8) any net after-tax losses (plus all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Borrower Representative) during such period; *plus*

(9) any net after-tax losses (plus all fees and expenses or charges relating thereto)

attributable to the early extinguishment of indebtedness, Swap Contracts or other derivative instruments during such period; *plus*

(10) [reserved];

(11) any impairment charges and asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments to good will and other intangible assets arising pursuant to GAAP for such period; *plus*

(12) any non-cash expense realized or resulting from stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights, in each case to the extent not otherwise added back pursuant to clause (13) or (24); *plus*

(13) any (a) non-cash compensation charges, (b) [reserved], or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Closing Date of officers, directors and employees, in each case of such Person or any Consolidated Subsidiary, to the extent not already added back pursuant to clause (12); *plus*

(14) (a) the non-cash portion of “straight-line” rent expense and (b) the non-cash amortization of tenant allowances; *plus*

(15) any currency translation gains and losses related to currency remeasurements of Debt, and any net loss or gain resulting from hedging transactions for currency exchange risk, for such period; *plus*

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

(17) Capitalized Software Expenditures for such period; *plus*

(18) non-cash charges for deferred tax asset valuation allowances for such period; *plus*

(19) any other costs, expenses or charges resulting from facility closures or sales, including income (or losses) from such facility closures or sales, to the extent not already added back pursuant to clause (5)(y); *plus*

(20) business optimization expenses and other restructuring charges, reserves or



expenses not related to the Transactions (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges) and Pre-Opening Expenses; to the extent not already added back pursuant to clause (5)(y); *plus*

(21) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) (i) related to any issuance of equity interests, Investment, acquisition, New Project, disposition, loan origination, recapitalization or the incurrence, modification or repayment of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful) or (ii) incurred in connection with the Transactions, including (A) such fees, expenses or charges related to the Transactions, the Obligations or any Debt and (B) any amendment or other modification of the Obligations or other Debt, in each case, to the extent not already added back pursuant to clause (5)(y); *plus*

(22) [reserved];

(23) [reserved];

(24) any costs or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of a Borrower or a Guarantor or net cash proceeds of an issuance of equity interests of the Borrowers (other than customary disqualified equity interests), and to the extent not otherwise added back pursuant to clause (12) or (13); *plus*

(25) the amount of any loss attributable to a New Project, until the date that is 12 months after the date of completing the construction, acquisition, assembling or creation of such New Project, as the case may be; provided, that (a) such losses are reasonably identifiable and factually supportable and certified by a responsible financial or accounting officer of the Borrowers and (b) losses attributable to such New Project after 12 months from the date of completing such construction, acquisition, assembling or creation, as the case may be, shall not be included in this clause (25); *plus*

(26) [reserved];

(27) with respect to any joint venture that is not a Subsidiary and solely to the extent relating to any net income referred to in clause (2) of the definition of “Consolidated Net Income” an amount equal to the proportion of those items described in clauses (1) and (2) above relating to such joint venture corresponding to the Borrower’s and the Subsidiaries’ proportionate share of such joint venture’s Consolidated Net Income (determined as if such joint venture were a Subsidiary); *plus*

(28) [reserved];



(29) [reserved]; and

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

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

(31) any net after-tax extraordinary, nonrecurring or unusual gains (less all fees and expenses relating thereto); *plus*

(32) any net after-tax income from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets during such period; *plus*

(33) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Borrower Representative) during such period; *plus*

(34) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Swap Contracts or other derivative instruments during such period;

provided that for all purposes, the individual amount added back to EBITDA pursuant to any of clauses (5), (13), (14), (19), (20), (21)(i), (23), (24) or (25) above shall not be more than 15% of EBITDA for the most recently ended twelve month period (calculated prior to giving effect to such adjustments and exclusions) and, together with the aggregate amount added back pursuant to clauses (5), (13), (14), (19), (20), (21)(i), (23), (24) or (25) above, shall not be more than 30% of EBITDA for the most recently ended twelve month period (calculated prior to giving effect to such adjustments and exclusions).

Notwithstanding the foregoing, for purposes of determining EBITDA for any period that includes any of the months set forth below, EBITDA for such month shall equal the respective amount set forth opposite such month in the table set forth below:

<u>Month</u>	<u>EBITDA (in thousands)</u>
July 2024	\$6,321
August 2024	\$4,863
September 2025	\$6,989
October 2024	\$9,035
November 2024	\$8,412
December 2024	\$10,912

January 2025	\$4,269
February 2025	\$8,143
March 2025	\$9,504
April 2025	\$7,596
May 2025	\$4,069
June 2025	\$6,059

“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 delegatee), having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” means the effective date of the Plan of Reorganization.

“Environmental Laws” means any present and future federal, state, provincial, territorial, municipal and local laws, statutes, ordinances, rules, regulations, standards, policies and other governmental directives or requirements, as well as common law, pertaining to the environment, natural resources, pollution, health (including any environmental clean-up statutes and all regulations adopted by any local, state, provincial, territorial, municipal, federal or other Governmental Authority, and any statute, ordinance, code, order, decree, law rule or regulation all of which pertain to or impose liability or standards of conduct concerning medical waste or medical products, equipment or supplies), safety or clean-up that apply to any Borrower and relate to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. § 5101 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 *et seq.*), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 *et seq.*), the Occupational Safety and Health Act (29 U.S.C. § 651 *et seq.*), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. § 4851 *et seq.*), any analogous federal, state, municipal or local laws, any amendments thereto, and the regulations promulgated pursuant to said laws, together with all amendments from time to time to any of the foregoing and judicial interpretations thereof.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock.

“Equity Issuance” means either (a) the sale or issuance by any Credit Party or any of its Subsidiaries of any shares of its Equity Interests or (b) the receipt by any Credit Party of any cash capital contributions from any Person not a Credit Party.

“ERISA” means the Employee Retirement Income Security Act of 1974, as the same may be amended, modified or supplemented from time to time, and any successor statute thereto, and any and all rules or regulations promulgated from time to time thereunder.

“ERISA Plan” means any “employee benefit plan”, as such term is defined in Section 3(3) of ERISA (other than a Multiemployer Plan), which any Credit Party maintains, sponsors or contributes to, or, in the case of an employee benefit plan which is subject to Section 412 of the Code or Title IV of ERISA, to which any Credit Party or any member of the Controlled Group may have any liability, including any liability by reason of having been a substantial employer within the meaning of Section 4063 of ERISA at any time during the preceding five (5) years, or by reason of being deemed to be a contributing sponsor under Section 4069 of ERISA.

“Erroneous Payment” has the meaning specified therefor in Section 11.20.

“Erroneous Payment Deficiency Assignment” has the meaning specified therefor in Section 11.20.

“Erroneous Payment Impacted Loans” has the meaning specified therefor in Section 11.20.

“Erroneous Payment Return Deficiency” has the meaning specified therefor in Section 11.20.

“ETI” means Exela Technologies, Inc.

“ETI Funding Obligation” has the meaning assigned to it in the Plan of Reorganization.

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

“Event of Default” has the meaning set forth in Section 10.1.

“Exar Facility” means the receivables purchase facility established pursuant to that certain Receivables Purchase Agreement, dated as of February 12, 2024, among Exela BR SPV LLC, a Delaware limited liability company (**“Exar SPV”**), as seller, BR EXAR, LLC, a Delaware limited liability company (as successor by assignment to B. Riley Securities, Inc.), as buyer (the **“Exar Buyer”**), and the originators party thereto as of the Closing Date (the **“Exar Originators”**), as amended and restated pursuant to that certain Amended and Restated Receivables Purchase Agreement, dated as of Second Amendment Effective Date, among Exar SPV, Exar Buyer and the Exar Originators, as may be further amended, restated,

amended and restated, supplemented or otherwise modified from time to time (~~for the avoidance of doubt, other than with respect to amendments, restatements amendments and restatements, supplements or modifications which change the identities of the Exar Originators~~) (the “**Exar RPA**”).

“Exar Originator” has the meaning specified therefore in the definition of Exar Facility.

“Exar RPA” has the meaning in the definition of “Exar Facility”.

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

“Excluded Account” has the meaning specified therefor in Section 5.14.

“Excluded Equity” means (a) in the event that any Borrower or any of its Subsidiaries forms any Subsidiary in accordance with this Agreement, the issuance by such Subsidiary of Equity Interests to a Borrower or such Subsidiary, as applicable, or (b) the issuance of Equity Interests of a Borrower to directors, officers and employees of such Borrower and its Subsidiaries pursuant to employee stock option plans (or other employee incentive plans or other compensation arrangements) approved by the Board of Directors of the Lead Borrower.

“Excluded Subsidiary” means, with respect to any Subsidiary of the Borrowers, (a) each Subsidiary that is prohibited from Guaranteeing the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a governmental (including regulatory) authority to Guarantee the Obligations (unless such consent, approval, license or authorization has been received); provided, that, for the avoidance of doubt, such Subsidiary shall have no obligation to seek such consent, approval, license or authorization, (b) each Subsidiary that is prohibited by any applicable contractual requirement from Guaranteeing the Obligations on the Closing Date or at the time such Subsidiary becomes a Subsidiary (in each case for so long as such restriction or any replacement or renewal thereof is in effect and only to the extent that such prohibition was not implemented or consented to with the intent of evading the requirements of Section 4.10), (c) [reserved], (d) any Subsidiary that (i) did not, as of the last day of the fiscal quarter of the Borrowers most recently ended, have assets with a value in excess of 5.0% of the total assets or revenues representing in excess of 5.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date and (ii) taken together with all other such Subsidiaries being excluded pursuant to this clause (d), as of the last day of the fiscal quarter of the Borrowers most recently ended, did not have assets with a value in excess of 10.0% of the total assets or revenues representing in excess of 10.0% of total revenues of the Borrowers and their respective Subsidiaries on a consolidated basis as of such date, (e) any Subsidiary for which providing a Guarantee or granting Liens required by the Financing Documents to secure Indebtedness could reasonably be expected to result in material tax consequences as determined in good faith by the Borrowers in consultation with the Required Lenders, and (f) any Subsidiary not organized under the laws of any state of the United States, in each case pursuant to clauses (a) through (f) hereof, only for so long as it remains as such; provided that any Subsidiary that incurs or provides a guarantee under (or has pledged its assets to secure the obligations of) any Indebtedness for borrowed money shall not be an Excluded Subsidiary.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to Agent, any Lender or any other recipient of any payment to be made by or on behalf of any obligation of Credit Parties hereunder or the Obligations or required to be withheld or deducted from a payment to Agent, such Lender or such recipient: (a) Taxes to the extent imposed on or measured by Agent’s, any Lender’s or such other recipient’s net income (however denominated), branch profits Taxes, and franchise Taxes, in each case, (i) imposed by the jurisdiction (or any political

subdivision thereof) under which Agent, such Lender or such other recipient is organized, has its principal office or, in the case of any Lender, has its applicable lending office or (ii) that are Other Connection Taxes; (b) in the case of a Lender, United States withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in the Loans pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loans other than as a result of an assignment requested by a Credit Party under the terms hereof or (ii) such Lender changes its lending office for funding its Loan, except in each case to the extent that, pursuant to Section 2.8, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan or to such Lender immediately before it changed its lending office; (c) Taxes attributable to Agent's, such Lender's or such other recipient's failure to comply with Section 2.8(c); and (d) any Taxes imposed under FATCA.

"Exit Notes" means the notes under the Exit Notes Indenture.

"Exit Notes Collateral Agent" means Ankura Trust Company, LLC, as the collateral agent under the Exit Notes Indenture.

"Exit Notes Indenture" means the indenture dated as of the date hereof among the Exela Technologies BPA, LLC, Exela Finance Inc., the guarantors named therein, the financial institutions named therein, the Trustee and the Exit Notes Collateral Agent, as in effect on the date hereof.

"Fair Value" means the amount at which the assets (both tangible and intangible), in their entirety, of the Borrower and its Subsidiaries taken as a whole and after giving effect to the consummation of the Transactions would change hands between a willing buyer and a willing seller, within a commercially reasonable period of time, each having reasonable knowledge of the relevant facts, with neither being under any compulsion to act.

"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 Treasury regulations or official interpretations thereof and any agreement entered into pursuant to the implementation of Section 1471(b)(1) of the Code, and any intergovernmental agreement, treaty or convention between the United States Internal Revenue Service, the U.S. Government and any governmental or taxation authority under any other jurisdiction which agreement's principal purposes deals with the implement such sections of the Code.

"Financing Documents" means this Agreement, the ABL Intercreditor Agreement, any other intercreditor agreements, any Notes, the Security Documents, any subordination or intercreditor agreement pursuant to which any Debt and/or any Liens securing such Debt is subordinated to all or any portion of the Obligations and all other documents, instruments and agreements (other than any Swap Contract) related to the Obligations and heretofore executed, executed concurrently herewith or executed at any time and from time to time hereafter, as any or all of the same may be amended, supplemented, restated or otherwise modified from time to time.



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

“Fixed Charge Coverage Ratio” means, with respect to any Person for any period, the ratio of (a) (i) EBITDA of such Person for such period minus (ii) the Unfinanced Capital Expenditures of the Borrower and its Subsidiaries during such period minus (iii) Capitalized Software Expenditures to (b) the Fixed Charges of such Person for such period. In the event that the Borrowers or any of its Subsidiaries incurs, repays, repurchases or redeems any Debt or issues, repurchases or redeems disqualified equity interests or preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the **“Fixed Charge Calculation Date”**), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Debt, or such issuance, repurchase or redemption of disqualified equity interests or preferred stock, as if the same had occurred at the beginning of the applicable period.

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

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower Representative. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in a Responsible Officer’s certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings reasonably

expected to have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the reference period (including, to the extent applicable, the Transactions);

provided, that for all purposes of determining EBITDA hereunder all adjustments (to the extent such adjustment is effected pursuant to the definition of EBITDA) shall not be more than the amount of applicable adjustments permitted pursuant to the applicable provision(s) of the definition of EBITDA, as the case may be for the most recently ended reference period (calculated prior to giving effect to such capped adjustments and exclusions (but, for the avoidance of doubt, after giving effect to other uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.

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

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

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

“Fixed Charges” means, with respect to any Person for any period, the sum, without duplication, of: (a) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, (b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock or customary disqualified equity interests of such Person and its Subsidiaries, (c) regularly scheduled payments of principal on Debt for borrowed money that were paid or payable (but without duplication) during such period (excluding, for the avoidance of doubt, that attributable to ~~Capitalized Lease Obligations~~capitalized lease obligations and the Exar

Facility) and (d) the aggregate amount of cash payments made in respect of Taxes (other than payroll taxes, sales taxes and Transaction Tax Liability (as defined in the Plan of Reorganization)) during such period.

“Floor” means the rate per annum of interest equal to 1.00%.

“Foreign Lender” has the meaning specified therefor in Section 2.8(c)(i).

“GAAP” means generally accepted accounting principles set forth from time to time 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 agencies with similar functions of comparable stature and authority within the United States accounting profession), which are applicable to the circumstances as of the date of determination. **“General Intangible”** means any “general intangible” as defined in Article 9 of the UCC, and any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction, but including payment intangibles and software.

“Governmental Authority” means any nation or federal government, any state, province, territory, municipality or other political subdivision thereof, and any agency, department or Person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any corporation or other Person owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing, whether domestic or foreign.

“guarantee” by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt 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 conditions or otherwise), or (b) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), *provided, however*, that the term guarantee shall not include endorsements for collection or deposit in the Ordinary Course of Business. The term **“guarantee”** used as a verb has a corresponding meaning.

“Guarantee” means the guarantee of the Guaranteed Obligations made by the Guarantors as set forth in Section 12 of this Agreement or in such other form as may be accepted by Agent in its reasonable discretion.

“Guarantee Supplement” has the meaning specified in Section 12.6.

“Guaranteed Obligations” has the meaning specified therefor in Section 12.2(a).

“Guarantor” means each Subsidiary of the Borrowers (other than an Excluded Subsidiary or other Person designated in writing by Agent as not required to be a Guarantor). For the avoidance of doubt, each Guarantor shall be jointly and severally liable for the Obligations to the extent provided in this Agreement and the other Financing Documents.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials;

radioactive materials; polychlorinated biphenyls and compounds containing them; lead and leadbased paint; asbestos or asbestos-containing materials; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which is prohibited by any Environmental Laws; toxic mold, any substance that requires special handling; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” “pollutant” or other words of similar import within the meaning of any Environmental Law, including: (a) any “hazardous substance” defined as such in (or for purposes of) CERCLA, or any so-called “superfund” or “superlien” Law, including the judicial interpretation thereof; (b) any “pollutant or contaminant” as defined in 42 U.S.C.A. § 9601(33); (c) any material now defined as “hazardous waste” pursuant to 40 C.F.R. Part 260; (d) any petroleum or petroleum by-products, including crude oil or any fraction thereof; (e) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel; (f) any “hazardous chemical” as defined pursuant to 29 C.F.R. Part 1910; (g) any toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos, polychlorinated biphenyls (“**PCB’s**”), flammable explosives, radioactive materials, infectious substances, materials containing lead-based paint or raw materials which include hazardous constituents); and (h) any other toxic substance or contaminant that is subject to any Environmental Laws or other past or present requirement of any Governmental Authority.

“Hazardous Materials Contamination” means contamination (whether now existing or hereafter occurring) of the improvements, buildings, facilities, personalty, soil, groundwater, air or other elements on or of the relevant property by Hazardous Materials, or any derivatives thereof, or on or of any other property as a result of Hazardous Materials, or any derivatives thereof, generated on, emanating from or disposed of in connection with the relevant property.

“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 Borrowers or any other Credit Party under any Financing Documents and (b) to the extent not otherwise described in (a), Other Taxes.

“Instrument” means “instrument”, as defined in Article 9 of the UCC.

“Intellectual Property” means, with respect to any Person, all patents, patent applications, industrial designs, industrial design applications and like protections, including improvements divisions, continuation, renewals, reissues, extensions and continuations in part of the same, trademarks, trade names, trade styles, trade dress, service marks, logos and other business identifiers and, to the extent permitted under applicable law, any applications therefor, whether registered or not, and the goodwill of the business of such Person connected with and symbolized thereby, copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative works, whether published or unpublished, technology, know-how and processes, operating manuals, trade secrets, computer hardware and software, rights to unpatented inventions and all applications

and licenses therefor, used in or necessary for the conduct of business by such Person and all claims for damages by way of any past, present or future infringement of any of the foregoing.

“Interest Payment Date” means subject to Section 2.1, beginning with July 31, 2025, the last Business Day of each month of each year that the Loan is outstanding, and the Termination Date.

“Interest Period” means any period commencing on the first day of a calendar month and ending on the last day of such calendar month.

“Inventory” means “inventory” as defined in Article 9 of the UCC.

“Investment” means any investment in any Person, whether by means of acquiring (whether for cash, property, services, securities or otherwise), making or holding Debt, securities, capital contributions, loans, time deposits, advances, guarantees or otherwise. The amount of any Investment shall be the original cost of such Investment *plus* the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or writeoffs with respect thereto.

“IRS” has the meaning specified therefor in Section 2.8(c)(i).

“Junior Lien Obligations” means the obligations with respect to Debt permitted to be incurred under this Agreement, which is by its terms intended to be secured by the Collateral on a basis junior to the Obligations, excluding the Term Loan Agreement and the Exit Notes.

“Laws” means any and all federal, state, provincial, territorial, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, governmental agreements and governmental restrictions, whether now or hereafter in effect, which are applicable to any Credit Party in any particular circumstance. **“Laws”** includes, without limitation, Environmental Laws.

“Lender” means each of (a) B. Riley, in its capacity as a lender hereunder, (b) each other Person party hereto in its capacity as a lender hereunder, (c) each other Person that becomes a party hereto as Lender pursuant to Section 11.17, and (d) the respective successors of all of the foregoing, and **“Lenders”** means all of the foregoing.

“Liabilities” means the recorded liabilities (including contingent liabilities that would be recorded in accordance with GAAP) of the Borrower and its Subsidiaries taken as a whole, as of the Closing Date after giving effect to the consummation of the Transactions determined in accordance with GAAP consistently applied.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, in respect of such asset. For the purposes of this Agreement and the other Financing Documents, any Borrower or any Subsidiary 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.

“Litigation” means any action, suit or proceeding before any court, mediator, arbitrator or Governmental Authority.



“Loan(s)” means the term loan(s) outstanding under this Agreement.

“Loan Account” has the meaning specified therefor in Section 2.6(b).

“Material Adverse Effect” means a material adverse effect on any of (a) the operations, assets, liabilities, financial condition or prospects of the Credit Parties taken as a whole, (b) the ability of the Credit Parties taken as a whole to perform any of their obligations under any Financing Document, (c) the legality, validity or enforceability of this Agreement or any other Financing Document, (d) the rights and remedies of any Agent or any Lender under any Financing Document, or (e) the validity, perfection or priority of a Lien in favor of Agent on Collateral having a fair market value in excess of \$25,000,000.

“Material Contracts” means, with respect to any Person, (a) each contract or agreement to which such Person or any of its Subsidiaries is a party involving aggregate consideration payable to or by such Person or such Subsidiary of \$10,000,000 or more in any fiscal year (other than purchase orders in the ordinary course of the business of such Person or such Subsidiary and other than contracts that by their terms may be terminated by such Person or Subsidiary in the ordinary course of its business upon less than 60 days’ notice without penalty or premium) and (b) all other contracts or agreements as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

“Maximum Lawful Rate” has the meaning specified therefor in Section 2.7.

“Monthly Purchase” has the meaning assigned to such term in the Exar Facility as in effect on the Closing Date.

“Multiemployer Plan” means a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA to which any Credit Party or any other member of the Controlled Group (or any Person who in the last five years was a member of the Controlled Group) is making or accruing an obligation to make contributions or has within the preceding five plan years (as determined on the applicable date of determination) made contributions.

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

“New Project” means (x) each contract or project with respect to new customers and any expansions of contracts or projects with respect to existing customers and (y) each creation (in one or a series of related transactions) of a business unit to the extent such business unit commences operations or each expansion (in one or a series of related transactions) of business into a new market in each case, to the extent and for so long as not capitalized in the Ordinary Course of Business of the Borrowers and their Subsidiaries.

“Notes” has the meaning specified therefor in Section 2.3.

“Obligations” means all obligations, liabilities and indebtedness (monetary (including, without limitation, the payment of interest and other amounts arising after the commencement of any case with respect to any Credit Party under any Debtor Relief Laws or any similar statute

which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case) or otherwise) of each Credit Party under this Agreement or any other Financing Document, in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due. In addition to, but without duplication of, the foregoing, the Obligations shall include, without limitation, all obligations, liabilities and indebtedness arising from or in connection with all Swap Contracts entered into with any swap counterparty for purposes of hedging the Obligations to the extent permitted under the terms of this Agreement.

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

“OFAC Lists” means, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

“Operative Documents” means the Financing Documents, the Term Loan Documents, the Exit Notes Indenture and the ABL Documents.

“Ordinary Course of Business” means, in respect of any transaction involving any Credit Party, the ordinary course of business of such Credit Party, as conducted by such Credit Party in accordance with past practices.

“Organizational Documents” means, with respect to any Person other than a natural person, the documents by which such Person was organized or formed (such as a certificate of incorporation, certificate of limited partnership or articles of organization, and including, without limitation, any certificates of designation for preferred stock or other forms of preferred equity) and which relate to the internal governance of such Person (such as by-laws, memoranda of association, a partnership agreement or an operating, limited liability company or members agreement), including any and all shareholder agreements or voting agreements relating to the capital stock or other equity interests of such Person.

“Other Connection Taxes” means, with respect to a Lender or Agent, taxes imposed as a result of a present or former connection between Agent or any Lender and the jurisdiction imposing such tax (other than connections arising solely from Agent or such Lender having executed, delivered, become a party to, performed its obligations under, received payments under, engaged in any other transaction pursuant to or enforced any Financing Document, or sold or assigned an interest in any Loans or any Financing Document).

“Other Taxes” means all present or future stamp, court or 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 Financing Document, except any such taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.8(i)).

“**Parent**” means XBP Europe Holdings Inc., a Delaware corporation, and any successor thereto.

“Participant Register” has the meaning specified therefor in Section 11.17(a)(iii).

“Payment Account” means the account specified on the signature pages hereof into which all payments by or on behalf of each Borrower to Agent under the Financing Documents shall be made, or such other account as Agent shall from time to time specify by notice to Borrower Representative.

~~**“Prepayment Conditions”** has the meaning assigned to the term “Payment Conditions” in the ABL Agreement (as in effect on the date of any calculation; provided that such Payment Conditions shall be no more restrictive than the Payment Conditions on Closing Date); provided that, (i) for purposes of the calculation of the ratio thereunder, such ratio shall be determined on a pro forma basis (including a pro forma application of the prepayment and Equity Issuance (if applicable)) and (ii) for purposes of the Excess Availability (as defined in the ABL Agreement) any required period shall be with respect to the date of such prepayment. Upon request by the Agent in connection with a mandatory prepayment by the Borrowers under Section 2.01(iii)(C)), the Borrowers shall provide an officer’s certificate (in form and substance satisfactory to the Agent) to the Agent, certifying that the Payment Conditions have been met (upon which the Agent may conclusively rely without further inquiry).~~

~~For purposes of the definition of “Prepayment Conditions”, terms defined by reference to the Term Loan Agreement or the ABL Agreement (including embedded terms used in such defined terms) shall be defined by reference to the Term Agreement and the ABL Agreement as in effect on the date of such calculation. For the avoidance of doubt, no prepayment conditions shall apply after the discharge of the obligations under the ABL Agreement (in respect of the obligations under the ABL Agreement existing on the Closing Date and not any refinancing thereof).~~

“Payment Recipient” has the meaning specified therefor in Section 11.20.

“PBGC” means the Pension Benefit Guaranty Corporation and any Person succeeding to any or all of its functions under ERISA.

“Pension Plan” means any ERISA Plan that is subject to Section 412 of the Code or Title IV of ERISA.

“Permits” means all governmental licenses, authorizations, provider numbers, supplier numbers, registrations, permits, drug or device authorizations and approvals, certificates, franchises, qualifications, accreditations, consents and approvals of a Credit Party required under all applicable Laws and required for such Credit Party in order to carry on its business as now conducted.

“Permitted Affiliate” means with respect to any Person (a) any Person that directly or indirectly controls such Person, and (b) any Person which is controlled by or is under common control with such controlling Person. As used in this definition, the term “control” of a Person means the possession, directly or indirectly, of the power to vote eighty percent

(80%) or more of any class of voting securities of such Person or to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Permitted Asset Dispositions” means the following Asset Dispositions: (a) dispositions of Inventory in the Ordinary Course of Business and not pursuant to any bulk sale, (b) dispositions of furniture, fixtures and equipment in the Ordinary Course of Business that the applicable Borrower or Subsidiary determines in good faith is no longer used or useful in the business of such Borrower and its Subsidiaries, (c) dispositions approved by Agent, (d) licensing, on a nonexclusive basis, intellectual property rights in the ordinary course of business of the Borrowers or any Subsidiary, (e) leasing or subleasing assets in the ordinary course of business of the Borrower or any Subsidiary, (f) so long as no Event of Default has occurred and is continuing or would result therefrom, transfers of assets (i) from the Borrower or any Subsidiary to a Credit Party and (ii) from any Subsidiary that is not a Credit Party to any other Subsidiary, (g) any Asset Disposition occurring in accordance with the terms of the Tax Funding Agreement, (h) any involuntary loss, damage or destruction of property and any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property, (i) any involuntary loss, damage or destruction of property, (j) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property, (k)(i) the lapse of Registered Intellectual Property of the Borrowers or any Subsidiary of the Borrowers to the extent not economically desirable in the conduct of their business or (ii) the abandonment of Intellectual Property rights in the ordinary course of their business so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Lenders, and (l) sales and contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility.

“Permitted Contest” means, with respect to any tax obligation or other obligation allegedly or potentially owing from any Borrower or its Subsidiary to any governmental tax authority or other third party, a contest maintained in good faith by appropriate proceedings promptly instituted and diligently conducted and with respect to which such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made on the books and records and financial statements of the applicable Credit Party(ies); *provided, however*, that (a) compliance with the obligation that is the subject of such contest is effectively stayed during such challenge; (b) Borrowers’ and its Subsidiaries’ title to, and its right to use, the Collateral is not adversely affected thereby and Agent’s Lien and priority on the Collateral are not adversely affected, altered or impaired thereby; (c) Borrowers have given prior written notice to Agent of a Borrower’s or its Subsidiary’s intent to so contest the obligation; (d) the Collateral or any part thereof or any interest therein shall not be in any danger of being sold, forfeited or lost by reason of such contest by Borrowers or its Subsidiaries; (e) Borrowers have given Agent notice of the commencement of such contest and upon request by Agent, from time to time, notice of the status of such contest by Borrowers and/or confirmation of the continuing satisfaction of this definition; and (f) upon a final determination of such contest, Borrowers and its Subsidiaries shall promptly comply with the requirements thereof.

“Permitted Contingent Obligations” means (a) Contingent Obligations arising in respect of the Debt under or permitted by the Financing Documents; (b) Contingent Obligations resulting from endorsements for collection or deposit in the Ordinary Course of Business; (c) Contingent Obligations outstanding on the date of this Agreement and set forth on Schedule 5.1 (but not including any refinancings, extensions, increases or amendments to the indebtedness underlying

such Contingent Obligations other than extensions of the maturity thereof without any other change in terms); (d) Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeal bonds, performance bonds and other similar obligations; (e) Contingent Obligations arising under indemnity agreements with title insurers to cause such title insurers to issue to Agent mortgagee title insurance policies; (f) Contingent Obligations arising with respect to customary indemnification obligations in favor of purchasers in connection with dispositions of personal property assets permitted under Section 5.6; (g) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Contingent Obligations existing or arising under any Swap Contract, *provided, however*, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation; and (h) other Contingent Obligations not permitted by clauses (a) through (h) above, not to exceed the Threshold Amount in the aggregate at any time outstanding.

“Permitted Debt” means:

(a) Borrowers’ and its Subsidiaries’ Debt to Agent and each Lender under this Agreement and the other Financing Documents;

(b) Debt incurred as a result of endorsing negotiable instruments received in the Ordinary Course of Business;

(c) purchase money Debt to finance (whether prior to or within 180 days after) the acquisition of property or capital lease obligations not to exceed \$35,000,000 at any time (whether in the form of a loan or a lease and including any refinancing of such indebtedness pursuant to clause (II) below) used solely to acquire, lease, construct, repair, replace or improve property or equipment used in the Ordinary Course of Business;

(d) Debt existing on the date of this Agreement and described on Schedule 5.1 (but not including any refinancings, extensions, increases or amendments to such Debt other than extensions of the maturity thereof without any other change in terms);

(e) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Debt existing or arising under any Swap Contract, *provided, however*, that such obligations are (or were) entered into by Borrower or an Affiliate in the Ordinary Course of Business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation;

(f) Debt in the form of insurance premiums financed through the applicable insurance company;

(g) trade accounts payable arising and paid on a timely basis and in the Ordinary Course of Business;

(h) Borrowers' and its Subsidiaries' Debt incurred in connection with the Term Loan Documents (subject to the terms of the ABL Intercreditor Agreement);

(i) ~~[reserved]~~ Debt incurred pursuant to the Exar Facility;

(j) Debt of any Credit Party in an aggregate amount not to exceed \$25,000,000 so long as (x) the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries for the most recently ended four fiscal quarters for which financial statements have been delivered to Agent would have been at least 2.00 to 1.00 determined on a pro forma basis and (y) any such Debt shall be subordinated in right of payment to the Obligations and, if secured, subordinated in respect of lien priority to the Liens securing the Obligations on terms acceptable to Agent;

(k) [reserved];

(l) Debt in an aggregate amount not to exceed \$5,000,000 so long as the Senior Secured Leverage Ratio for the most recently ended four fiscal quarters for which financial statements have been delivered to Agent does not exceed 3.75 to 1.00 determined on a pro forma basis;

(m) the Exit Notes issued on the Closing Date (subject to the terms of the ABL Intercreditor Agreement);

(n) [reserved];

(o) Debt (x) incurred to finance an acquisition or (y) of Persons that are acquired, in each case so long as (A)(i) the Borrowers would be permitted to incur at least \$1.00 of additional Debt pursuant to the Fixed Charge Coverage Ratio test set forth in clause (j) above or (ii) the Fixed Charge Coverage Ratio of the Borrowers would be no less than immediately prior to such acquisition, (B) the aggregate principal amount of Debt under clause (o)(x) shall not exceed \$10,000,000, and (C) any such Debt shall be subordinated in right of payment to the Obligations on terms acceptable to Agent;

(p) Debt of any Subsidiary that is not a Credit Party in an aggregate amount not to exceed \$4,000,000;

(q) Debt incurred on behalf of, or representing guarantees of Debt of, joint ventures of any Borrower or any Subsidiary in an aggregate principal amount not to exceed \$10,000,000, so long as any such Debt shall be subordinated in right of payment to the Obligations on terms acceptable to Agent;

(r) [reserved];

(s) Debt of the Borrowers or any Subsidiary in respect of the ABL Agreement (subject to the terms of the ABL Intercreditor Agreement);

(t) [reserved];

(u)(i) Additional Notes issued in connection with the ETI Funding Obligation and (ii) Additional Notes issued other than in connection with the ETI Funding Obligation in an amount not to exceed \$10,000,000;



(v) Debt of the Borrowers to any of the Subsidiaries; provided, that (x) any such Debt owed to a Subsidiary that is not a Borrower or a Guarantor is subordinated in right of payment to the Obligations on terms acceptable to Agent and (y) the aggregate amount of all such Debt owed to a Borrower or a Guarantor by any Subsidiary that is not a Borrower or a Guarantor shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any equity interests or any other event which results in any such Subsidiary ceasing to be a Subsidiary or any other subsequent transfer of any such Debt (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Debt constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an incurrence of such debt not permitted by this clause (v);

(w) Debt of any Subsidiary to the Borrowers or any other Subsidiary; provided, that (x) if a Subsidiary that is a Guarantor incurs such Debt to a Subsidiary that is not a Borrower or a Guarantor, such Debt is subordinated in right of payment to the Guarantee of such Subsidiary on terms acceptable to Agent and (y) if any Subsidiaries that are not a Guarantor incur Debt to any Borrower or Guarantor, the aggregate amount of such Debt shall not exceed \$25,000,000; provided, further, that any subsequent issuance or transfer of any equity interests or any other event which results in any Subsidiary of the Borrowers holding such Debt ceasing to be a Subsidiary of the Borrowers or any other subsequent transfer of any such Debt (except to the Borrowers or another Subsidiary of the Borrowers or any pledge of such Debt constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an incurrence of such Debt not permitted by this clause (w);

(x) Debt of the Borrowers or any Subsidiary in respect of the Unsecured Cash Pool;

(y) Debt incurred by the Borrowers or any Subsidiary of the Borrowers owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Borrowers or any of the Borrowers' Subsidiaries, respectively, pursuant to reimbursement or indemnification obligations to such Person, in each case, provided in the ordinary course of business or consistent with industry practices;

(z) Debt arising from agreements of the Borrowers or any Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Debt incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition, in each case, to the extent such obligation or transaction is permitted by this Agreement;

(aa) Debt of the Borrowers and the Subsidiaries in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case, reasonably required in the conduct of their respective business (giving effect to any growth or expansion of such business permitted hereunder), including

those incurred to secure health, safety, insurance and environmental obligations of the Borrowers and the Subsidiaries, respectively, as conducted in accordance with good and prudent business industry practices and otherwise as permitted by this Agreement;

(bb) Debt arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business (provided that such Debt is extinguished within five Business Days of its incurrence) or other cash management services in the ordinary course of business;

(cc) Debt of the Borrowers or Subsidiary supported by a letter of credit or bank guarantee issued pursuant to Debt otherwise permitted by Section 5.1, in a principal amount not in excess of the stated amount of such letter of credit;

(dd) Debt of the Borrowers or Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(ee) Debt of the Borrowers and its respective Subsidiaries in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support their respective performance obligations and trade letters of credit (other than obligations in respect of other Debt) in the ordinary course of business;

(ff) to the extent constituting Debt of the Borrowers and the Subsidiaries, all premium (if any), defeasance costs, interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Debt otherwise permitted to be incurred pursuant to Section 5.1;

(gg) Debt in respect of obligations of the Borrowers or Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services for such Person; provided, that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Swap Contracts;

(hh) deposits raised by any Subsidiary that is subject to state and/or federal banking regulations that constitute Debt owing to such depositor;

(ii) Debt consisting of earn outs and obligations of the Borrowers or Subsidiary under deferred compensation or other similar arrangements incurred by such Person in connection with any Permitted Investment by such Person;

(jj) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(kk) obligations in respect of Cash Management Agreements; and

(ll) the incurrence by the Borrowers or any of their Subsidiaries of Debt that serves to refund, refinance or defease any Debt as permitted under clauses (c), (d), (l), (n), (o), (p), (q) and (s) of the definition of "Permitted Debt" in an aggregate amount not to exceed the then- outstanding principal amount (or, if applicable, the liquidation preference face amount of the Debt being so refunded, refinanced or defeased), together with any

accrued interest and any related fees, expenses and premiums (subject to the following proviso, “**Refinancing Indebtedness**”) prior to its respective maturity; provided, however, that such Refinancing Indebtedness:

(i) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Debt being refunded, refinanced or defeased and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Debt being refunded or refinanced that were due on or after the date that is one year following the last maturity date of the Obligations;

(ii) to the extent such Refinancing Indebtedness refinances Debt subordinated in right of payment to the Obligations or a Guarantee, as applicable, such Refinancing Indebtedness is subordinated in rights of payment to the Obligations or the Guarantee, as applicable, on terms acceptable to Agent;

(iii) shall not have any of the Borrower Representative or any Subsidiary of the Borrower Representative as an obligor thereon except to the extent such Person was an obligor on the Debt being extended, refinanced or modified, and shall not be secured by any Lien on any asset other than the assets that secured such Debt being extended, refinanced or modified or, if applicable, shall be unsecured;

(iv) shall not (if secured) have a Lien priority greater than such Debt being extended, refinanced or modified; and

(v) shall not include Debt (including any guarantees) of a Subsidiary that is not a Borrower or a Guarantor that refinances Debt of a Borrower or a Subsidiary that is a Guarantor.

For purposes of determining compliance with Section 5.1:

(A) in the event that an item of Debt (or any portion thereof) meets the criteria of more than one of the categories of permitted Debt described in clauses (a) through (ll) of the definition of "Permitted Debt", then the Borrower Representative may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such item of Debt (or any portion thereof) in any manner that complies with Section 5.1; provided, that (1) any Exit Notes issued on the Effective Date (as defined therein) (but for the avoidance of doubt, not any Additional Notes) shall be incurred under clause (m) of the definition of "Permitted Debt" and Debt under the Term Loan Documents and ABL Agreement shall be incurred under clauses (h) and (s), respectively, of the definition of "Permitted Debt", (2) the Obligations shall be incurred under clause (a) of the definition of "Permitted Debt", (3) [reserved], (4) the Unsecured Cash Pool shall be incurred under clause (x) of the definition of "Permitted Debt", (5) Additional Notes incurred in connection with the ETI Funding Obligation shall be incurred under clause (u)(i) of the definition of "Permitted Debt" and (6) Additional Notes other than those issued pursuant to clause (u)(i) of the definition of "Permitted Debt" shall be incurred under clause (u)(ii) of the definition of "Permitted Debt", and in each case, may not be reclassified;

(B) at the time of incurrence, classification or reclassification, the Borrowers will be entitled to divide and classify an item of Debt in more than one of the categories of Debt described in the definition of “Permitted Debt” (or any portion thereof) without giving pro forma effect to the Debt incurred, classified or reclassified pursuant to any other clause or paragraph of the

definition of “Permitted Debt” (or any portion thereof) when calculating the amount of Debt that may be incurred, classified or reclassified pursuant to any such clause or paragraph (or any portion thereof) at such time; provided, that, for the avoidance of doubt, it is understood and agreed that for any Debt incurred, classified or reclassified in reliance on a category of permitted Debt involving the calculation of a ratio, such Debt will be included in the calculation of such ratio at the time of such incurrence, classification or reclassification; and

(C) in connection with (x) the incurrence or issuance, as applicable, of revolving loan Debt under Section 5.1 or (y) any commitment to incur or issue Debt under Section 5.1, the Borrowers or applicable Subsidiary may designate such incurrence or issuance as having occurred on the date of first incurrence of such revolving loan Debt or commitment (such date, the “**Deemed Date**”), and any related subsequent actual incurrence or issuance will be deemed for all purposes under this Agreement to have been incurred or issued on such Deemed Date, including without limitation for purposes of calculating the Fixed Charge Coverage Ratio, usage of any baskets hereunder (if applicable), the Senior Secured Leverage Ratio and EBITDA (and all such calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith).

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Debt, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Debt for purposes of Section 5.1. Guarantees of, or obligations in respect of letters of credit relating to, Debt which is otherwise included in the determination of a particular amount of Debt shall not be included in the determination of such amount of Debt; provided, that the incurrence of the Debt represented by such guarantee or letter of credit, as the case may be, was in compliance with Section 5.1.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Debt, the U.S. dollar-equivalent principal amount of Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Debt was incurred, in the case of term debt, or first committed or first incurred (whichever yields the lower U.S. dollar equivalent), in the case of revolving credit debt. However, if the Debt is incurred to refinance other Debt denominated in a foreign currency, and the refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Debt does not exceed the principal amount of the Debt being refinanced.

Notwithstanding any other provision of Section 5.1, the maximum amount of Debt that Borrowers and their respective Subsidiaries may incur pursuant to Section 5.1 shall not be deemed to be exceeded, with respect to any outstanding Debt, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Debt incurred to

refinance other Debt, if incurred in a different currency from the Debt being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Debt is denominated that is in effect on the date of the refinancing.

“Permitted Distributions” means the following Restricted Distributions:

- (a) dividends by any Subsidiary of any Credit Party to such parent Credit Party;
- (b) dividends payable solely in common stock;
- (c) repurchases of stock of former employees, directors or consultants pursuant to stock purchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase; provided however that such repurchase does not exceed the Threshold Amount in the aggregate per fiscal year;
- (d) amounts required for any direct or indirect parent of any Borrower to pay fees and expenses (including franchise or similar taxes) required to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any direct or indirect parent of any Borrower and general corporate operating and overhead expenses of any direct or indirect parent of the Borrower in each case to the extent such fees and expenses are attributable to the ownership or operation of the Borrowers, if applicable, and its Subsidiaries;
- (e) with respect to any taxable period (or portion thereof) for which the Borrowers and any of their Subsidiaries are members (or are disregarded from a member) of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state or local income tax purposes of which Parent is the common parent, dividends or distributions by the Borrowers or such applicable Subsidiaries, as the case may be, to such direct or indirect parent of the Borrowers in an amount not to exceed the lesser of (i) the sum of the amount of the relevant U.S. federal, state or local income Taxes reduced by any such income Taxes directly paid or withheld at the level of the Borrowers or such Subsidiaries or (ii) the amount of any U.S. federal, state or local income taxes that the Borrowers and/or its Subsidiaries, as applicable, would have paid for such taxable period (taking into account prior year losses) had the Borrowers and/or its Subsidiaries, as applicable, been a stand-alone corporate taxpayer or a stand-alone corporate group; provided that distributions pursuant to this clause shall not exceed the actual Tax liability of Parent in respect of the relevant U.S. federal, state, local or non-U.S. income Taxes;
- (f) any Restricted Distribution used to fund the payment of professional fees and expenses of Loeb & Loeb LLP, Cleary Gottlieb Steen & Hamilton LLP and Ropes & Gray LLP in connection with the Transactions to the extent permitted by Section 5.8;
- (g) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration thereof, if at the date of declaration or the giving notice of such redemption, as applicable, such payment would have otherwise complied with the provisions of this Agreement;

(h) voluntary prepayments of the Term Loans or the Exit Notes, so long as after giving effect to such voluntary prepayments of the Term Loans or the Exit Notes, the Payment Conditions (as defined in the ABL Agreement as in effect on the date hereof, including defined terms herein) are satisfied; and

(i) the redemption, repurchase, defeasance, or other acquisition or retirement of Subordinated Debt of a Borrower or Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Subordinated Debt of such Borrower or Guarantor, which is incurred in accordance with Section 5.1 so long as:

(i) the principal amount (or accreted value, if applicable) of such new Debt does not exceed the principal amount (or accreted value, if applicable), plus any accrued and unpaid interest, of the Subordinated Debt being so redeemed, repurchased, defeased, acquired or retired for value (plus the amount of any premium required to be paid under the terms of the instrument governing the Subordinated Debt being so redeemed, repurchased, acquired or retired, any tender premiums, plus any defeasance costs, fees and expenses incurred in connection therewith),

(ii) such Debt is subordinated to the Obligations or the related Guarantee of such Guarantor, as the case may be, on terms acceptable to Agent, at least to the same extent as such Subordinated Debt so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value,

(iii) such Debt has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Subordinated Debt being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Obligations then outstanding, and

(iv) such Debt has a Weighted Average Life to Maturity at the time incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the Subordinated Debt being so redeemed, repurchased, defeased, acquired or retired and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Subordinated Debt being redeemed, repurchased, defeased, acquired or retired that were due on or after the date that is one year following the last maturity date of any Exit Notes then outstanding were instead due on such date.

“Permitted Investments” means:

- (a) Investments shown on Schedule 5.7 and existing on the Closing Date;
- (b) cash and Cash Equivalents;
- (c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the Ordinary Course of Business;

(d) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrowers or their Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrowers' Board of Directors (or other governing body), but the aggregate of all such loans outstanding may not exceed the Threshold Amount at any time;

(e) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the Ordinary Course of Business;

(f) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the Ordinary Course of Business, *provided, however*, that this subpart (f) shall not apply to Investments of Borrowers in any Subsidiary;

(g) Investments consisting of deposit accounts in which ABL Agent or Agent has received a Deposit Account Control Agreement;

(h) Investments by any Borrower or any Subsidiary in any Credit Party;

(i) other Investments in an amount not exceeding \$5,000,000 in the aggregate;

(j) Investments in a Person if as a result of such Investment (i) such Person becomes a Guarantor, or (ii) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, a Credit Party;

(k) Investments in any Subsidiary that is not a Guarantor not to exceed, at any one time in the aggregate outstanding under this clause (k), the Threshold Amount;

(l) Investments constituting Permitted Asset Dispositions under clause (l) thereof;

(m) Investments in joint ventures (as determined in good faith by the Borrower at the time of the making thereof, and without giving effect to any subsequent changes in value) not to exceed, at any one time in the aggregate outstanding under this clause (m), the Threshold Amount;

(n) any Investment occurring in accordance with the terms of the Tax Funding Agreement;

(o)(i) Investments consisting of the licensing or contribution of intellectual property (on a non-exclusive basis) pursuant to joint marketing arrangements with other Persons in the ordinary course of business; (ii) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property (on a non-exclusive basis) in each case in the ordinary course of business;

(p) Investments of a Subsidiary acquired after the Closing Date or of an entity merged into, amalgamated with, or consolidated with the Borrowers or a Subsidiary of the Borrowers that is a Guarantor in a transaction that is not prohibited by 5.7 after the Closing

Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(q) any Investment consisting of intercompany current liabilities in connection with the cash management, tax and accounting operations of the Borrowers and their respective Subsidiaries;

(r) any Investment in the form of a participation interest in the Note held by B. Riley which the Borrower and its Subsidiaries are required to make pursuant to the Exar Facility, so long as such Investment is immediately contributed to the Credit Parties and is not transferred to any Person other than a Credit Party;

(s) any Investment of (A) Exar SPV in the Exar Originators or (B) the Exar Originators in Exar SPV, in either such case, in connection with the Exar Facility;

(st) guarantees by the Borrowers or any Subsidiary of the Borrowers of operating leases or of other obligations that do not constitute Debt, in each case, entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business; and

(tu) Investments the payment for which consists of equity interests of the Borrowers (other than disqualified stock) or any direct or indirect parent of the Borrowers, as applicable.

“Permitted Liens” means:

(a) deposits or pledges of cash to secure obligations under workmen’s compensation, social security or similar laws, or under unemployment insurance (but excluding Liens arising under ERISA) pertaining to a Credit Party’s or its Subsidiary’s employees, if any;

(b) deposits or pledges of cash to secure bids, tenders, contracts (other than contracts for the payment of money or the deferred purchase price of property or services), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the Ordinary Course of Business;

(c) carrier’s, warehousemen’s, mechanic’s, workmen’s, materialmen’s or other like Liens on Collateral, arising in the Ordinary Course of Business with respect to obligations which are not due, or which are being contested pursuant to a Permitted Contest;

(d) Liens on Collateral, other than Accounts, for taxes or other governmental charges not due and payable or the subject of a Permitted Contest, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(e) attachments, appeal bonds, judgments and other similar Liens on Collateral, not exceeding \$15,000,000 in value, arising in connection with court proceedings and not giving rise to an Event of Default; provided, however, that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are the subject of a Permitted Contest;

(f) Liens and encumbrances in favor of Term Agent under the Term Loan Documents in accordance with the ABL Intercreditor Agreement;

(g) Liens and encumbrances in favor of ABL Agent under the ABL Documents in accordance with the ABL Intercreditor Agreement;

(h) Liens on Collateral existing on the date hereof and set forth on Schedule 5.2;

(i) any Lien on any property or equipment securing Debt permitted under subpart (c) of the definition of Permitted Debt and on any proceeds thereof, accessions and additions thereto, customary security deposits and related property with respect to such property or equipment, provided, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates);

(j) [reserved];

(k) [reserved];

(l) Liens securing obligations in respect of Debt incurred pursuant to clause (l) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(m) Liens securing obligations in respect of Debt incurred pursuant to the Exit Notes in accordance with the ABL Intercreditor Agreement;

(n) Liens securing obligations in respect of Debt incurred pursuant to clause (j) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(o) Liens securing obligations in respect of Debt incurred pursuant to clause (o) of the definition of “Permitted Debt” so long as such Liens secure Debt not created or incurred in connection with, or in contemplation of, the acquisition and only extend to the property or assets acquired in such acquisition (and accessions and additions thereto and proceeds and products thereof);

(p) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary of a Borrower, or on assets or property acquired by a Borrower or a Subsidiary, so long as in each case such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary or such acquisition and do not extend to any other property of the Borrowers or their Subsidiaries (other than pursuant to after-acquired property clauses in effect at the time of the acquisition);

(q) Liens (i) on not more than \$2,000,000 of deposits securing Swap Contracts entered into for non-speculative purposes and (ii) on cash or Cash Equivalents securing Swap Contracts in the Ordinary Course of Business submitted for clearing in accordance with applicable requirements of law;

(r) Claims Administration Liens;

(s) Liens securing obligations in respect of Debt incurred pursuant to the Financing Documents in accordance with the ABL Intercreditor Agreement;

(t) Liens of the Borrower or any Subsidiary securing obligations the outstanding principal amount of which does not, taken together with the principal amount of all other obligations secured by Liens incurred under this clause (t) that are at that time outstanding, exceed (i) in the event such

Liens incurred under this clause (t) are subordinated to the Liens securing the Obligations on terms acceptable to the Agent and the Required Lenders, \$15,000,000 or (ii) otherwise, \$1,000,000;

(u) Liens on non-Collateral assets in an aggregate amount not to exceed \$5,000,000;

(v) [reserved];

(w) non-consensual Liens (not incurred in connection with borrowed money) on equipment of any of the Borrowers or any of their Subsidiaries not exceeding \$5,000,000 in value and granted in the ordinary course of business to any client of a Borrower or such Subsidiary at which such equipment is located;

(x) Liens securing obligations in respect of Debt incurred pursuant to the clause (u) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(y) Liens securing obligations in respect of Debt incurred pursuant to clause (x) of the definition of “Permitted Debt” so long as any such Liens shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent;

(z) Liens securing obligations in respect of Debt incurred pursuant to clause (p) of the definition of “Permitted Debt” so long as any such Liens do not extend to the property or assets of the Borrowers or any Subsidiary of the Borrowers other than a Subsidiary that is not a Borrower or a Guarantor;

(aa) Liens securing obligations in respect of Debt incurred pursuant to clause (q) of the definition of “Permitted Debt”;

(bb) licenses of intellectual property and software that are not material to the conduct of any of the business lines of the Borrowers or any Subsidiary of the Borrowers and the value of which does not constitute a material portion of the assets of the Borrowers and their respective Subsidiaries, taken as a whole, respectively, and such license does not materially interfere with the ordinary course of conduct of the business of the Borrowers or any of their Subsidiaries;

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

(dd) [reserved];

(ee) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code in effect in the State of New York or similar provisions in similar codes, statutes or laws in

other jurisdictions on items in the course of collection, (ii) attaching to commodity trading accounts, other commodity brokerage accounts or securities incurred in the ordinary course of business, (iii) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry, (iv) encumbering customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts incurred in the ordinary course of business and not for speculative purposes, (v) in respect of Third Party Funds or (vi) in favor of credit card companies pursuant to agreements therewith;

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

(gg) Liens on the Collateral securing Junior Lien Obligations (subject to a junior lien intercreditor agreement in form and substance reasonably satisfactory to Agent) in an aggregate amount not to exceed the Threshold Amount; provided that the Obligations are secured on a senior priority basis to the obligations so secured until such time as such obligations are no longer secured by a Lien;

(hh) Liens to secure cash management services in the ordinary course of business; provided, that such Liens are not incurred in connection with, and do not secure, any borrowings or Indebtedness;

(ii) Liens granted by (i) each Exar Originator in favor of Exar SPV (as may be assigned to Exar Buyer) and (ii) Exar SPV to the Exar Buyer, in each case, in Receivables Assets, pursuant to the Exar Facility; and

(jj) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Debt secured by any Lien referred to in clauses (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (x), (y), (z), (aa) and (gg) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Debt being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under clauses (f), (g), (h), (i), (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (x), (y), (z), (aa) and (gg) of this definition at the time the original Lien became a Permitted Lien under this Agreement, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided, further, that in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clauses (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this

definition, the principal amount of any Debt incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this

definition and not this clause (jj) of this definition for purposes of determining the principal amount of Debt outstanding under clause (f), (i), (m), (n), (o), (s), (x), (y), (z) or (aa) of this definition; provided, further, however, that any Lien securing any refinancing of any Debt secured by a Lien referred to in clause (gg) shall be a junior Lien (subject to a junior lien intercreditor agreement in form and substance reasonably satisfactory to Agent) and any Lien securing any refinancing of any Debt referenced to in clauses (s), (x) and (y) shall be subordinated to the Liens securing the Obligations on terms acceptable to Agent; provided, further, that Liens securing the ABL Agreement, the Term Loan Agreement and the Exit Notes shall be subject to the ABL Intercreditor Agreement.

For purposes of determining compliance with Section 5.2, (i) a Lien need not be permitted solely by reference to one category of permitted Liens described in the definition of “Permitted Liens” but may be permitted in part under any combination thereof and (ii) in the event that a Lien meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of “Permitted Liens”, the Borrower Representative may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if incurred at such later time), such Lien in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien in one of the categories of permitted Liens (or any portion thereof) described in the definition of “Permitted Liens” and, in such event, such Lien will be treated as being incurred or existing pursuant to only such clause or clauses (or any portion thereof) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be incurred pursuant to any other clause or paragraph (or portion thereof) at such time. In addition, with respect to any revolving loan Debt or commitment to incur Debt that is designated to be incurred on any Deemed Date pursuant to clause (C) of the definition of “Permitted Debt”, any Lien that does or that shall secure such Debt may also be designated by the Borrower Representative or any Subsidiary to be incurred on such Deemed Date and, in such event, any related subsequent actual incurrence of such Lien shall be deemed for all purposes under this Agreement to be incurred on such prior date, including for purposes of calculating usage of any “Permitted Lien” (and any calculations on and after the Deemed Date until the termination of such commitments shall be made on a pro forma basis after giving effect to the deemed incurrence or issuance and related transactions in connection therewith).

With respect to any Lien securing Debt that was permitted to secure such Debt at the time of the incurrence of such Debt, such Lien shall also be permitted to secure any Increased Amount of such Debt. The “Increased Amount” of any Debt shall mean any increase in the amount of such Debt in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Debt with the same terms or in the form of common stock of the Borrowers, the payment of dividends on equity interests constituting Debt in the form of additional shares of equity interests of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Debt outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Debt described in clause (g) of the definition of “Debt.”

“Permitted Modifications” means (a) such amendments or other modifications to a Borrower’s or Subsidiary’s Organizational Documents as are required under this Agreement or by applicable Law and fully disclosed to Agent within thirty (30) days after such amendments or modifications have become effective, and (b) such amendments or modifications to a Borrower’s

or Subsidiary's Organizational Documents (other than those involving a change in the name of a Borrower or Subsidiary or involving a reorganization of a Borrower or Subsidiary under the laws of a different jurisdiction) that would not materially adversely affect the rights and interests of Agent or Lenders and fully disclosed to Agent within thirty (30) days after such amendments or modifications have become effective.

"Person" means any natural person, corporation, limited liability company, unlimited liability company, professional association, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority.

"Plan of Reorganization" means the Amended Joint Plan of Reorganization of DocuData Solutions, L.C. and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, attached to the Confirmation Order as Exhibit A, and all exhibits, supplements, appendices, and schedules thereto, as may be altered, amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof.

"Pre-Opening Expenses" means, with respect to any fiscal period, the amount of expenses (other than interest expense) incurred with respect to facilities which are classified as "pre-opening expenses" (or any similar or equivalent caption) on the applicable financial statements of the Borrowers and their respective Subsidiaries for such period, prepared in accordance with GAAP.

"Prepayment Conditions" has the meaning assigned to the term "Payment Conditions" in the ABL Agreement (as in effect on the date of any calculation; provided that such Payment Conditions shall be no more restrictive than the Payment Conditions on Closing Date); provided that, (i) for purposes of the calculation of the ratio thereunder, such ratio shall be determined on a pro forma basis (including a pro forma application of the prepayment and Equity Issuance (if applicable)) and (ii) for purposes of the Excess Availability (as defined in the ABL Agreement) any required period shall be with respect to the date of such prepayment. Upon request by the Agent in connection with a mandatory prepayment by the Borrowers under Section 2.01(iii)(C)), the Borrowers shall provide an officer's certificate (in form and substance satisfactory to the Agent) to the Agent, certifying that the Payment Conditions have been met (upon which the Agent may conclusively rely without further inquiry).

For purposes of the definition of "Prepayment Conditions", terms defined by reference to the Term Loan Agreement or the ABL Agreement (including embedded terms used in such defined terms) shall be defined by reference to the Term Agreement and the ABL Agreement as in effect on the date of such calculation. For the avoidance of doubt, no prepayment conditions shall apply after the discharge of the obligations under the ABL Agreement (in respect of the obligations under the ABL Agreement existing on the Closing Date and not any refinancing thereof).

“Pro Rata Share” means, with respect to any Lender, the percentage obtained by *dividing* (i) the sum of the outstanding Loan of such Lender, *by* (ii) the sum of the outstanding Loans of all Lenders.

“Public Reporting Entity” has the meaning specified therefor in Section 4.1.

“Receivables Assets” means accounts receivable (including any bills of exchange) from time to time originated, acquired or otherwise owned by the Exar Originators and all right, title and interests in and to (i) all security interests or liens securing payment of such accounts receivable, (ii) any obligations supporting such accounts receivable, including all guarantees, insurance and other agreements or arrangements supporting or securing payment of such accounts receivable, (iii) all books and records relating to such accounts receivables and the related obligor and (iv) all payments and collections with respect to, and other proceeds of, such accounts receivable.

“Register” has the meaning specified therefor in Section 11.17(a)(iii).

“Registered Intellectual Property” means Intellectual Property that is issued, registered, renewed or the subject of a pending application.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“Required Lenders” means at any time Lenders holding fifty percent (50%) or more of the then aggregate outstanding principal balance of the Loans.

“Requirements of Law” means, with respect to any Person, collectively, the common law and any and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities), and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

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

“Responsible Officer” means any of the Chief Executive Officer, Chief Financial Officer or any other officer of the applicable Borrower acceptable to Agent.

“Restricted Cash” means cash and Cash Equivalents held by Subsidiaries of the Borrowers that would appear as “restricted” on a consolidated balance sheet of the Borrowers or any of their respective Subsidiaries.

“Restricted Distribution” means as to any Person (a) any dividend or other distribution (whether in cash, securities or other property) on any equity interest in such Person (except those payable solely in its equity interests of the same class), (b) any payment by such Person on account of (i) the purchase, redemption, retirement, defeasance, surrender, cancellation, termination or acquisition of any equity interests in such Person or any claim respecting the purchase or sale of any equity interest in such Person, or (ii) any

option, warrant or other right to acquire any equity interests in such Person, (c) any management fees, salaries or other fees or compensation to any Person holding an equity interest in a Borrower or a Subsidiary of a Borrower (other than

(i) payments of salaries to individuals, (ii) directors fees, and (iii) advances and reimbursements to employees or directors, all in the Ordinary Course of Business), an Affiliate of a Borrower or an Affiliate of any Subsidiary of a Borrower, (d) any lease or rental payments to an Affiliate or Subsidiary of a Borrower, or (e) repayments of or debt service on Subordinated Debt (other than Debt permitted under clauses (v) and (w) of the definition of “Permitted Debt”) unless permitted under and made pursuant to a Subordination Agreement applicable to such loans or other indebtedness and voluntary prepayments of the Term Loans or the Exit Notes.

“**Revolving Loans**” has the meaning specified therefor in the ABL Agreement.

“**SEC**” means the United States Securities and Exchange Commission.

“**Second Amendment Effective Date**” means January 21, 2026

“**Secured Indebtedness**” means any Consolidated Total Indebtedness secured by a Lien.

“**Securities Account**” means a “securities account” (as defined in Article 9 of the UCC), an investment account, or other account in which investment property or securities are held or invested for credit to or for the benefit of any Borrower.

“**Securities Account Control Agreement**” means either (i) an agreement, in form and substance satisfactory to the ABL Agent, among ABL Agent, any applicable Borrower and each securities intermediary in which such Borrower maintains a Securities Account pursuant to which the ABL Agent shall obtain “control” (as defined in Article 9 of the UCC) over such Securities Account or (ii) an agreement, in form and substance satisfactory to the Agent, among Agent, any applicable Borrower and each securities intermediary in which such Borrower maintains a Securities Account pursuant to which the Agent shall obtain “control” (as defined in Article 9 of the UCC) over such Securities Account.

“**Security Document**” means this Agreement, and any other agreement, document or instrument executed concurrently herewith or at any time hereafter pursuant to which one or more Credit Parties or any other Person either (a) guarantees payment or performance of all or any portion of the Obligations, and/or (b) provides, as security for all or any portion of the Obligations, a Lien on any of its assets in favor of Agent for its own benefit and the benefit of the Lenders, as any or all of the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Senior Secured Leverage Calculation Date**” has the meaning assigned in the “Senior Secured Leverage Ratio” definition.

“**Senior Secured Leverage Ratio**” means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Subsidiaries constituting Obligations hereunder, Obligations (as defined in the ABL Agreement), Notes Obligations (as defined in the Exit Notes Indenture), Obligations (as defined in the Term Loan Agreement), in each case as of such date of calculation (determined on a consolidated basis

in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Subsidiaries and held by such Person and its Subsidiaries as of such date of determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial

statements have been delivered to Agent immediately preceding such date on which such additional Debt is incurred. In the event that the Borrowers or any Subsidiary incurs, repays, repurchases or redeems any Debt subsequent to the commencement of the period for which the Senior Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Senior Secured Leverage Ratio is made (the “**Senior Secured Leverage Calculation Date**”), then the Senior Secured Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of customary disqualified equity interests or preferred stock as if the same had occurred at the beginning of the applicable four-quarter period.

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

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Borrower Representative. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Borrowers as set forth in an Responsible Officer’s certificate, to reflect operating expense reductions and other operating improvements, synergies or cost savings that would have resulted if such operating expense reductions and other operating improvements, synergies or cost savings had occurred on the first day of the four-quarter reference period (including, to the extent applicable, the Transactions); provided, that for all purposes of determining EBITDA hereunder all adjustments and exclusions (to the extent such adjustment or exclusion is effected pursuant to the definition of EBITDA) shall not be more than the amount of applicable adjustments or exclusions permitted pursuant to the applicable

provision(s) of the definitions of EBITDA and/or Consolidated Net Income, as the case may be for the most recently ended twelve month period (calculated prior to giving effect to such capped adjustments and exclusions (but, for the avoidance of doubt, after giving effect to other

uncapped pro forma adjustments)); provided, that the limitations set forth in the immediately preceding proviso shall not apply to any operating expense reductions, other operating improvements or synergies and adjustments resulting from the Transactions, and information and calculations supporting them in reasonable detail.

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

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

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

“Significant Subsidiary” means any Subsidiary that would be a “Significant Subsidiary” of the Borrowers within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

“Solvent” means, with respect to any Person, that such Person (a) owns and will own assets the fair saleable value of which are (i) greater than the total amount of its liabilities (including Contingent Obligations), and (ii) greater than the amount that will be required to pay the probable liabilities of its then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to it; (b) has capital that is not unreasonably small in relation to its business as presently conducted or after giving effect to any contemplated transaction; and (c) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due.

“Specified Debt” means any Debt (i) incurred that does not constitute Permitted Debt, or (ii) incurred under clauses (j), (l), or (p) under the definition of “Permitted Debt” and any refinancing thereunder under clause (ll) thereof; provided, however, with respect to any Debt incurred under the ABL Agreement, the Term Agreement, the Exit Note Indenture or any Exit

Note, such Debt is permitted under the terms of the ABL Intercreditor Agreement and any Liens securing such Debt are permitted under the terms of the ABL Intercreditor Agreement and the Liens securing such Debt have the same priority set forth in the ABL Intercreditor Agreement (as in effect on the Closing Date).

“Specified Default” shall mean an Event of Default arising under Section 10.1(a), Section 4.13, Section 6.1, Section 4.1(m), or Section 5.14, Section 10. 1(e), Section 10.1(f) or Section 10.1(p).

“Specified Equity” means Equity Interests, hybrid securities or other securities (whether issued or sold through a public or private offering or issued or sold in connection with a Cure Right under as defined in the Term Agreement) other than any Excluded Equity.

“Spot Rate” means, on any date, as determined by Agent, the spot selling rate posted by Reuters on its website for the sale of the applicable currency for Dollars at approximately 11:00 a.m., New York City time, on such date; provided, that if, for any reason, no such spot rate is being quoted, the spot selling rate shall be determined by reference to such publicly available services for displaying exchange rates as may be reasonably selected by Agent, or, in the event no such service is selected, such spot selling rate shall instead be the rate reasonably determined by Agent as the spot rate of exchange in the market where its foreign currency exchange operations in respect of the applicable currency are then being conducted, at or about 11:00 a.m., New York City time, on the applicable date for the purchase of the relevant currency for delivery two Business Days later; provided, that, Agent may obtain such spot rate from another financial institution designated by Agent if Agent does not have a spot rate for any such currency as of the date of determination.

“Subordinated Debt” means any Debt of Borrowers incurred pursuant to the terms of the Subordinated Debt Documents and with the prior written consent of Agent, not to be unreasonably withheld, all of which documents must be in form and substance reasonably acceptable to Agent. For the avoidance of doubt, neither the Debt under the Term Loan Agreement nor the Exit Notes shall constitute Subordinated Debt solely by virtue of their respective junior lien priority with respect to the ABL Priority Collateral.

“Subordinated Debt Documents” means any documents evidencing and/or securing Debt governed by a Subordination Agreement, all of which documents must be in form and substance reasonably acceptable to Agent.

“Subordinated Obligations” has the meaning specified therefor in Section 12.7.

“Subordination Agreement” means any agreement between Agent and another creditor of Borrowers, as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms thereof, pursuant to which the Debt owing from any Borrower(s) and/or the Liens securing such Debt granted by any Borrower(s) to such creditor are subordinated in any way to the Obligations and the Liens

created under the Security Documents, the terms and provisions of such Subordination Agreements to have been agreed to by and be acceptable to Agent in the exercise of its sole discretion.

“**Subsidiary**” means, with respect to any Person, (a) any corporation of which an aggregate of more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to

elect a majority of the board of directors of such corporation (irrespective of whether, at the time, capital stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned legally or beneficially by such Person or one or more Subsidiaries of such Person, or with respect to which any such Person has the right to vote or designate the vote of more than fifty percent (50%) of such capital stock whether by proxy, agreement, operation of law or otherwise, and (b) any partnership, limited liability company or unlimited liability company in which such Person and/or one or more Subsidiaries of such Person shall have an interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%) or of which any such Person is a general partner or may exercise the powers of a general partner. Unless the context otherwise requires, each reference to a Subsidiary shall be a reference to a Subsidiary of a Borrower.

“Swap Contract” means any “swap agreement”, as defined in Section 101 of the Bankruptcy Code, that is obtained by Borrower to provide protection against fluctuations in interest or currency exchange rates, but only if Agent provides its prior written consent to the entry into such “swap agreement”.

“Tax Distributions” means any distributions described in clause (e) of the definition of “Permitted Distributions”.

~~**“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, additions to tax or penalties applicable thereto.~~

“Tax Funding Agreement” means that certain Tax Funding Agreement, dated as of the date hereof, by and among the Exela Technologies BPA, LLC and each of its debtor affiliates, Exela Technologies BPA, LLC, in its capacity as agent, the Parent, ETI, GP 3XCV LLC and XCVSTS, LLC.

~~**“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, additions to tax or penalties applicable thereto.~~

“Term Agent” as defined in the ABL Intercreditor Agreement.

“Term Loan Agreement” means that certain Financing Agreement, dated as of the Closing Date, by and among Exela Technologies BPA, LLC, the Guarantors, Ankura Trust Company, LLC, as administrative agent and collateral agent, and the other financial institutions party thereto, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time.

“**Term Loan Documents**” means the collective reference to the Term Loan Agreement and any other document, agreement and instrument executed and/or delivered in connection therewith or relating thereto, together with any amendment, supplement, waiver, or other modification to any of the foregoing.

“Term Priority Collateral” has the meaning specified therefor in the ABL Intercreditor Agreement.

“Term SOFR Administrator” means CME Group Benchmark Administration Limited or a successor administrator of the Term SOFR Reference Rate selected by the Agent in its reasonable discretion.

“Term SOFR Rate” means, for any date of determination, the forward-looking term rate based on SOFR with a one-month tenor, published by the Term SOFR Administrator (the “Term SOFR Reference Rate”), as adjusted for any reserve requirement and any subsequent costs arising from a change in government regulation; provided, however, that if, as of any date of determination, the Term SOFR Reference Rate has not been published by the Term SOFR Administrator then the Term SOFR Reference Rate will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding day for which such Term SOFR Reference Rate was published by the Term SOFR Administrator. If at any time the Term SOFR Reference Rate is less than one percent (1.0%), such rate shall be deemed to be one percent (1.0%).

“Termination Date” means the earlier to occur of (a) March 30, 2026, as may be extended pursuant to Section 2.4, (b) any date on which the Agent accelerates the maturity of the Loans pursuant to Section 10.2, or (c) the termination date stated in any notice of termination of this Agreement provided by Borrowers in accordance with Section 2.12; *provided* that, in each case, if such date is not a Business Day the Termination Date will be the next succeeding Business Day.

“Third Party Funds” means any accounts or funds, or any portion thereof, received by the Borrowers or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon the Borrowers or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“Threshold Amount” means \$3,000,000.

“Transaction Costs” has the meaning specified therefor in the definition of “Transactions.”

“Transactions” means each of the following transactions:

- (a) the execution, delivery and performance of the Operative Documents;
- (b) the execution, delivery and performance of the ABL Documents and the extensions of credit thereunder on the Closing Date;
- (c) the execution, delivery and performance of the Term Loan Documents and the extensions of credit thereunder on the Closing Date;
- (d) the transactions under or pursuant to or contemplated by the Plan of Reorganization, including the Restructuring Transactions (as defined in the Plan of Reorganization); and



(e) the payment of all fees, costs and expenses incurred in connection with the transactions described in the foregoing provisions of this definition (the “**Transaction Costs**”).

“**Trustee**” means U.S. Bank Trust Company, National Association, as trustee under the Exit Notes Indenture.

“**U.S. Tax Compliance Certificate**” has the meaning specified therefor in Section 2.8(c)(i).

“**UCC**” means the Uniform Commercial Code of the State of New York or of any other state the laws of which are required to be applied in connection with the perfection of security interests in any Collateral.

“**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.

“**Unfinanced Capital Expenditures**” means, for any period, the amount equal to Capital Expenditures which are not financed by the incurrence of any Indebtedness (except to the extent funded with the proceeds of the Revolving Loans; it being understood and agreed that, to the extent any Capital Expenditures are financed with Revolving Loans, such Capital Expenditures shall be deemed Unfinanced Capital Expenditures).

“**United States**” means the United States of America.

“**Unsecured Cash Pool**” has the meaning specified in the Plan of Reorganization.

“**Weighted Average Life to Maturity**” means, when applied to any Debt, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Debt multiplied by the amount of such payment, by (2) the sum of all such payments.

“**Withholding Agent**” means any Borrower or 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 Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder (including, without limitation, determinations made pursuant to the exhibits hereto) shall be made, and all financial statements required to be delivered hereunder shall be prepared on a consolidated basis in accordance with GAAP applied on a basis consistent with the most recent audited consolidated financial statements of each Borrower and its Consolidated Subsidiaries delivered to Agent and each of the Lenders on or prior to the Closing Date. If at any time any change in GAAP would affect the computation of any financial ratio or financial requirement set forth in any Financing Document, and either Borrowers or the Required Lenders shall so request, Agent, the Lenders and Borrowers 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, however*, that until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) Borrowers shall provide to Agent and the Lenders financial statements and other documents required under this Agreement which include a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Debt or other liabilities of any Credit Party or any Subsidiary of any Credit Party at “fair value”, as defined therein.

Section 1.3 Other Definitional and Interpretive Provisions. References in this Agreement to “Articles”, “Sections”, “Annexes”, “Exhibits”, or “Schedules” shall be to Articles, Sections, Annexes, Exhibits or Schedules of or to this Agreement unless otherwise specifically provided. Any term defined herein may be used in the singular or plural. “Include”, “includes” and “including” shall be deemed to be followed by “without limitation”. Except as otherwise specified or limited herein, references to any Person include the successors and assigns of such Person. References “from” or “through” any date mean, unless otherwise specified, “from and including” or “through and including”, respectively. Unless otherwise specified herein, the settlement of all payments and fundings hereunder between or among the parties hereto shall be made in lawful money of the United States and in immediately available funds. References to any statute or act shall include all related current regulations and all amendments and any successor statutes, acts and regulations. All amounts used for purposes of financial calculations required to be made herein shall be without duplication. References to any statute or act, without additional reference, shall be deemed to refer to federal statutes and acts of the

United States. References to any agreement, instrument or document shall include all schedules, exhibits, annexes and other attachments thereto. References to capitalized terms that are not defined herein, but are defined in the UCC, shall have the meanings given them in the UCC. All references herein to times of day shall be references to daylight or standard time,

as applicable. All references herein to a merger, transfer, consolidation, amalgamation, assignment, sale or transfer, or analogous term, will be construed to mean also a division of or by a limited liability company, as if it were a merger, transfer, consolidation, amalgamation, assignment, sale or transfer, or similar term, as applicable. Any series of limited liability company shall be considered a separate Person.

Section 1.4 Time is of the Essence. Time is of the essence in Borrower's and each other Credit Party's performance under this Agreement and all other Financing Documents.

ARTICLE 2 - LOANS

Section 2.1 Loans.

(i) Closing Date Loans. Subject to the terms and conditions of this Agreement, the Lenders agree that the outstanding principal amount of the term loan made under the Existing 2L Note constitutes a Loan hereunder as if an advance had been made hereunder. As of the Closing Date, the outstanding amount of the Loans hereunder is \$31,500,000. The Loan under this Agreement to the extent repaid or prepaid, may not be reborrowed.

(ii) Optional Prepayments. Borrowers may from time to time prepay the Loans in whole or in part; *provided, however*, that any such partial prepayment shall be in an amount equal to \$1,000,000 or a higher integral multiple of \$250,000.

(iii) Mandatory Prepayments. Borrowers shall be required to make each of the following payments which shall be applied as a permanent reduction in the outstanding principal amount of the Loans:

(A) On the earlier of (i) 60 days after the fourth and final Monthly Purchase and (ii) January 16, 2026 (which is the ~~third~~fourth (3~~rd~~4th) Business Day after the ~~termination of the Exar Facility upon~~satisfaction of the Collections Milestone (as defined ~~therein~~in the Exar Facility as in effect prior to the Second Amendment Effective Date) being achieved following the fourth Monthly Purchase, the Borrowers shall make a prepayment of the Loans in an amount equal to \$1,250,000.

(B) On the fifth (5th) Business Day of the seventh (7th) calendar month following the Effective Date and on the fifth (5th) Business Day of each calendar month thereafter until the Loans have been repaid in full, the Borrowers shall make a prepayment of the Loans in an amount equal to \$1,000,000 (or, if less, the remaining outstanding principal balance of the Loans).

(C) Promptly upon, and in any event within three (3) Business Days of, receipt of any net cash proceeds (as defined below) by any Credit Party or any of its Subsidiaries, directly or indirectly, from the

incurrence, sale or issuance of any Specified Debt or Specified Equity, or any Equity Issuance by any Credit Party or any of its Subsidiaries (each such event, a “**Specified Mandatory Prepayment Event**”), following the date of the final Monthly Purchase scheduled to occur pursuant to Section 5.18 of the Exar RPA and subject to the satisfaction of the Prepayment Conditions, the Borrowers shall prepay the outstanding principal amount of the Loans in an amount equal to twenty percent (20%) of such net cash proceeds thereof. The Borrowers shall promptly (and in any event, no later than three (3) Business Days prior to any Specified Mandatory Prepayment Event) determine whether the Prepayment Conditions will be satisfied on the date of such Specified Mandatory Prepayment Event and, if the Borrowers determine that, as of the date of the Specified Mandatory Prepayment Event, the Prepayment Conditions will be satisfied, the Borrowers shall deliver to the Agent a certificate (in form and substance satisfactory to the Agent) signed by an officer of the Borrowers attaching supporting calculations in respect of the Prepayment Conditions and determining the aggregate principal amount of Loans the Borrowers can prepay in satisfaction of the Prepayment Conditions on a pro forma basis, and such amount shall be prepaid upon such Specified Mandatory Prepayment Event. If the Borrowers determine that, as of the date of any Specified Mandatory Prepayment Event, the Prepayment Condition will not be satisfied, the Borrowers shall deliver to the Agent a certificate (in form and substance satisfactory to the Agent) signed by an officer of the Borrowers attaching supporting calculations in respect of the Prepayment Conditions and determining the aggregate principal amount of Loans the Borrowers can prepay in satisfaction of the Prepayment Conditions on a pro forma basis, and such amount shall be prepaid upon such Specified Mandatory Prepayment Event. The provisions of this sub-clause (C) shall not be deemed to be implied consent to any such Specified Mandatory Prepayment Event otherwise prohibited by the terms and conditions of this Agreement. As used herein, “net cash proceeds” means cash proceeds net of underwriting discounts or commissions, and documented legal, accounting and other expenses directly related to such issuance, sale incurrence or offering.

Anything contained in this sub-clause (C) to the contrary notwithstanding, in the event that the Borrowers are required to make a mandatory prepayment (a “**Waivable Mandatory Prepayment**”) of the Loans pursuant to this sub-clause (C), not less than three (3) Business Days by 11:00 a.m. prior to the date on which the Borrowers are required to make such Waivable Mandatory Prepayment (such date, the “**Required Prepayment Date**”), the Borrower Representative shall notify the Agent in writing of the date on which

the Borrowers are required to make such mandatory prepayment, the amount of such mandatory prepayment (including a reasonably detailed calculation thereof, and the basis for such mandatory prepayment). The Agent will promptly thereafter notify each Lender of the amount of such Lender's Pro Rata Share of such Waivable

Mandatory Prepayment and such Lender's option to refuse such amount. Each such Lender may exercise such option to refuse by giving written notice to the Borrower Representative and the Agent of its election to refuse its portion of such mandatory prepayment on or before 12:00 p.m. (New York City time) one (1) Business Day prior to the Required Prepayment Date (it being understood that any Lender that does not notify the Borrower Representative and the Agent of its election to waive receipt of its portion of such mandatory prepayment on or before 12:00 p.m. (New York City time) one (1) Business Day prior to the Required Prepayment Date shall be deemed to have elected, as of such date, to receive its portion of such mandatory prepayment). On the Required Prepayment Date, the Borrowers shall pay to the Agent the amount of the mandatory prepayment required hereunder, which amount shall be applied (x) in an amount equal to that portion of the mandatory prepayment payable to those Lenders that have elected not to waive their rights to receive its portion thereof as set forth herein, to prepay the Loans of such Lenders (which prepayment shall be applied to prepay the outstanding principal amount of the Obligations in accordance with this Agreement) and (y) to the extent of any excess, to return to the Borrowers for working capital and general corporate purposes.

To the extent the incurrence of that certain Promissory Note by and between XBP Americas, LLC and B. Riley Commercial Capital, LLC, dated as of December 31, 2025, resulted in a Waivable Mandatory Prepayment, BRF Finance Co., in its capacity as Lender, agrees and acknowledges that such prepayment was waived.

(D) On the Termination Date.

Section 2.2 Interest, Interest Calculations and Certain Fees.

(a) Interest Rate.

(i) Interest Payment Dates. Interest shall be payable in arrears to the Agent on behalf of the Lender on each Interest Payment.

(ii) Default Interest. Default interest accruing at the Default Rate as set forth in Section 10.5 hereof shall be payable on demand.

(iii) Except as otherwise provided herein, the outstanding principal amount of the Loan made hereunder shall bear interest at the Applicable Rate from the date of the advance was made until the date the Loan is paid in full, whether at maturity, upon acceleration, by prepayment, or otherwise.

(iv) The Agent shall determine in consultation with the Borrower the SOFR rate from time to time. Agent may select information sources or services in its reasonable discretion to ascertain SOFR pursuant to the terms of this Agreement and shall have no liability to Borrower or any other Person 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.

(v) The interest rate on the Loans is subject to change from time to time based on changes in a published index which is currently the Term SOFR Rate (the “**Index**”). If the Agent determines, in its sole discretion, that the Term SOFR Rate has been or will be: (a) discontinued; or (b) becomes impractical or infeasible as the Index; or (c) otherwise will be superseded by an alternative index as an industry-accepted reference rate for loans of similar type to the Loans, the Agent may adopt a substitute Index in consultation with but without any action or further consent of the Borrower (the “**Substitute Index Rate**”). Notwithstanding the foregoing, if, at the time of implementation of the Substitute Index Rate, the average of the Substitute Index Rate has differed from the average of the Term SOFR Rate for loans of the same tenor for the six (6) months prior to the date of the implementation of the Substitute Index Rate, then the spread or margin applicable to the Loan shall be adjusted by the amount of the excess of the average Substitute Index Rate over the average Term SOFR Rate for such period, or by the amount of the excess of the average Term SOFR Rate over the average Substitute Index Rate for such period, as the case may be, such that the initial calculation of the interest rate using the Substitute Index Rate remains consistent with the interest rate in effect prior to the implementation of the Substitute Index Rate (the “**Substitute Spread**”). The Substitute Spread shall remain in effect from the date of the Substitute Index Rate implementation until the Termination Date, and as such may be extended, unless such an instance occurs where the Substitute Index Rate is no longer available, or becomes infeasible or is replaced by an industry-accepted substitute, in which case the provisions of this paragraph will again apply for purposes of replacing the Substitute Index Rate.

(vi) **Monitoring Fee.** Borrower shall pay to the Agent a collateral monitoring fee of Twelve Thousand Five Hundred and 00/100 Dollars (\$12,500.00) per month (the “**Collateral Monitoring Fee**”), which fee shall be payable in advance, on the last day of each calendar month for the next succeeding month, commencing July 31, 2025, and on the Termination Date.

(b) Computation of Interest and Related Fees. All computations of interest shall be made on the basis of a year of 360 days for the actual number of days elapsed. Interest shall accrue on the Loan on the day on which the Loan is made, and shall not accrue on any portion of the Loan paid for the day on which it is paid.

Section 2.3 **Notes.** The portion of the Loans made by each Lender shall be evidenced, if so requested by such Lender, by one or more promissory notes executed by Borrowers on a joint and several basis (each, a “*Note*”) in an original principal amount equal to such Lender’s Pro Rata Share of the principal amount outstanding.

Section 2.4 Extension of Termination Date. At the option of the Borrowers, with prior written notice to the Agent, the Termination Date shall be extended to September 30, 2026, provided that no Default or Event of Default then exists and subject to (i) payment of an extension fee by Borrowers to Lenders (to be allocated in accordance with their Pro Rata Share) in the amount of \$300,000 in immediately available funds, and (ii) delivery of customary secretary's certificates, resolutions and opinion letters with respect to corporate matters and security interests (but, for avoidance of doubt, will not include a true sale opinion), among other customary deliverables for such extensions.

Section 2.5 [Reserved].

Section 2.6 General Provisions Regarding Payment; Loan Account.

(a) All payments to be made by each Borrower under any Financing Document, including payments of principal and interest made hereunder and pursuant to any other Financing Document, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension (it being understood and agreed that, solely for purposes of calculating financial covenants and computations contained herein and determining compliance therewith, if payment is made, in full, on any such extended due date, such payment shall be deemed to have been paid on the original due date without giving effect to any extension thereto). Any payments received in the Payment Account before 12:00 Noon (Eastern time) on any date shall be deemed received by Agent on such date, and any payments received in the Payment Account at or after 12:00 Noon (Eastern time) on any date shall be deemed received by Agent on the next succeeding Business Day.

(b) Agent shall maintain a loan account (the "**Loan Account**") on its books to record Loans and other extensions of credit made by the Lenders hereunder or under any other Financing Document, and all payments thereon made by each Borrower. All entries in the Loan Account shall be made in accordance with Agent's customary accounting practices as in effect from time to time. The balance in the Loan Account, as recorded in Agent's books and records at any time shall be conclusive and binding evidence of the amounts due and owing to Agent by each Borrower absent manifest error; *provided, however*, that any failure to so record or any error in so recording shall not limit or otherwise affect any Borrower's duty to pay all amounts owing hereunder or under any other Financing Document. Agent shall endeavor to provide Borrowers with a monthly statement regarding the Loan Account (but neither Agent nor any Lender shall have any liability if Agent shall fail to provide any such statement). Unless any Borrower notifies Agent of any objection to any such statement (specifically describing the

basis for such objection) within ninety (90) days after the date of receipt thereof, it shall be deemed final, binding and conclusive upon Borrowers in all respects as to all matters reflected therein.

Section 2.7 **Maximum Interest.** In no event shall the interest charged with respect to the Loans or any other Obligations of any Borrower under any Financing Document exceed the

maximum amount permitted under the laws of the State of New York or of any other applicable jurisdiction. Notwithstanding anything to the contrary herein or elsewhere, if at any time the rate of interest payable hereunder or under any Note or other Financing Document (the “Stated Rate”) would exceed the highest rate of interest permitted under any applicable law to be charged (the “Maximum Lawful Rate”), then for so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable shall be equal to the Maximum Lawful Rate; *provided, however*, that if at any time thereafter the Stated Rate is less than the Maximum Lawful Rate, each Borrower shall, to the extent permitted by law, continue to pay interest at the Maximum Lawful Rate until such time as the total interest received is equal to the total interest which would have been received had the Stated Rate been (but for the operation of this provision) the interest rate payable. Thereafter, the interest rate payable shall be the Stated Rate unless and until the Stated Rate again would exceed the Maximum Lawful Rate, in which event this provision shall again apply. In no event shall the total interest received by any Lender exceed the amount which it could lawfully have received had the interest been calculated for the full term hereof at the Maximum Lawful Rate. If, notwithstanding the prior sentence, any Lender has received interest hereunder in excess of the Maximum Lawful Rate, such excess amount shall be applied to the reduction of the principal balance of the Loans or to other amounts (other than interest) payable hereunder, and if no such principal or other amounts are then outstanding, such excess or part thereof remaining shall be paid to Borrowers. In computing interest payable with reference to the Maximum Lawful Rate applicable to any Lender, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate *divided by* the number of days in the year in which such calculation is made.

Section 2.8 Taxes; Capital Adequacy; Increased Costs; Inability to Determine Rates; Illegality.

(a) All payments of principal and interest on the Loans and all other amounts payable hereunder shall be made free and clear of and without deduction or withholding for any present or future 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, and if any such withholding or deduction is in respect of any Indemnified Taxes, then the Borrowers shall pay such additional amount or amounts as is necessary to ensure that the net amount actually received by Agent and each Lender will equal the full amount Agent and such Lender would have received had no such withholding or deduction been required (including, without limitation, such withholdings and deductions applicable to additional amounts payable under this Section 2.8). After payment of any Tax by a Borrower to a Governmental Authority pursuant to this Section 2.8, such Borrower shall promptly forward to Agent the original or a certified copy of an official receipt, a copy of the return reporting such payment, or other documentation reasonably satisfactory to Agent evidencing such payment to such authority. In addition,

Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of Agent timely reimburse it for the payment of, any Other Taxes.

(b) The Borrowers shall indemnify Agent and Lenders, within ten (10) days after demand thereof, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.8) payable or paid by Agent or any Lender or required to be withheld or deducted from a payment to Agent or any Lender and any 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 Borrowers by a Lender (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(c) Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments made under any Financing Document shall deliver to Borrower Representative and Agent, at the time or times prescribed by applicable Law or reasonably requested by Borrower Representative or Agent, such properly completed and executed documentation reasonably requested by Borrower Representative or Agent 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 Borrower Representative or Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by Borrowers or Agent as will enable Borrowers or 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 Sections 2.8(c)(i), 2.8(c)(ii) and 2.8(e) below) shall not be required if in such 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.

(i) Each Lender that is not a "United States person" (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes and is a party hereto on the Closing Date or purports to become an assignee of an interest pursuant to Section 11.17(a) after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) (each such Lender a "**Foreign Lender**") shall, to the extent permitted by Law, execute and deliver to Borrower Representative and 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 Representative or Agent) whichever of the following is applicable: (A) 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 Financing Document, executed copies of United States Internal Revenue Service ("**IRS**") Forms W-8BEN or W8BEN-E (or

successor form) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Financing Documents, executed copies of IRS Forms W-8BEN or W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the “business profits” or “other income” article of such tax treaty;

(B) executed copies of Form W-8ECI or W-8EXP (or successor form); (C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-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 any 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 Forms W-8BEN or W-8BEN-E (or successor form); (D) 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-8EXP, IRS Form W-8BEN or W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9 (or successor form), 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 F-4 on behalf of each such direct and indirect partner; or (E) other applicable forms, certificates or documents prescribed by the IRS. 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 Borrower Representative and Agent in writing of its legal inability to do so. In addition, to the extent permitted by applicable Law, such forms shall be delivered by each Foreign Lender upon the obsolescence or invalidity of any form previously delivered by such Foreign Lender. Each Foreign Lender shall promptly notify Borrower Representative at any time it determines that it is no longer in a position to provide any previously delivered certificate to Borrower Representative (or any other form of certification adopted by the U.S. taxing authorities for such purpose).

(ii) Each Lender that is a “United States person” (as such term is defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes and is a party hereto on the Closing Date or purports to become an assignee of an interest pursuant to Section 11.17(a) after the Closing Date (unless such Lender was already a Lender hereunder immediately prior to such assignment) shall, to the extent permitted by Law, provide to Borrower Representative and 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 Representative or Agent), a properly completed and executed IRS Form W-9 or any successor form certifying as to such Lender’s entitlement to an exemption from U.S. backup withholding and other applicable forms, certificates or documents prescribed by the IRS or

reasonably requested by Borrower Representative or Agent. Each such Lender shall promptly notify Borrowers at any time it determines that any certificate previously delivered to Borrower Representative (or any other form of certification adopted by the U.S. governmental authorities for such purposes) is no longer valid.

(iii) Any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower Representative and 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 Representative or Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. Federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrowers or Agent to determine the withholding or deduction required to be made.

(iv) Agent, and any sub-agent and any successor or supplemental Agent, shall deliver to the Borrowers on or prior to the date on which such person becomes Agent, sub-agent or successor or supplemental Agent hereunder (and from time to time thereafter upon the reasonable request of a Borrower), a properly completed and executed IRS Form W-9. Agent and any sub-agent and successor or supplemental Agent 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 Borrowers in writing of its legal inability to do so. Agent hereby represents and warrants to the Credit Parties that it is a “U.S. person” and a “financial institution” and that it will comply with its “obligation to withhold,” each within the meaning of Treasury Regulations Section 1.1441-1(b)(2)(ii).

(d) If any Lender determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Taxes as to which it has been indemnified by any Borrower pursuant to this Section 2.8 (including by the payment of additional amounts pursuant to this Section 2.8), then it shall promptly pay an amount equal to such refund to Borrowers, net of all reasonable out-of-pocket expenses of such Lender or of Agent with respect thereto, including any Taxes; *provided, however*, that Borrowers, upon the written request of such Lender or Agent, agree to repay any amount paid over to Borrowers to such Lender or to Agent (plus any related penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Lender or Agent is required, for any reason, to disgorge or otherwise repay such refund. Notwithstanding anything to the contrary in this Section 2.8, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.8(d) the payment of which 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 Section 2.8 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.

(e) If a payment made to a Lender under any Financing Document would be subject to U.S. 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 Borrower Representative and Agent at the time or times prescribed by Law and at such time or times reasonably requested by Borrower Representative or Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower Representative or Agent as may be necessary for Borrowers and 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 (e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(f) Each Lender shall severally indemnify 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 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 11.17 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 Agent in connection with any Financing 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 Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to set off and apply any and all amounts at any time owing to such Lender under any Financing Document or otherwise payable by Agent to such Lender from any other source against any amount due to Agent under this paragraph (f).

(g) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law regarding capital adequacy, in each instance, after the Closing Date, or any change after the Closing Date in the interpretation, administration or application thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation, administration or application thereof, or the compliance by any Lender or any Person controlling such Lender with any request, guideline or directive regarding capital adequacy (whether or not having the force of Law) of any such Governmental Authority, central bank or comparable agency adopted or otherwise taking effect after the Closing Date, has or would have the effect of reducing the rate of return on such Lender's or such controlling Person's capital as a consequence of such Lender's obligations hereunder to a level below that which such Lender or such controlling Person could have achieved but for such adoption, taking effect, change, interpretation, administration, application or compliance (taking into consideration such Lender's or such controlling Person's policies with respect to capital adequacy) then from time to time, upon demand by such Lender (which demand shall be accompanied by a certificate setting forth the basis for such

demand and a calculation of the amount thereof in reasonable detail, a copy of which shall be furnished to Agent), Borrowers shall promptly pay to such Lender such additional amount as will compensate such Lender or such controlling Person for such reduction, so long as such amounts have accrued on or after the day which is two hundred seventy (270) days prior to the date on which such Lender first made demand therefor; *provided* that notwithstanding anything in this

Agreement 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 applicable Law”, regardless of the date enacted, adopted or issued.

(h) If any Lender shall reasonably determine that the adoption or taking effect of, or any change in, any applicable Law shall (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender, (ii) subject any Lender to any tax of any kind whatsoever with respect to this Agreement, or any SOFR Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes, Connection Income Taxes and Taxes covered in (b) through (d) in the definition of Excluded Taxes); or (iii) impose on any Lender any other condition, cost or expense (other than a Tax) affecting this Agreement or SOFR Loans made by such Lender, and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to Term SOFR (or of maintaining its obligation to make any such Loan), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrowers will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(i) If any Lender requests compensation under any of the clauses in this Section 2.8), or requires Borrowers to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.8, then, upon the written request of Borrower Representative, such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder (subject to the provisions of Section 11.17) to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or materially reduce amounts payable pursuant to any such Section, as the case may be, in the future, (ii) would not subject such Lender to any unreimbursed cost or expense and (iii) would not otherwise be disadvantageous to such Lender (as determined in its sole good faith discretion). Without limitation of the provisions of Section 12.14, each Borrower hereby agrees to pay all reasonable and documented, out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(j) [Reserved].

(k) [Reserved].

(l) Each party's obligations under this Section 2.8 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of all Obligations hereunder.

Section 2.9 Appointment of Borrower Representative.

(a) Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent and attorney-in-fact to request and receive Loans in the name or on behalf of such Borrower and any other Borrowers, give instructions with respect to the disbursement of the proceeds of the Loans, giving and receiving all other notices and consents hereunder or under any of the other Financing Documents and taking all other actions (including in respect of compliance with covenants) in the name or on behalf of any Borrower or Borrowers pursuant to this Agreement and the other Financing Documents. Agent and Lenders may disburse the Loans to such bank account of Borrower Representative or a Borrower or otherwise make such Loans to a Borrower, in each case as Borrower Representative may designate or direct, without notice to any other Borrower. Notwithstanding anything to the contrary contained herein, Agent may at any time and from time to time require that Loans to or for the account of any Borrower be disbursed directly to an operating account of such Borrower.

(b) Borrower Representative hereby accepts the appointment by Borrowers to act as the agent and attorney-in-fact of Borrowers pursuant to this Section 2.9. Borrower Representative shall ensure that the disbursement of any Loans that are at any time requested by or to be remitted to or for the account of a Borrower shall be remitted or issued to or for the account of such Borrower.

(c) Each Borrower hereby irrevocably appoints and constitutes Borrower Representative as its agent to receive statements on account and all other notices from Agent and Lenders with respect to the Obligations or otherwise under or in connection with this Agreement and the other Financing Documents.

(d) Any notice, election, representation, warranty, agreement or undertaking made or delivered by or on behalf of any Borrower by Borrower Representative shall be deemed for all purposes to have been made or delivered by such Borrower, as the case may be, and shall be binding upon and enforceable against such Borrower to the same extent as if made or delivered directly by such Borrower.

(e) No resignation by or termination of the appointment of Borrower Representative as agent and attorney-in-fact as aforesaid shall be effective, except after ten (10) Business Days' prior written notice to Agent. If the Borrower Representative resigns under this Agreement, Borrowers shall be entitled to appoint a successor Borrower Representative (which shall be a Borrower and shall be reasonably acceptable to Agent as such successor). Upon the acceptance of its appointment as successor Borrower Representative hereunder, such successor Borrower Representative shall succeed to all the rights, powers and duties of the retiring Borrower Representative and the term "Borrower Representative" shall mean such successor Borrower Representative for all purposes of this Agreement

and the other Financing Documents, and the retiring or terminated Borrower Representative's appointment, powers and duties as Borrower Representative shall be thereupon terminated.

Section 2.10 Joint and Several Liability; Rights of Contribution;
Subordination and Subrogation.

(a) Borrowers are defined collectively to include all Persons named as one of the Borrowers herein; *provided, however*, that any references herein to “any Borrower”, “each Borrower” or similar references, shall be construed as a reference to each individual Person named as one of the Borrowers herein. Each Person so named shall be jointly and severally liable for all of the obligations of Borrowers under this Agreement. Each Borrower, individually, expressly understands, agrees and acknowledges, that the credit facilities would not be made available on the terms herein in the absence of the collective credit of all of the Persons named as the Borrowers herein, the joint and several liability of all such Persons, and the cross-collateralization of the collateral of all such Persons. Accordingly, each Borrower individually acknowledges that the benefit to each of the Persons named as one of the Borrowers as a whole constitutes reasonably equivalent value, regardless of the amount of the credit facilities actually borrowed by, advanced to, or the amount of collateral provided by, any individual Borrower. In addition, each entity named as one of the Borrowers herein hereby acknowledges and agrees that all of the representations, warranties, covenants, obligations, conditions, agreements and other terms contained in this Agreement shall be applicable to and shall be binding upon and measured and enforceable individually against each Person named as one of the Borrowers herein as well as all such Persons when taken together. By way of illustration, but without limiting the generality of the foregoing, the terms of Section 10.1 of this Agreement are to be applied to each individual Person named as one of the Borrowers herein (as well as to all such Persons taken as a whole), such that the occurrence of any of the events described in Section 10.1 of this Agreement as to any Person named as one of the Borrowers herein shall constitute an Event of Default even if such event has not occurred as to any other Persons named as the Borrowers or as to all such Persons taken as a whole.

(b) Notwithstanding any provisions of this Agreement to the contrary, it is intended that the joint and several nature of the liability of each Borrower for the Obligations and the Liens granted by Borrowers to secure the Obligations, not constitute a Fraudulent Conveyance (as defined below). Consequently, Agent, Lenders and each Borrower agree that if the liability of a Borrower for the Obligations, or any Liens granted by such Borrower securing the Obligations would, but for the application of this sentence, constitute a Fraudulent Conveyance, the liability of such Borrower and the Liens securing such liability shall be valid and enforceable only to the maximum extent that would not cause such liability or such Lien to constitute a Fraudulent Conveyance, and the liability of such Borrower and this Agreement shall automatically be deemed to have been amended accordingly. For purposes hereof, the term “Fraudulent Conveyance” means a fraudulent conveyance under Section 548 of Chapter 11 of Title II of the Bankruptcy Code or a fraudulent conveyance, fraudulent transfer or transfer at

undervalue under the applicable provisions of any fraudulent conveyance or fraudulent transfer law or similar law of any state, province, territory, nation or other governmental unit, as in effect from time to time.

(c) Agent is hereby authorized, without notice or demand (except as otherwise specifically required under this Agreement) and without affecting the liability of any Borrower hereunder, at any time and from time to time, to (i) renew, extend or

otherwise increase the time for payment of the Obligations; (ii) with the written agreement of any Borrower, change the terms relating to the Obligations or otherwise modify, amend or change the terms of any Note or other agreement, document or instrument now or hereafter executed by any Borrower and delivered to Agent for any Lender; (iii) accept partial payments of the Obligations; (iv) take and hold any Collateral for the payment of the Obligations or for the payment of any guaranties of the Obligations and exchange, enforce, waive and release any such Collateral; (v) apply any such Collateral and direct the order or manner of sale thereof as Agent, in its sole discretion, may determine; and (vi) settle, release, compromise, collect or otherwise liquidate the Obligations and any Collateral therefor in any manner, all guarantor and surety defenses being hereby waived by each Borrower. Without limitations of the foregoing, with respect to the Obligations, each Borrower hereby makes and adopts each of the agreements and waivers set forth in the Guarantee set forth under Section 12 hereof. Except as specifically provided in this Agreement or any of the other Financing Documents, Agent shall have the exclusive right to determine the time and manner of application of any payments or credits, whether received from any Borrower or any other source, and such determination shall be binding on all Borrowers. All such payments and credits may be applied, reversed and reapplied, in whole or in part, to any of the Obligations that Agent shall determine, in its sole discretion, without affecting the validity or enforceability of the Obligations of the other Borrower.

(d) Each Borrower hereby agrees that, except as hereinafter provided, its obligations hereunder shall be unconditional, irrespective of (i) the absence of any attempt to collect the Obligations from any obligor or other action to enforce the same; (ii) the waiver or consent by Agent with respect to any provision of any instrument evidencing the Obligations, or any part thereof, or any other agreement heretofore, now or hereafter executed by a Borrower and delivered to Agent; (iii) failure by Agent to take any steps to perfect and maintain its security interest in, or to preserve its rights to, any security or collateral for the Obligations; (iv) the institution of any proceeding under any Debtor Relief Law, or any similar proceeding, by or against any Credit Party or Agent's election in any such proceeding of the application of Section 1111(b)(2) of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws); (v) any borrowing or grant of a security interest by a Borrower as debtor-in-possession, under Section 364 of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws); (vi) the disallowance, under Section 502 of the Bankruptcy Code (or any similar provision of any Debtor Relief Laws), of all or any portion of Agent's claim(s) for repayment of any of the Obligations; or (vii) any other circumstance other than payment in full of the Obligations which might otherwise constitute a legal or equitable discharge or defense of a guarantor or surety.

(e) The Borrowers hereby agree, as between themselves, that to the extent that Agent, on behalf of Lenders, shall have received from any Borrower any Recovery Amount (as defined below), then the paying Borrower shall have a right of contribution against each other Borrower in an amount equal to such

other Borrower's contributive share of such Recovery Amount; provided, however, that in the event any Borrower suffers a Deficiency Amount (as defined below), then the Borrower suffering the Deficiency Amount shall be entitled to seek and receive contribution from and against the

other Borrowers in an amount equal to the Deficiency Amount; and provided, further, that in no event shall the aggregate amounts so reimbursed by reason of the contribution of any Borrower equal or exceed an amount that would, if paid, constitute or result in Fraudulent Conveyance. Until all Obligations have been paid and satisfied in full, no payment made by or for the account of a Borrower including, without limitation, (i) a payment made by such Borrower on behalf of the liabilities of any other Borrower, or (ii) a payment made by any other Guarantor under any Guarantee, shall entitle such Borrower, by subrogation or otherwise, to any payment from such other Borrower or from or out of such other Borrower's property. The right of each Borrower to receive any contribution under this Section 2.10(e) or by subrogation or otherwise from any other Borrower shall be subordinate in right of payment to the Obligations and such Borrower shall not exercise any right or remedy against such other Borrower or any property of such other Borrower by reason of any performance of such Borrower of its joint and several obligations hereunder, until the Obligations have been indefeasibly paid and satisfied in full, and no Borrower shall exercise any right or remedy with respect to this Section 2.10(e) until the Obligations have been indefeasibly paid and satisfied in full. As used in this Section 2.10(e), the term "Recovery Amount" means the amount of proceeds received by or credited to Agent from the exercise of any remedy of the Lenders under this Agreement or the other Financing Documents, including, without limitation, the sale of any Collateral. As used in this Section 2.10(e), the term "Deficiency Amount" means any amount that is less than the entire amount a Borrower is entitled to receive by way of contribution or subrogation from, but that has not been paid by, the other Borrowers in respect of any Recovery Amount attributable to the Borrower entitled to contribution, until the Deficiency Amount has been reduced to \$0 through contributions and reimbursements made under the terms of this Section 2.10(e) or otherwise.

Section 2.11 [Reserved].

Section 2.12 Termination; Restriction on Termination.

(a) Termination by Lenders. In addition to the rights set forth in Section 10.2, Agent may, and at the direction of Required Lenders shall, terminate this Agreement without notice upon or after the occurrence and during the continuance of an Event of Default.

(b) Termination by Borrowers. Upon at least thirty (30) days' prior written notice to Agent and Lenders, Borrowers may, at its option, terminate this Agreement. Any notice of termination given by Borrowers shall be irrevocable unless all Lenders otherwise agree in writing and no Lender shall have any obligation to make any Loans on or after the termination date stated in such notice. Borrowers may elect to terminate this Agreement in its entirety only. No section of this Agreement or type of Loan available hereunder may be terminated singly.

(c) Effectiveness of Termination. All of the Obligations shall be immediately due and payable upon the Termination Date. All undertakings, agreements, covenants, warranties and representations of Borrowers contained in the Financing Documents shall survive any such termination and Agent shall retain its Liens in the

Collateral and Agent and each Lender shall retain all of its rights and remedies under the Financing Documents notwithstanding such termination until all Obligations have been discharged or paid, in full, in immediately available funds and the terms of any fee letter resulting from such termination.

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

To induce Agent and Lenders to enter into this Agreement and to make the Loans and other credit accommodations contemplated hereby, each Credit Party hereby represents and warrants to Agent and each Lender that (after giving effect to the Transactions):

Section 3.1 Existence and Power. Each Credit Party is an entity as specified on Schedule 3.1, is duly organized, validly existing and in good standing under the laws of the jurisdiction specified on Schedule 3.1 and no other jurisdiction, has the same legal name as it appears in such Credit Party's Organizational Documents and an organizational identification number (if any), in each case as specified on Schedule 3.1, and has all powers and all Permits necessary or desirable in the operation of its business as presently conducted or as proposed to be conducted, except where the failure to have such Permits could not reasonably be expected to have a Material Adverse Effect. Each Credit Party is qualified to do business as a foreign entity in each jurisdiction in which it is required to be so qualified, which jurisdictions as of the Closing Date are specified on Schedule 3.1, except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.1, no Credit Party (a) has had, over the five (5) year period preceding the Closing Date, any name other than its current name, or (b) was incorporated or organized under the laws of any jurisdiction other than its current jurisdiction of incorporation or organization.

Section 3.2 Organization and Governmental Authorization; No Contravention. The execution, delivery and performance by each Credit Party of the Operative Documents to which it is a party are within its powers, have been duly authorized by all necessary action pursuant to its Organizational Documents, require no further action by or in respect of, or filing with, any Governmental Authority and do not violate, conflict with or cause a breach or a default under (a)(i) any Law applicable to any Credit Party or (ii) any of the Organizational Documents of any Credit Party, or (b) any agreement or instrument binding upon it, except for such violations, conflicts, breaches or defaults as could not, with respect to clause (a)(i) or clause (b), reasonably be expected to have a Material Adverse Effect.

Section 3.3 Binding Effect. Each of the Operative Documents to which any Credit Party is a party constitutes a valid and binding agreement or instrument of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

Section 3.4 Capitalization. The authorized equity securities of each of the Credit Parties as of the Closing Date are as set forth on Schedule 3.4. All issued and outstanding equity securities of each of the Credit Parties are duly authorized and validly

issued, fully paid, nonassessable, free and clear of all Liens other than those in favor of Agent for the benefit of Agent and Lenders, and such equity securities were issued in compliance with all applicable Laws. The

identity of the holders of the equity securities of each of the Credit Parties and the percentage of their fully-diluted ownership of the equity securities of each of the Credit Parties as of the Closing Date is set forth on Schedule 3.4. No shares of the capital stock or other equity securities of any Credit Party, other than those described above, are issued and outstanding as of the Closing Date. Except as set forth on Schedule 3.4, as of the Closing Date there are no preemptive or other outstanding rights, options, warrants, conversion rights or similar agreements or understandings for the purchase or acquisition from any Credit Party of any equity securities of any such entity.

Section 3.5 Financial Information. All information delivered to Agent and pertaining to the financial condition of any Credit Party fairly presents the financial position of such Credit Party as of such date in conformity with GAAP (and as to unaudited financial statements, subject to normal year-end adjustments and the absence of footnote disclosures). Since the Petition Date, there has been no material adverse change in the business, operations, properties, prospects or condition (financial or otherwise) of any Credit Party.

Section 3.6 Litigation. Except as set forth on Schedule 3.6 as of the Closing Date, and except as hereafter disclosed to Agent in writing, there is no Litigation pending against, or to such Credit Party's knowledge threatened against or affecting, any Credit Party or, to such Credit Party's knowledge, any party to any Operative Document other than a Credit Party. There is no Litigation pending in which an adverse decision could reasonably be expected to have a Material Adverse Effect or which in any manner draws into question the validity of any of the Operative Documents.

Section 3.7 Ownership of Property. Each Credit Party and each of its Subsidiaries is the lawful owner of, has good and marketable title to and is in lawful possession of, or has valid leasehold interests in, all properties and other assets (real or personal, tangible, intangible or mixed) material to its business and purported or reported to be owned or leased (as the case may be) by such Person.

Section 3.8 No Default. No Event of Default, or to such Credit Party's knowledge, Default, has occurred and is continuing. No Credit Party is in breach or default under or with respect to any contract, agreement, lease or other instrument to which it is a party or by which its property is bound or affected, which breach or default could reasonably be expected to have a Material Adverse Effect.

Section 3.9 Labor Matters. As of the Closing Date, there are no strikes or other labor disputes pending or, to any Credit Party's knowledge, threatened against any Credit Party. Hours worked and payments made to the employees of the Credit Parties have not been in violation of the Fair Labor Standards Act or any other applicable Law dealing with such matters. All payments due from the Credit Parties, or for which any claim may be made against any of them, on account of wages and employee and retiree health and welfare insurance and other benefits have been paid or accrued as a liability on their books, as the case may be, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. The consummation of the transactions contemplated by the

Financing Documents will not give rise to a right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which it is a party or by which it is bound.

Section 3.10 Regulated Entities. No Credit Party is an “investment company” or a company “controlled” by an “investment company” or a “subsidiary” of an “investment company,” all within the meaning of the Investment Company Act of 1940.

Section 3.11 Margin Regulations. None of the proceeds from the Loans have been or will be used, directly or indirectly, for the purpose of purchasing or carrying any “margin stock” (as defined in Regulation U of the Federal Reserve Board), for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any “margin stock” or for any other purpose which might cause any of the Loans to be considered a “purpose credit” within the meaning of Regulation T, U or X of the Federal Reserve Board.

Section 3.12 Compliance With Laws; Anti-Terrorism Laws.

(a) Each Credit Party is in compliance with the requirements of all applicable Laws, except for such noncompliance which could not reasonably be expected to have a Material Adverse Effect.

(b) None of the Credit Parties and, to the knowledge of the Credit Parties, none of their Affiliates (i) is in violation of any Anti-Terrorism Law, (ii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, (iii) is a Blocked Person, or is controlled by a Blocked Person, (iv) is acting or will act for or on behalf of a Blocked Person, (v) is associated with, or will become associated with, a Blocked Person or (vi) is providing, or will provide, material, financial or technical support or other services to or in support of acts of terrorism of a Blocked Person. No Credit Party nor, to the knowledge of any Credit Party, any of its Affiliates or agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (B) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law.

Section 3.13 Taxes. (i) All Tax returns and other reports required by applicable law to be filed by any Credit Party have been timely filed and (ii) all Taxes imposed upon any Credit Party or any property of any Credit Party which have become due and payable on or prior to the date hereof have been paid, except (A) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization and paid in accordance with the Plan of Reorganization, and (B) Taxes subject to a Permitted Contest.

Section 3.14 Compliance with ERISA.

(a) Each ERISA Plan (and the related trusts and funding agreements) complies in form and in operation with, has been administered in compliance with, and the terms of each ERISA Plan satisfy, the applicable requirements of ERISA and the Code in all material respects. Each ERISA Plan which is intended to be qualified under Section 401(a)

of the Code is so qualified, and the United States Internal Revenue Service has issued a favorable determination letter with respect to each such ERISA Plan which may be relied on currently. No Credit Party

has incurred liability for any material excise tax under any of Sections 4971 through 5000 of the Code.

(b) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Credit Party and each Subsidiary is in compliance with the applicable provisions of ERISA and the provision of the Code relating to ERISA Plans and the regulations and published interpretations therein. During the thirty-six (36) month period prior to the (i) no steps have been taken to terminate any Pension Plan, and (ii) no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which could result in the incurrence by any Credit Party of any material liability, fine or penalty. No Credit Party has incurred liability to the PBGC (other than for current premiums) with respect to any employee Pension Plan. All contributions (if any) have been made on a timely basis to any Multiemployer Plan that are required to be made by any Credit Party or any other member of the Controlled Group under the terms of the plan or of any collective bargaining agreement or by applicable Law; no Credit Party nor any member of the Controlled Group has withdrawn or partially withdrawn from any Multiemployer Plan, incurred any withdrawal liability with respect to any such plan or received notice of any claim or demand for withdrawal liability or partial withdrawal liability from any such plan, and no condition has occurred which, if continued, could result in a withdrawal or partial withdrawal from any such plan, and no Credit Party nor any member of the Controlled Group has received any notice that any Multiemployer Plan is in reorganization, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of any excise tax, that any such plan is or has been funded at a rate less than that required under Section 412 of the Code, that any such plan is or may be terminated, or that any such plan is or may become insolvent.

Section 3.15 Consummation of Operative Documents; Brokers. Except for fees payable to Agent and/or Lenders, no broker, finder or other intermediary has brought about the obtaining, making or closing of the transactions contemplated by the Operative Documents, and no Credit Party has or will have any obligation to any Person in respect of any finder's or brokerage fees, commissions or other expenses in connection herewith or therewith.

Section 3.16 Related Transactions. All transactions contemplated by the Operative Documents to be consummated on or prior to the date hereof have been so consummated (including, without limitation, the disbursement and transfer of all funds in connection therewith) in all material respects pursuant to the provisions of the applicable Operative Documents, true and complete copies of which have been delivered to Agent, and in compliance with all applicable Law, except for such Laws the noncompliance with which would not reasonably be expected to have a Material Adverse Effect.

Section 3.17 Material Contracts. Except for the agreements set forth on Schedule 3.17(a), as of the Closing Date there are no Material Contracts. Schedule 3.17(b) sets forth, with respect to each real estate lease agreement to which any Credit Party is a

party (as a lessee) as of the Closing Date, the address of the subject property and the annual rental (or, where applicable, a general description of the method of computing the annual rental). The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination in favor of any party to any Material Contract (other than any Credit Party),

except any such termination which would not reasonably be expected to have a Material Adverse Effect.

Section 3.18 Compliance with Environmental Requirements; No Hazardous Materials. Except in each case as set forth on Schedule 3.18:

(a) no notice, notification, demand, request for information, citation, summons, complaint or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, or to such Credit Party's knowledge, threatened by any Governmental Authority or other Person with respect to any (i) alleged violation by any Credit Party of any Environmental Law, (ii) alleged failure by any Credit Party to have any Permits required in connection with the conduct of its business or to comply with the terms and conditions thereof, (iii) any generation, treatment, storage, recycling, transportation or disposal of any Hazardous Materials, or (iv) release of Hazardous Materials; and

(b) no property now owned or leased by any Credit Party and, to the knowledge of each Credit Party, no such property previously owned or leased by any Credit Party, to which any Credit Party has, directly or indirectly, transported or arranged for the transportation of any Hazardous Materials, is listed or, to such Credit Party's knowledge, proposed for listing, on the National Priorities List promulgated pursuant to CERCLA, or CERCLIS (as defined in CERCLA) or any similar state list or is the subject of federal, state or local enforcement actions or, to the knowledge of such Credit Party, other investigations which may lead to claims against any Credit Party for clean-up costs, remedial work, damage to natural resources or personal injury claims, including, without limitation, claims under CERCLA.

(c) For purposes of this Section 3.18, each Credit Party shall be deemed to include any business or business entity (including a corporation) that is, in whole or in part, a predecessor of such Credit Party.

Section 3.19 Intellectual Property. Each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property that is material to the condition (financial or other), business or operations of such Credit Party. All Intellectual Property existing as of the Closing Date which is issued, registered or pending with any United States or foreign Governmental Authority (including, without limitation, any and all applications for the registration of any Intellectual Property with any such United States or foreign Governmental Authority) and all licenses under which any Credit Party is the licensee of any such registered Intellectual Property (or any such application for the registration of Intellectual Property) owned by another Person are set forth on Schedule 3.19. Such Schedule 3.19 indicates in each case whether such registered Intellectual Property (or application therefor) is owned or licensed by such Credit Party, and in the case of any such licensed registered Intellectual Property (or application therefor), lists the name and address of the licensor and the name and date of the agreement pursuant to which such item of Intellectual Property is licensed and whether or not such license is an exclusive license and indicates whether there are any purported restrictions in such license on the ability to such Credit Party to grant a security interest in and/or to transfer any of its rights as a licensee

under such license. Except as indicated on Schedule 3.19, the applicable Credit Party is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each such registered Intellectual Property (or application therefor) purported to be owned by such Credit Party, free and

clear of any Liens and/or licenses in favor of third parties or agreements or covenants not to sue such third parties for infringement. All registered Intellectual Property of each Credit Party is duly and properly registered, filed or issued in the appropriate office and jurisdictions for such registrations, filings or issuances, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect. No Credit Party is party to, nor bound by, any material license or other agreement with respect to which any Credit Party is the licensee that prohibits or otherwise restricts such Credit Party from granting a security interest in such Credit Party's interest in such license or agreement or other property. To such Credit Party's knowledge, each Credit Party conducts its business without infringement or claim of infringement of any Intellectual Property rights of others and there is no infringement or claim of infringement by others of any Intellectual Property rights of any Credit Party, which infringement or claim of infringement could reasonably be expected to have a Material Adverse Effect.

Section 3.20 Solvency. As of the Closing Date, the Borrower and each other Credit Party is (on a consolidated basis), and immediately after giving effect to the Transactions to occur on the Closing Date, is Solvent.

Section 3.21 Full Disclosure. None of the written information (financial or otherwise) (other than any projections, budgets, pro forma financial statements, estimates and other forwardlooking information (collectively, "**Projections**"), information of a general economic nature and third party reports and memoranda) concerning the Credit Parties, their Subsidiaries and the transactions contemplated hereby furnished by or on behalf of any Credit Party to Agent or any Lender in connection with the consummation of the transactions contemplated by the Operative Documents, when furnished and taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which such statements were made (in each case, after giving effect to all supplements and updates thereto from time to time). All Projections delivered to Agent and the Lenders by Borrowers (or their agents) have been prepared on the basis of the assumptions stated therein and such assumptions are believed by such Borrower to be fair and reasonable as of the date furnished in light of current business conditions; *provided, however*, that Borrowers can give no assurance that such Projections will be attained, such Projections are subject to significant uncertainties and contingencies many of which are beyond the Borrowers' control, and actual results may vary materially.

Section 3.22 [Reserved].

Section 3.23 Subsidiaries. Credit Parties do not own any stock, partnership interests, limited liability company interests or other equity securities except for Permitted Investments.

ARTICLE 4 - AFFIRMATIVE COVENANTS

Each Credit Party agrees that:

Section 4.1 Financial Statements and Other Reports. The Borrower Representative shall deliver to Agent, on behalf of itself and each other Credit Party:

- (a) as soon as available, but no later than (i) thirty (30) days after the last day of each month (other than the last month of any fiscal quarter) and (ii) forty-five (45) days after the last

day of each of March, June, September and December, a company prepared consolidated balance sheet, cash flow and income statement (including year-to-date results), in each case, covering the Borrower Representative's and its Consolidated Subsidiaries' consolidated operations during the period, prepared under GAAP, consistently applied, setting forth in comparative form the corresponding figures as at the end of the corresponding month of the previous fiscal year and the projected figures for such period based upon the projections required hereunder, all in reasonable detail, certified by a Responsible Officer and in a form acceptable to Agent; provided that solely for the period commencing as of the Closing Date through and including December 31, 2025, the cash flow statements may be delivered quarterly;

- (b) together with the financial reporting package described in (a) above, evidence of payment and satisfaction of all payroll, withholding and similar taxes due and owing by the Credit Parties with respect to the payroll period(s) occurring during such month;
- (c) (x) prior to any initial public offering with respect to Borrower's equity interests as soon as available, but no later than one hundred twenty (120) days after the last day of Borrower's fiscal year, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm acceptable to Agent in its reasonable discretion (except for a qualification solely related to a going concern or with respect to any Debt which matures within twelve months from the time such opinion is delivered) or (y) following any such initial public offering, within fifteen (15) days after the time period specified in the SEC's rules and regulations for non-accelerated filers, annual reports of the Public Reporting Entity for such fiscal year containing the information that would have been required to be contained in an annual report on Form 10-K (or any successor or comparable form) if the Public Reporting Entity had been a reporting company under the Exchange Act, except to the extent permitted to be excluded by the SEC;
- (d) within five (5) days of delivery or filing thereof, copies of all statements, reports and notices made available to the Borrower Representative's security holders, to the ABL Agent or to any holders of Subordinated Debt and copies of all reports and other filings made by a Credit Party with any stock exchange on which any securities of any Credit Party are traded and/or the SEC;
- (e) a prompt written notice of any legal actions pending against any Credit Party or any Subsidiaries thereof that could reasonably be expected to result in damages or costs to any Credit Party or any of Subsidiaries thereof equal to or in excess of \$10,000,000 or may be reasonably expected to result in a Material Adverse Effect;

- (f) prompt written notice of an event that materially and adversely affects the value of any material Intellectual Property owned by a Credit Party;
- (g) promptly after the same become available, copies of any amendments, waivers or other modifications of or relating to the ABL Documents, Term Loan Documents or the Exit Notes and the Exit Notes Indenture;

- (h) budgets, sales projections, operating plans and other financial information and information, reports or statements regarding the Credit Parties, their business and the Collateral as Agent may from time to time reasonably request;
- (i) along with the monthly reports delivered pursuant to Section 4.1(a) above, evidence reasonably satisfactory to Agent of each Credit Party's compliance with any payment plan or arrangement with any taxing authority with respect to Priority Tax Claims (as defined in the Plan of Reorganization), including copies of payment confirmations, material correspondence with taxing authorities and a schedule of outstanding Priority Tax Claims;
- (j) concurrently with the delivery thereof to the ABL Agent, an updated Schedule 1.1 to the ABL Agreement identifying the credit ratings of Investment Grade Account Debtors (as defined in the ABL Agreement) used in determination of Eligible Investment Grade Billed Accounts (as defined in the ABL Agreement);
- (k) ~~within thirty (30) days after the last day of each month,~~ together with [the delivery of](#) the monthly financial statements described in clause (a) above, a duly completed Compliance Certificate signed by a Responsible Officer setting forth calculations showing compliance with the financial covenants set forth in this Agreement;
- (l) promptly upon their becoming available, copies of all Swap Contracts and Material Contracts, in each case that are required to be publicly filed;
- (m) concurrently with the delivery of the Borrowing Base Certificate to the ABL Agent, delivery of such Borrowing Base Certificate signed by a Responsible Officer, together with all information, calculations, supporting documentation or other documentation or information delivered therewith; and
- (n) thirty (30) days' advance written notice (or as much advance notice is as reasonably practicable) of a payoff of the ABL Agreement initiated by the Borrowers under the ABL Agreement.

At the option of the Borrowers, the Borrowers may make available to Agent and such requesting Lenders the information required to be provided pursuant to clause (c) of the immediately preceding paragraph by posting such information to its website (or the website of any of the Borrower Representative's parent companies, including the Public Reporting Entity) on IntraLinks or any comparable online data system or website to which each Lender and Agent have access; provided, that the Borrower Representative shall notify (which may be by electronic mail) Agent of the posting of any such documents and provide to Agent by electronic mail electronic versions (i.e., soft copies) of such documents. If at any time the Borrowers or any direct or indirect parent of the Borrowers has made a good faith determination to file a registration statement with the SEC with respect to an initial public

offering of such entity's equity interests, the Borrowers will not be required to disclose any information or take any actions that, in the good faith view of the Borrowers would violate the securities laws or the SEC's "gun jumping" rules.

Notwithstanding the foregoing, (A) neither the Credit Parties nor another Public Reporting Entity will be required to deliver any information, certificates or reports that would otherwise be required by (i) Section 302 or Section 404 of the Sarbanes-Oxley Act of 2002, or related Items 307

or 308 of Regulation S-K or (ii) Item 10(e) of Regulation S-K promulgated by the SEC with respect to any non-generally accepted accounting principles financial measures contained therein, (B) such reports will not be required to contain financial information required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X or include any exhibits or certifications required by Form 10-K, Form 10-Q or Form 8-K (or any successor or comparable forms) or related rules under Regulation S-K and (C) such reports shall not be required to present compensation or beneficial ownership information.

The financial statements, information and other documents required to be provided as described in clause (c) of the first paragraph of this Section 4.1 may be those of (i) the Borrower Representative and its Subsidiaries (on a combined basis) or (ii) any direct or indirect parent of all of the Credit Parties (any such entity, a “**Public Reporting Entity**”); provided, that, if the financial information so delivered relates to such direct or indirect parent of the Credit Parties the same is accompanied by consolidating financial statements (including statements of cash flows) that explain in reasonable detail the differences between the information relating to such parent, on the one hand, and the information relating to the Borrower Representative and its Subsidiaries on a standalone basis, on the other hand, for the applicable period. Notwithstanding any of the foregoing herein, to the extent any of the Credit Parties’ parent companies is subject to the reporting requirements under Section 13 or 15(d) of the Exchange Act, such information described in this paragraph shall be included in the Form 10-K reports of the Public Reporting Entity described in clause (c) of the first paragraph of this Section 4.1 filed with the SEC.

Notwithstanding the foregoing, the Credit Parties will be deemed to have delivered such reports and information referred to in this Section 4.1 to the Lenders and Agent for all purposes of this Agreement if the Credit Parties or another Public Reporting Entity has filed such reports with the SEC via the EDGAR filing system (or any successor system) and such reports are publicly available. In addition, except as required by the last sentence of the immediately preceding paragraph, the requirements of this Section 4.1 shall be deemed satisfied and the Credit Parties will be deemed to have delivered such reports and information referred to this Section 4.1 to Agent, holders, prospective investors, market makers and securities analysts for all purposes of this Agreement by the posting of reports and information that would be required to be provided on the Borrower’s website (or that of any of the Credit Parties’ parent companies, including the Public Reporting Entity). Agent shall have no obligation to monitor whether the Credit Parties post such reports, information and documents on the Borrower’s website (or that of any of the Credit Parties’ parent companies, including the Public Reporting Entity) or the SEC’s EDGAR service, or collect or re-post any such information from any Credit Party (or any of the Credit Parties’ parent companies) website or the SEC’s EDGAR service.\

Section 4.2 Payment and Performance of Obligations. Each Credit Party (a) will pay and discharge, and cause each Subsidiary to pay and discharge, on a timely basis as and when due, in accordance with Applicable Law, all of their respective obligations and liabilities, except for such obligations and/or liabilities (i) that may be the subject of a Permitted Contest or (ii) the nonpayment or nondischarge of which could not reasonably be expected to have a Material Adverse Effect or result in a Lien against any Collateral, except

for Permitted Liens, (b) without limiting anything contained in the foregoing clause (a), pay all amounts due and owing in respect of Taxes (including without limitation, payroll and withholdings tax liabilities) on a timely basis

as and when due, and in any case prior to the date on which any material fine, penalty, interest, late charge or loss may be added thereto for nonpayment thereof, except (i) for those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization or otherwise satisfied in accordance with the Plan of Reorganization (provided, that, for the avoidance of doubt, the Credit Parties shall pay Taxes to the extent required under and in accordance with the Plan of Reorganization), and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP, (c) will maintain, and cause each Subsidiary to maintain, in accordance with GAAP, appropriate reserves for the accrual of all of their respective obligations and liabilities, and (d) will not breach or permit any Subsidiary to breach, or permit to exist any default under, the terms of any lease, commitment, contract, instrument or obligation to which it is a party, or by which its properties or assets are bound, except for such breaches or defaults which could not reasonably be expected to have a Material Adverse Effect.

Section 4.3 Maintenance of Existence. Each Credit Party will preserve, renew and maintain in full force and effect and in good standing under the laws of its jurisdiction of organization, and will cause each Subsidiary to preserve, renew and keep in full force and effect and in good standing under the laws of its jurisdiction of organization, their respective existence and (except in the case failure to do so could not reasonably be expected to have a Material Adverse Effect except solely with respect to any jurisdiction other than the jurisdiction of organization of such Credit Party or Subsidiary) their respective rights, privileges and franchises necessary or desirable in the normal conduct of business.

Section 4.4 Maintenance of Property; Insurance.

(a) Each Credit Party will keep, and will cause each Subsidiary to keep, all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect. If all or any part of the Collateral useful or necessary in its business, or upon which any Borrowing Base (as defined in the ABL Agreement) is calculated, becomes damaged or destroyed, each Credit Party will, and will cause each Subsidiary to, promptly and completely repair and/or restore the affected Collateral in a good and workmanlike manner (except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect), regardless of whether Agent agrees to disburse insurance proceeds or other sums to pay costs of the work of repair or reconstruction.

(b) Upon completion of any Permitted Contest, Credit Parties shall, and will cause each Subsidiary to, promptly pay the amount due, if any, and deliver to Agent proof of the completion of the contest and payment of the amount due, if any (except in each case to the extent the failure to do so could not

reasonably be expected to have a Material Adverse Effect), following which Agent shall return the security, if any, deposited with Agent pursuant to the definition of Permitted Contest.

(c) Each Credit Party will maintain (i) casualty insurance on all real and personal property on an all risks basis (including the perils of flood, windstorm and quake),

covering the repair and replacement cost of all such property and coverage, business interruption and rent loss coverages with extended period of indemnity (for the period required by Agent from time to time) and indemnity for extra expense, in each case without application of coinsurance and with agreed amount endorsements, (ii) general and professional liability insurance (including products/completed operations liability coverage), and (iii) such other insurance coverage in such amounts and with respect to such risks as Agent may request from time to time, pursuant to the Insurance Requirements attached hereto as Schedule 4.4; *provided, however*, that, in no event shall such insurance be in amounts or with coverage less than, or with carriers with qualifications inferior to, any of the insurance or carriers in existence as of the Closing Date (or required to be in existence after the Closing Date under a Financing Document). All such insurance shall be provided by insurers having an A.M. Best policyholders rating reasonably acceptable to Agent.

(d) On or prior to the Closing Date (subject to Section 7.4 of the ABL Agreement), and at all times thereafter, each Credit Party will cause ABL Agent to be named as an additional insured, assignee and lender loss payee (which shall include, as applicable, identification as mortgagee), as applicable, on each insurance policy required to be maintained pursuant to this Section 4.4 pursuant to endorsements in form and substance acceptable to ABL Agent. Credit Parties shall deliver to ABL Agent and the Lenders (i) on the Closing Date (subject to Section 7.4 of the ABL Agreement), a certificate from Credit Parties' insurance broker dated such date showing the amount of coverage as of such date, and that if all or any part of such policy is canceled, terminated or expires, the insurer will forthwith give notice thereof to each additional insured, assignee and loss payee and that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by each additional insured, assignee and loss payee of written notice thereof, (ii) upon the request of any Lender through ABL Agent from time to time full information as to the insurance carried, (iii) within five (5) days of receipt of notice from any insurer, a copy of any notice of cancellation, nonrenewal or material change in coverage from that existing on the date of this Agreement, (iv) forthwith, notice of any cancellation or nonrenewal of coverage by any Credit Party, and (v) at least 60 days prior to expiration of any policy of insurance, evidence of renewal of such insurance upon the terms and conditions herein required. Following the payoff of the ABL Agreement the Agent shall receive the insurance certificates and rights hereunder previously provided to the ABL Agent.

(e) In the event any Credit Party fails to provide Agent with evidence of the insurance coverage required by this Agreement, following the payoff of the ABL Agreement, Agent may purchase insurance at Credit Party's expense to protect Agent's interests in the Collateral. This insurance may, but need not, protect such Credit Party's interests. The coverage purchased by Agent may not pay any claim made by such Credit Party or any claim that is made against such Credit Party in connection with the Collateral. Such Credit Party may later cancel

any insurance purchased by Agent, but only after providing Agent with evidence that such Credit Party has obtained insurance as required by this Agreement. If Agent purchases insurance for the Collateral, Credit Parties will be responsible for the costs of that insurance to the fullest extent provided by law, including interest and other charges imposed by Agent in connection with the placement of the

insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations. The costs of the insurance may be more than the cost of insurance such Credit Party is able to obtain on its own.

Section 4.5 Compliance with Laws and Material Contracts. Each Credit Party will comply, and cause each Subsidiary to comply, with the requirements of all applicable Laws and Material Contracts, except to the extent that failure to so comply could not reasonably be expected to have a Material Adverse Effect.

Section 4.6 Inspection of Property, Books and Records. Each Credit Party will keep, and will cause each Subsidiary to keep, proper books of record substantially in accordance with GAAP in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities; and will permit, and will cause each Subsidiary to permit representatives of Agent and of any Lender to visit and inspect any of their respective properties, to examine and make abstracts or copies from any of their respective books and records, to conduct a collateral audit and analysis of their respective operations and the Collateral, to review the billing practices of Credit Parties and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants as often as may reasonably be desired. In the absence of a Specified Default, Agent shall give the applicable Credit Party or any applicable Subsidiary commercially reasonable prior notice of such exercise. After the occurrence and during the continuation of a Specified Default, the Credit Parties shall be responsible for all documented fees, expenses and other costs pursuant to Section 2.2(i). At any time following the occurrence and during the continuance of a Specified Default, Agent may exercise its rights under this Section 4.6, without prior notice.

Section 4.7 Use of Proceeds. Credit Parties shall use the proceeds of Loans solely for working capital and general corporate needs of Borrowers and their Subsidiaries. No portion of the proceeds of the Loans will be used for family, personal, agricultural or household use.

Section 4.8 Notices of Litigation and Defaults. Credit Parties will give prompt written notice to Agent (a) of any litigation or governmental proceedings pending or threatened (in writing) against Borrowers or any other Credit Party which would reasonably be expected to have a Material Adverse Effect with respect to Borrowers or any other Credit Party or which in any manner calls into question the validity or enforceability of any Financing Document, (b) upon any Credit Party becoming aware of the existence of any Default or Event of Default, (c) if any Credit Party is in breach or default under or with respect to any Material Contract, or if any Credit Party is in breach or default under or with respect to any other contract, agreement, lease or other instrument to which it is a party or by which its property is bound or affected, which breach or default could reasonably be expected to have a Material Adverse Effect, (d) of any strikes or other labor disputes pending or, to any Credit Party's knowledge, threatened against any Credit Party, (e) if there is any infringement or claim of infringement by any other Person with respect to any Intellectual Property rights of any Credit Party, or if there is any claim by any other Person that any

Credit Party in the conduct of its business is infringing on the Intellectual Property Rights of others, which in any such case could reasonably be expected to have a Material Adverse Effect, (f) the occurrence of any “default” or “event of default” under and as defined in the Term Loan Agreement, and (g) of all returns, recoveries, disputes and claims that involve more than the Threshold Amount. Each Credit Party represents and warrants that Schedule 4.9 sets forth a

complete list of all matters existing as of the Closing Date for which notice could be required under this Section and all litigation or governmental proceedings pending or threatened (in writing) against any Credit Party as of the Closing Date.

Section 4.9 Hazardous Materials; Remediation.

(a) If any release or disposal of Hazardous Materials shall occur or shall have occurred on any real property or any other assets of any Borrower or any other Credit Party, such Borrower or Credit Party will cause, or direct the applicable Subsidiary to cause, the prompt containment and removal of such Hazardous Materials and the remediation of such real property or other assets as is necessary to comply with all Environmental Laws and to preserve the value of such real property or other assets. Without limiting the generality of the foregoing, each Credit Party shall, and shall cause each other Subsidiary to, comply with each Environmental Law requiring the performance at any real property by any Borrower or any other Credit Party of activities in response to the release or threatened release of a Hazardous Material.

(b) Credit Parties will provide Agent within thirty (30) days after written demand therefor with a bond, letter of credit or similar financial assurance evidencing to the reasonable satisfaction of Agent that sufficient funds are available to pay the cost of removing, treating and disposing of any Hazardous Materials or Hazardous Materials Contamination and discharging any assessment which may be established on any property as a result thereof, such demand to be made, if at all, upon Agent's reasonable business determination that the failure to remove, treat or dispose of any Hazardous Materials or Hazardous Materials Contamination, or the failure to discharge any such assessment could reasonably be expected to have a Material Adverse Effect.

Section 4.10 Further Assurances.

(a) Each Credit Party will, and will cause each Subsidiary to, at its own cost and expense, promptly and duly take, execute, acknowledge and deliver all such further acts, documents and assurances as may from time to time be necessary or as Agent or the Required Lenders may from time to time reasonably request in order to carry out the intent and purposes of the Financing Documents and the transactions contemplated thereby, including all such actions to establish, create, preserve, protect and perfect a Lien (subject only to Permitted Liens and to the ABL Intercreditor Agreement) in favor of Agent for itself and for the benefit of the Lenders on the Collateral (including Collateral acquired after the date hereof).

(b) Upon receipt of an affidavit of an authorized representative of Agent or a Lender as to the loss, theft, destruction or mutilation of any Note or any other Financing Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other applicable Financing Document,

Credit Parties will issue, in lieu thereof, a replacement Note or other applicable Financing Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Financing Document in the same principal amount thereof and otherwise of like tenor.

(c) Upon the formation or acquisition of a new Subsidiary (other than an Excluded Subsidiary), Credit Parties shall, within ten (10) Business Days (or such later date as consented to by the Required Lenders in their sole discretion, which consent may be provided via electronic mail from (x) counsel to the Required Lenders or (y) Agent (in each case acting at the direction of the Required Lenders)) after such formation or acquisition, (i) pledge, have pledged or cause or have caused to be pledged to the Term Agent or the Trustee as bailee, or to Agent, pursuant to a pledge agreement in form and substance satisfactory to the Term Agent, the Trustee or Agent, as applicable, all of the outstanding shares of equity interests or other equity interests of such new Subsidiary owned directly or indirectly by any Credit Party, along with undated stock or equivalent powers for such certificates, executed in blank; (ii) unless Agent shall agree otherwise in writing, cause the new Subsidiary to take such other actions (including entering into or joining any Security Documents) as are necessary or advisable in the reasonable opinion of Agent in order to grant Agent, acting on behalf of the Lenders, a Lien on all real and personal property of such Subsidiary in existence as of such date and in all after acquired property (subject only to Permitted Liens and to the ABL Intercreditor Agreement), which Liens are required to be granted pursuant to this Agreement; (iii) unless Agent shall agree otherwise in writing, cause such new Subsidiary to become a Guarantor of the obligations of Credit Parties hereunder and under the other Financing Documents pursuant to a Guarantee Supplement; and (iv) cause the new Subsidiary to deliver certified copies of such Subsidiary's certificate or articles of incorporation, together with good standing certificates, by-laws (or other operating agreement or governing documents), resolutions of the Board of Directors or other governing body, approving and authorize the execution and delivery of the Security Documents, incumbency certificates and to execute and/or deliver such other documents and legal opinions or to take such other actions as may be reasonably requested by Agent, in each case, in form and substance reasonably satisfactory to Agent.

(d) Upon the termination of the ABL Agreement, the Credit Parties shall use their commercially reasonable efforts to (i) enter into Control Agreements over all then existing Deposit Accounts and Securities Accounts, in each case, with respect to which a Control Agreement had been in place with ABL Agent as secured party thereunder, with the applicable bank, financial institution or securities intermediary in favor of the Agent and (ii) cause Agent to be named as an additional insured, assignee and lender loss payee (which shall include, as applicable, identification as mortgagee), as applicable, on each insurance policy required to be maintained pursuant to Section 4.4 pursuant to endorsements in form and substance acceptable to Agent.

Notwithstanding the foregoing, no Excluded Subsidiary shall be required to become a Guarantor hereunder (and, as such, shall not be required to deliver the documents required by this clause (c) above).

Section 4.11 [Reserved].

Section 4.12 Power of Attorney. After the occurrence and during the continuance of an Event of Default, each of the authorized representatives of Agent is hereby irrevocably made, constituted and appointed the true and lawful attorney for each Credit

Party (without requiring any of them to act as such) with full power of substitution to do the following: (a) endorse the name of each Credit Party upon any and all checks, drafts, money orders, and other instruments for the

payment of money that are payable to each Credit Party and constitute collections on such Credit Party's Accounts; (b) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower to perform the same and Borrower has failed to take such action, execute in the name of any Credit Party any schedules, assignments, instruments, documents, and statements that Credit Parties are obligated to give Agent under this Agreement; (c) take any action Credit Parties are required to take under this Agreement; (d) so long as Agent has provided not less than three (3) Business Days' prior written notice to Borrower to perform the same and Borrower has failed to take such action, do such other and further acts and deeds in the name of Credit Parties that Agent may deem necessary or desirable to enforce any Account or other Collateral or perfect Agent's security interest or Lien in any Collateral; and (e) do such other and further acts and deeds in the name of Credit Parties that Agent may deem necessary or desirable to enforce its rights with regard to any Account or other Collateral. This power of attorney shall be irrevocable and coupled with an interest.

Section 4.13 [Reserved].

Section 4.14 Maintenance of Management. Borrower will cause its business to be continuously managed by its present chief executive officer and chief financial officer or such other individuals serving in such capacities as shall be reasonably satisfactory to Agent. Borrower will notify Agent promptly in writing of any change in its board of directors or executive officers.

ARTICLE 5 - NEGATIVE COVENANTS

Each Credit Party agrees that:

Section 5.1 Debt; Contingent Obligations. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, incur, assume, guarantee or otherwise become or remain directly or indirectly liable with respect to, any Debt, except for Permitted Debt. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, assume, incur or suffer to exist any Contingent Obligations, except for Permitted Contingent Obligations.

Section 5.2 Liens. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except for Permitted Liens.

Section 5.3 Restricted Distributions. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, declare, order, pay, make or set apart any sum for any Restricted Distribution, except for Permitted Distributions.

The Borrowers, in their sole discretion, may classify any Permitted Distribution or Permitted Investment as being made in part under one of the clauses or subclauses of the definitions of "Permitted Distribution" and "Permitted Investments" and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section

5.3 to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (i), (k), (p) and (q) of the definition of “Permitted Investments.”

Section 5.4 Restrictive Agreements. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) enter into or assume any agreement (other than the Financing Documents, the ABL Documents, the Term Loan Documents and the Exit Notes (and extensions, modifications and replacements of any of the foregoing that are not materially more restrictive with respect to dividend and payment restrictions), any agreement or instrument of a Person acquired by a Credit Party or a Subsidiary in existence at the time of such acquisition (which restriction is not applicable to any Person, or the assets of any Person, other than the Person, or the assets of the Person, so acquired), any secured Permitted Debt that limits the right of the debtor to dispose of the assets securing such Debt, any agreements for purchase money debt permitted under clause (c) of the definition of Permitted Debt, any other Debt so long as such encumbrances and restrictions will not materially affect the Borrowers' ability to make anticipated principal or interest payments on the Exit Notes, and any customary restrictions and conditions contained in agreements relating to the sale or other disposition of assets pending such sale or other disposition) prohibiting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired, or (b) create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind (except as provided by the Financing Documents, the ABL Documents, the Term Loan Documents and the Exit Notes (and extensions, modifications and replacements of any of the foregoing that are not materially more restrictive with respect to dividend and payment restrictions), any agreement or instrument of a Person acquired by a Credit Party or a Subsidiary in existence at the time of such acquisition (which restriction is not applicable to any Person, or the assets of any Person, other than the Person, or the assets of the Person, so acquired), any secured Permitted Debt that limits the right of the debtor to dispose of the assets securing such Debt, any agreements for purchase money debt permitted under clause (c) of the definition of Permitted Debt, and customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business or consistent with industry norm), on the ability of any Subsidiary to: (i) pay or make Restricted Distributions to any Credit Party or any Subsidiary; (ii) pay any Debt owed to any Credit Party or any Subsidiary; (iii) make loans or advances to any Borrower or any Subsidiary; or (iv) transfer any of its property or assets to any Credit Party or any Subsidiary.

Section 5.5 Payments and Modifications of Subordinated Debt. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) declare, pay, make or set aside any amount for payment in respect of Subordinated Debt, except for payments made in full compliance with and expressly permitted under the Subordination Agreement and payments permitted by Section 5.3, (b) amend or otherwise modify the terms of any Subordinated Debt, except for amendments or modifications made in full compliance with the Subordination Agreement, (c) declare, pay, make or set aside any amount for payment in respect of any Debt hereinafter incurred that, by its terms, or by separate agreement, is payment subordinated to the Obligations, except for payments made in full compliance with and expressly permitted under the subordination provisions applicable thereto and payments permitted by Section 5.3, or (d) amend or otherwise modify the terms of any such Debt if the effect of such amendment or modification is to (i) increase the interest rate or fees on, or change the manner or timing of payment of, such Debt, (ii) accelerate or shorten the dates upon which payments of principal or interest are due on, or the principal amount of, such

Debt, (iii) change in a manner adverse to any Credit Party or Agent any event of default or add or make more restrictive any covenant with respect to such Debt, (iv) change the prepayment provisions of such Debt or any of the defined terms related thereto, (v) change the subordination provisions thereof (or the subordination terms of Section 12.7 hereof or any other

guarantee thereof), or (vi) change or amend any other term if such change or amendment would materially increase the obligations of the obligor or confer additional material rights on the holder of such Debt in a manner adverse to any Credit Party, any Subsidiaries, Agents or Lenders. Credit Parties shall, prior to entering into any such amendment or modification, deliver to Agent reasonably in advance of the execution thereof, any final or execution form copy thereof.

Section 5.6 Consolidations, Mergers and Sales of Assets; Change in Control. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) consolidate or merge or amalgamate with or into any other Person unless the surviving Person is such Credit Party (or if no Credit Party is a party thereto, the surviving person is a Guarantor, or if no Credit Party is a party thereto, the surviving Person is such Subsidiary), or (b) consummate any Asset Dispositions other than Permitted Asset Dispositions. No Credit Party will suffer or permit to occur any Change in Control.

Section 5.7 Purchase of Assets, Investments. No Credit Party will, or will permit any Subsidiary to, directly or indirectly (a) acquire or enter into any agreement to acquire any assets other than in the Ordinary Course of Business or as permitted under the definition of Permitted Investments; or (b) acquire or own or enter into any agreement to acquire or own any Investment in any Person other than Permitted Investments.

The Borrowers, in their sole discretion, may classify any Permitted Investment as being made in part under one of the clauses or subclauses of the definitions of “Permitted Distribution” and “Permitted Investments” and in part under one or more other such clauses or subclauses; provided, further, that, notwithstanding anything in this Section 5.7 to the contrary, Investments in Subsidiaries that are not Guarantors shall only be permitted to be made pursuant to clauses (i), (k), (p) and (q) of the definition of “Permitted Investments.”

Section 5.8 Transactions with Affiliates. Except as otherwise disclosed on Schedule 5.8, and except for transactions which contain terms that are no less favorable to the applicable Credit Party or any Subsidiary, as the case may be, than those which might be obtained from a third party not an Affiliate of any Credit Party or that do not involve consideration in excess of \$5,000,000, no Credit Party will, or will permit any Subsidiary to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of any Credit Party (each, an “**Affiliate Transaction**”), other than:

(a) any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25,000,000, in connection with which the Credit Parties deliver to Agent (i) a resolution adopted in good faith by a majority of disinterested directors of the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions) approving such Affiliate Transaction and set forth in an officer’s certificate certifying that such Affiliate Transaction complies with the above requirements of this Section 5.8 or (ii) if there are no directors on the Board of Directors of the Parent (or the committee thereof comprised of disinterested directors tasked with the review of such transactions) that are disinterested with

respect to such transaction(s), a letter from an independent financial advisor stating that such transaction is fair to the applicable Credit Party or such Subsidiary from a financial point of view;

(b) the Transactions, the payment of professional fees and expenses in connection therewith (provided that, with respect to the payment of professional fees and expenses of Cleary Gottlieb Steen & Hamilton LLP and Ropes & Gray LLP, such payment shall, be made as follows and on the following dates: (i) on the Closing Date, each legal advisor shall be paid a sum equal to (x) one third of the estimated amount of each advisor's professional fees and expenses as set forth on the funds flow delivered by the Borrower as of the Closing Date plus (y) 50% of any amount that is in excess of \$25,900,000 retained by the Borrower on the Closing Date (provided that such excess amount shall not exceed \$1,000,000), (ii) on the date that is forty-five (45) days following the Closing Date, each legal advisor shall be paid a sum equal to 50% of the total outstanding amount of such advisor's professional fees and expenses and (iii) on the date that is ninety (90) days following the Closing Date, each legal advisor shall be paid a sum equal to the remaining 50% of each legal advisor's total professional fees and expenses;

(c) any Affiliate Transaction the only parties thereto constitute Credit Parties;

(d) (i) sales or contributions of Receivables Assets by (i) each Exar Originator to Exar SPV and (ii) Exar SPV to the Exar Buyer pursuant to the Exar Facility ~~in effect as of the date hereof~~ or (ii) the purchase of participation interests by any Credit Party in this Agreement;

(e) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the applicable Credit Party, any Subsidiary, or any direct or indirect parent of the Credit Parties in the ordinary course of business, provided that the payment of any such fees or reimbursements to, on behalf of, or for the account of, shareholders of Parent Affiliates of Parent or any of their respective Affiliates (other than the Parent and its Subsidiaries) shall not be permitted other than payment or reimbursement of fees and expenses incurred by Ernst & Young in connection with Ernst & Young's determination or re-determination (if any) of the Transaction Tax Liability (as defined in the Plan of Reorganization), and provided, further, that no such payments shall be permitted under this clause (e) to any of ETI or its Affiliates (other than the Parent and its Subsidiaries) for, or in respect of, or as reimbursement for, any consultants;

(f) transactions between or among the Borrowers and/or any of their Subsidiaries (or an entity that becomes a Subsidiary as a result of such transaction) in the ordinary course of business and any merger, consolidation or amalgamation of the Borrowers and any direct parent of the Borrowers; provided, that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the capital stock of the Borrowers and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Agreement and effected for a bona fide business purpose;

(g) incurrence, transfer or assignment of loans in accordance with the terms of the Term Loan Agreement and performance of the obligations thereunder and issuance, transfer or assignment of Exit Notes in accordance with the terms of the Exit Notes Indenture and performance of the obligations thereunder;

(h) the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under the terms of, any stockholders or similar agreement (including any registration rights agreement or purchase agreement related thereto) to which it is

a party as of the Closing Date and any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Borrowers or any Subsidiary of the Borrowers of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Closing Date shall only be permitted by this clause (h) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the Lenders in any material respect than the original transaction, agreement or arrangement as in effect on the Closing Date, as determined in good faith by the Borrowers;

(i) intercompany transactions for the purpose of improving the consolidated tax efficiency of the Borrowers and their respective Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement; and

(j) the entering into of any tax sharing agreement or arrangement that complies with clause (e) of the definition of “Permitted Distributions” and the performance under any such agreement or arrangement.

Section 5.9 Modification of Organizational Documents. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, amend or otherwise modify any Organizational Documents of such Person, except for Permitted Modifications.

Section 5.10 Modification of Certain Agreements. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, amend or otherwise modify any Material Contract, which amendment or modification in any case: (a) is contrary to the terms of this agreement or any other Financing Document; or (b) could reasonably be expected to be materially adverse to the rights, interests or privileges of Agent or the Lenders or their ability to enforce the same. Each Credit Party shall, prior to entering into any material amendment or other modification of any of the foregoing documents, deliver to Agent reasonably in advance of the execution thereof, any final or execution form copy of amendments or other modifications to such documents.

Section 5.11 Conduct of Business. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, engage in any line of business other than those businesses engaged in on the Closing Date and described on Schedule 5.11 and businesses reasonably related thereto. No Credit Party will, or will permit any Subsidiary to, other than in the Ordinary Course of Business, change its normal billing payment and reimbursement policies and procedures with respect to its Accounts (including, without limitation, the amount and timing of finance charges, fees and writeoffs).

Section 5.12 Lease Payments. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, incur or assume (whether pursuant to a guarantee or otherwise) any liability for rental payments except in the Ordinary Course of Business.

Section 5.13 Limitation on Sale and Leaseback Transactions. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, enter into any arrangement with any Person whereby, in a substantially contemporaneous transaction, any Credit Party or any Subsidiaries sells

or transfers all or substantially all of its right, title and interest in an asset and, in connection therewith, acquires or leases back the right to use such asset.

Section 5.14 Deposit Accounts and Securities Accounts; Payroll and Benefits Accounts. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, establish any new Deposit Account or Securities Account without prior written notice to Agent unless either (i) ABL Agent, such Credit Party or such Subsidiary and the bank, financial institution or securities intermediary at which the account is to be opened enter into a Control Agreement prior to or concurrently with the establishment of such Deposit Account or Securities Account (except with respect to Excluded Accounts) and ABL Agent acts as bailee for purposes of Agent's perfection by control in such Deposit Account or Securities Account, or (ii) Agent, such Credit Party or such Subsidiary and the bank, financial institution or securities intermediary at which the account is to be opened enter into a Control Agreement prior to or concurrently with the establishment of such Deposit Account or Securities Account (except with respect to Excluded Accounts). ~~Each~~[As of the date such updated Schedule 5.14 is delivered to the Agent pursuant to Section 7.4, each](#) Credit Party represents and warrants that [Schedule 5.14](#) lists all of the Deposit Accounts and Securities Accounts of each Credit Party as of the ~~Closing Date~~[date such updated Schedule 5.14 is delivered pursuant to Section 7.4](#). The provisions of this Section requiring Control Agreements shall not apply to Deposit Accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Credit Party's employees and identified to Agent by each Credit Party as such (such Accounts, the "Excluded Accounts"); provided, however, that at all times that any Obligations remain outstanding, Credit Party shall maintain one or more separate Deposit Accounts to hold any and all amounts to be used for payroll, payroll taxes and other employee wage and benefit payments, and shall not commingle any monies allocated for such purposes with funds in any other Deposit Account.

Section 5.15 Compliance with Anti-Terrorism Laws. Agent hereby notifies Credit Parties that pursuant to the requirements of Anti-Terrorism Laws, and Agent's policies and practices, Agent is required to obtain, verify and record certain information and documentation that identifies Credit Parties and its principals, which information includes the name and address of each Credit Party and its principals and such other information that will allow Agent to identify such party in accordance with Anti-Terrorism Laws. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, knowingly enter into any Material Contracts with any Blocked Person or any Person listed on the OFAC Lists. Each Credit Party shall immediately notify Agent if such Credit Party has knowledge that any Credit Party, any Subsidiaries, any additional Credit Party or any of their respective Affiliates or agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement is or becomes a Blocked Person or (a) is convicted on, (b) pleads nolo contendere to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. No Credit Party will, or will permit any Subsidiary to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any

property or interests in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law. The foregoing will not apply

to any Person that qualifies as a corporation that is registered or incorporated under the laws of Canada or any province or territory thereof and that carries on business in whole or in part in Canada within the meaning of Section 2 of the Foreign Extraterritorial Measures (United States) Order, 1992 passed under the Foreign Extraterritorial Measures Act (Canada) in so far as such representations would result in a violation of or conflict with the Foreign Extraterritorial Measures Act (Canada) or any similar law.

ARTICLE 6 - FINANCIAL COVENANTS

Section 6.1 Fixed Charge Coverage Ratio. Credit Parties shall not permit the Fixed Charge Coverage Ratio of the Borrower Representative and its Subsidiaries, as follows: (i) to be tested quarterly until and including the Defined Period ending December 31, 2025, to be less than 0.85 to 1.00, (ii) to be tested monthly until and including (a) for the Defined Period beginning January 1, 2026 until and including June 30, 2026, to be less than 0.85 to 1.00 and (b) for the Defined Period beginning July 1, 2026, until and including the Termination Date, to be less than 1.00 to 1.00.

Section 6.2 Evidence of Compliance. Credit Parties shall furnish to Agent, together with the financial reporting required of Credit Parties in Section 4.1 hereof, a Compliance Certificate as evidence of Credit Parties' compliance with the covenants in this Article and evidence that no Event of Default specified in this Article has occurred. The Compliance Certificate shall include, without limitation, (a) a statement and report, on a form approved by Agent, detailing Borrower's calculations, and (b) if requested by Agent, back-up documentation (including, without limitation, invoices, receipts and other evidence of costs incurred during such quarter as Agent shall reasonably require) evidencing the propriety of the calculations.

ARTICLE 7 - CONDITIONS

Section 7.1 Conditions to Closing. The obligation of each Lender to make the initial Loans on the Closing Date shall be subject to the receipt by Agent of each agreement, document and instrument set forth on the closing checklist prepared by Agent or its counsel, each in form and substance satisfactory to Agent, and such other closing deliverables reasonably requested by Agent and Lenders, and to the satisfaction of the following conditions precedent, each to the satisfaction of Agent and Lenders and their respective counsel in their sole discretion:

(a) **Consummation of Transactions.** Evidence of the consummation of the Transactions (other than the funding of the Loan and the closing of any acquisition for which the proceeds of the Loan are purchase money) contemplated by the Operative Documents including, without limitation, the funding of any and all investments contemplated by the Operative Documents;

(b) **Secretary Certificates; Corporate Deliverables.** Agent shall have received:

(i) copies of the certificate or articles of incorporation and by-laws (or other similar governing documents serving the purposes) of each Credit Party, certified as of the Closing Date as complete and correct copies thereof by a Responsible Officer or another authorized representative of each Credit Party;

(ii) a copy of the resolutions or equivalent action, in form and substance reasonably satisfactory to Agent, of each Credit Party authorizing, as applicable, the execution and delivery of this Agreement and the other Financing Documents and the performance of this Agreement and the transactions contemplated hereby and thereby, certified by a Responsible Officer or another authorized representative of each Credit Party as of the Closing Date, which certificate shall state that the resolutions or other action thereby certified have not been amended, restated, amended and restated, modified (except as any later such resolution or other action may modify any earlier such resolution or other action), revoked or rescinded and are in full force and effect as of the Closing Date;

(iii) such certificates of good standing (to the extent such concept exists) from the applicable secretary of state of the state of organization of each Credit Party, certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Credit Party as Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Financing Documents to which such Credit Party is a party or is to be a party on the Closing Date;

(c) **Financing Documents.** Agent shall have received an executed copy of the applicable Financing Documents;

(d) **Closing Certificate.** Agent shall have received a certificate of Credit Parties, dated as of the Closing Date, substantially in the form of Exhibit E;

(e) **Solvency Certificate.** Agent shall have received a solvency certificate signed by the chief financial officer on behalf of the Credit Parties, substantially in the form of Exhibit G, after giving effect to the Transactions or, at the Credit Parties' option, a solvency opinion from an independent investment bank or valuation firm of nationally recognized standing;

(f) **Representations and Warranties.** Each of the representations and warranties of each Credit Party contained in or pursuant to the Financing Documents shall be true, correct and complete on and as of the Closing Date, except to the extent that any such representation or warranty relates to a specific date in which case such representation or warranty shall be true and correct as of such earlier date;

(g) **Legal Opinions.** Agent shall have received an executed legal opinion of (i) Latham & Watkins LLP, special New York counsel to the Credit Parties and (ii) legal counsel of the Credit Parties in each of the jurisdictions of

organization or formation of the material Credit Parties in Iowa, Minnesota and South Carolina, in each case in form and substance reasonably satisfactory to Agent;

(h) **Approvals.** Borrower and the other Credit Parties shall have received all governmental, shareholder and third-party approvals, consents, licenses and permits required in connection with this Agreement, the Transactions and the related

financings and transactions contemplated thereby, which such approvals, consents, licenses and permits remain in full force and effect;

(i) **No Litigation.** Other than the Chapter 11 Cases, as of the Closing Date, there shall not be any litigation, action, suit, investigation or other arbitral, administrative or judicial proceeding pending or, to the knowledge of the Credit Parties, threatened against any Credit Party or any of their Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Operative Documents, or (b) that could reasonably be expected to have a Material Adverse Effect on the Credit Parties and their Subsidiaries, taken as a whole;

(j) **No Default.** Immediately before and after the Closing Date, no Default or Event of Default shall have occurred and be continuing;

(k) **Term Loan Facility; ABL Facility.** Agent shall have received true and correct copies of the Term Loan Documents, Exit Note Documents and the ABL Documents, which shall be in full force and effect;

(l) **Closing Date Debt.** In connection with the Transactions, as of the Closing Date, the Borrower and the other Credit Parties shall not have incurred more than (i) \$200,988,002 of Exit Notes and (ii) \$60,000,000 of term loans under the Term Loan Agreement;

(m) **Payoff Documentation.** Agent shall have received true and correct copies of the pay-off letters and other evidence (together with accompanying termination statements and lien releases) confirming the termination of all obligations and release of all Liens under each of the third party Debt for borrowed money described to be paid off on the Closing Date pursuant to the Confirmation Order;

(n) **Fees; Costs and Expenses.** Agent shall have received all fees due and payable on or prior to the Closing Date, to the extent invoiced at least two (2) Business Days prior to the Closing Date (or such later date as the Borrower may reasonably agree), shall have been reimbursed for all reasonable and documented expenses (including the reasonable fees, charges and disbursements of Duane Morris LLP, counsel to Agent, required to be reimbursed or paid by Borrower hereunder or under any other Financing Document;

(o) **Material Adverse Change.** Since the Petition Date, there shall not have occurred any changes, events, circumstances, effects, developments, occurrences or state of facts that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect;

(p) **Borrowing Base Certificate.** Agent shall have received the initial Borrowing Base Certificate delivered under the ABL Agreement, prepared as of the Closing Date.

Order (q) **Plan of Reorganization Effective Date; Confirmation**

90

(i) All conditions precedent to the confirmation and effect, shall have been satisfied or waived in accordance with the terms thereof;

(ii) Agent shall have received a docketed copy of the Confirmation Order, and the Confirmation Order shall not have been reversed, vacated, amended, supplemented or otherwise modified in any matter that could reasonably be expected to materially adversely affect the interests of Agent or the Lenders;

(iii) the effective date under the Plan of Reorganization shall have occurred (or occur contemporaneously with the Closing Date);

(iv) there shall not be any Bankruptcy Court order or any action, suit, investigation or proceeding pending or, to the knowledge of the Credit Parties, threatened in any court or before any arbitrator or governmental authority that could reasonably be expected to have a Material Adverse Effect or to prevent or restrain the consummation of this Agreement and the transactions contemplated hereby;

(r) **Emergence.** Debtors shall have successfully consummated the Plan of Reorganization and emerged from the Chapter 11 Cases in accordance with the terms of the Plan of Reorganization;

(s) **Insurance.** Except as set forth in Section 7.4, Agent shall have received evidence of all insurance required to be maintained, and evidence that ABL Agent shall have been named as an additional insured and loss payee, as applicable, on all insurance policies covering loss or damage to Collateral and on all liability insurance policies as to which ABL Agent has reasonably requested to be so named or, in the case of the Term Priority Collateral, the Term Agent, as applicable, as additional insured party or loss payee;

(t) **USA Patriot Act; Beneficial Ownership Certification.** Agent shall have received from Borrower and each of the other Credit Parties, at least three (3) Business Days prior to the Closing Date, (A) all documentation and other information reasonably requested by Agent or any Lender no less than ten (10) calendar days prior to the Closing Date that such Agent or Lender reasonably determines is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act and (B) a Beneficial Ownership Certification in relation to Credit Parties and each Subsidiary that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation;

(u) **Filings.** Each Uniform Commercial Code financing statement in order to create in favor of Agent, for the benefit of Lenders, a fully perfected Lien with the priority set forth in the ABL Intercreditor Agreement) on the Collateral described therein shall have been delivered to Agent in proper form for filing;

(v) **Capital Structure.** Agent shall have received and be satisfied with the business plan and shall be satisfied with the capital structure of Credit Parties; and

(w) **[Reserved].**

(x) **Due Diligence Review.** Agent shall have completed to its satisfaction its due diligence review of each Credit Party and its management, controlling owners, systems and operations.

Each Lender, by delivering its signature page to this Agreement, shall be deemed to have acknowledged receipt of, and consented to and approved, each Financing Document, each additional Operative Document and each other document, agreement and/or instrument required to be approved by Agent, Required Lenders or Lenders, as applicable, on the Closing Date.

Section 7.2 **[Reserved].**

Section 7.3 **Searches.** Before the Closing Date, and thereafter (as and when determined by Agent in its discretion), Agent shall have the right to perform, all at Credit Parties' expense, the searches described in clauses (a), (b), and (c) below against Borrowers and any other Credit Party, the results of which are to be consistent with Credit Parties' representations and warranties under this Agreement and the satisfactory results of which shall be a condition precedent to all advances of Loan proceeds: (a) UCC searches with the Secretary of State of the jurisdiction in which the applicable Person is organized; (b) judgment, pending litigation, federal tax lien, personal property tax lien, and corporate and partnership tax lien searches, in each jurisdiction searched under clause (a) above; and (c) searches of applicable corporate, limited liability company, partnership and related records to confirm the continued existence, organization and good standing of the applicable Person and the exact legal name under which such Person is organized.

Section 7.4 **Post Closing Requirements.** Credit Parties shall complete each of the post closing obligations and/or provide to Agent each of the documents, instruments, agreements and information listed on Schedule 7.4 attached hereto on or before the date set forth for each such item thereon, each of which shall be completed or provided in form and substance reasonably satisfactory to Agent.

ARTICLE 8 - [RESERVED]

ARTICLE 9 - SECURITY AGREEMENT

Section 9.1 **Generally.** As security for the payment and performance of the Obligations, and without limiting any other grant of a Lien and security interest in any Security Document, Borrowers and each other Credit Party, in their capacity as a Guarantor, hereby assign and grant to Agent, for the benefit of itself and Lenders, a continuing Lien on and security interest in (with the priority set forth in the ABL Intercreditor Agreement)), upon, and to the personal property set forth on Schedule 9.1 attached hereto and made a part hereof.

Section 9.2 **Representations and Warranties and Covenants Relating to Collateral.**

(a) The security interest granted pursuant to this Agreement constitutes a valid and, to the extent such security interest is required to be perfected by this Agreement and any other Financing Document, continuing perfected security interest in favor of Agent in all Collateral subject, for the following Collateral, to the occurrence of the following:

(i) in the case of all Collateral in which a security interest may be perfected by filing a financing statement under the UCC, the completion of the filings and other actions specified on Schedule 9.2(b) (which, in the case of all filings and other documents referred to on such schedule, have been delivered to Agent in completed and duly authorized form), (ii) with respect to any Deposit Account domiciled in the United States, the execution of Control Agreements (except with respect to any Excluded Accounts), (iii) in the case of letter-of-credit rights that are not supporting obligations of Collateral, the execution of a contractual obligation granting control to Agent or to the Term Agent or the Trustee, as bailee, over such letter-of-credit rights, (iv) in the case of electronic chattel paper, the completion of all steps necessary to grant control to Agent or the Term Agent or the Trustee, as bailee, over such electronic chattel paper, (v) in the case of all certificated stock, debt instruments and investment property, the delivery thereof to Agent or the Term Agent or the Trustee, as bailee, of such certificated stock, debt instruments and investment property consisting of instruments and certificates, in each case properly endorsed for transfer to Agent or in blank, (vi) in the case of all investment property not in certificated form, the execution of control agreements by the Agent or the Term Agent or the Trustee, as bailee, with respect to such investment property and (vii) in the case of all other instruments and tangible chattel paper that are not certificated stock, debt instructions or investment property, the delivery thereof to Agent or the Term Agent or Trustee, as bailee, of such instruments and tangible chattel paper. Such security interest shall be prior to all other Liens on the Collateral except for Permitted Liens and subject to the ABL Intercreditor Agreement. Except to the extent not required pursuant to the terms of this Agreement, all actions by each Credit Party necessary or desirable to protect and perfect the Lien granted hereunder on the Collateral have been duly taken.

(b) Schedule 9.2(b) sets forth (i) each chief executive office and principal place of business of each Credit Party and each of their respective Subsidiaries, and (ii) all of the addresses (including all warehouses) at which any of the Collateral is located and/or books and records of Credit Parties regarding any of the Collateral are kept, which such Schedule 9.2(b) indicates in each case which Credit Parties have Collateral and/or books and records located at such address, and, in the case of any such address not owned by one or more of the Credit Parties, indicates the nature of such location (e.g., leased business location operated by Credit Parties, third party warehouse, consignment location, processor location, etc.) and the name and address of the third party owning and/or operating such location.

(c) Without limiting the generality of Section 3.2, except as set forth in the ABL Intercreditor Agreement or as indicated on Schedule 3.19 with respect to any rights of any Credit Party as a licensee under any license of Intellectual Property owned by another Person, and except for the filing of financing statements under the UCC, no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or consent of any other Person is required for (i) the grant by each Credit Party to Agent of the security

interests and Liens in the Collateral provided for under this Agreement and the other Security Documents (if any), or (ii) the exercise by Agent of its rights and remedies with respect to the Collateral provided for under this Agreement and the other Security Documents or under any applicable Law, including the UCC and neither any such grant of Liens in favor of Agent or exercise of rights by Agent shall violate

or cause a default under any agreement between any Credit Party and any other Person relating to any such collateral, including any license to which a Credit Party is a party, whether as licensor or licensee, with respect to any Intellectual Property, whether owned by such Credit Party or any other Person.

(d) As of the Closing Date, except as set forth on Schedule 9.2(d), no Credit Party has any ownership interest in any Chattel Paper (as defined in Article 9 of the UCC), letter of credit rights, commercial tort claims, Instruments, documents or investment property (other than equity interests in any Subsidiaries of such Credit Party disclosed on Schedule 3.4) and Credit Parties shall give notice to Agent promptly (but in any event not later than the delivery by Borrowers of the next Compliance Certificate required pursuant to Section 4.1 above) upon the acquisition by any Credit Party of any such Chattel Paper, letter of credit rights, commercial tort claims, Instruments, documents, investment property. No Person other than Agent or the Term Agent or (if applicable) any Lender has “control” (as defined in Article 9 of the UCC) over any Deposit Account, investment property (including Securities Accounts, commodities accounts and futures accounts), letter of credit rights or electronic chattel paper in which any Credit Party has any interest (except for such control arising by operation of law in favor of any bank or securities intermediary or commodities intermediary with whom any Deposit Account, Securities Account, commodities account or futures account of Credit Parties is maintained).

(e) Credit Parties shall not, and shall not permit any Credit Party to, take any of the following actions or make any of the following changes unless such Credit Parties have given at least fifteen (15) days prior written notice to Agent of Credit Parties’ intention to take any such action (which such written notice shall include an updated version of any Schedule impacted by such change) and have executed any and all documents, instruments and agreements and taken any other actions which Agent may request after receiving such written notice in order to protect and preserve the Liens, rights and remedies of Agent with respect to the Collateral: (i) change the legal name or organizational identification number of any Credit Party as it appears in official filings in the jurisdiction of its organization, (ii) change the jurisdiction of incorporation or formation of any Borrower or Credit Party or allow any Borrower or Credit Party to designate any jurisdiction as an additional jurisdiction of incorporation for such Borrower or Credit Party, or change the type of entity that it is, or (iii) change its chief executive office, principal place of business, or the location of its records concerning the Collateral or move any Collateral to or place any Collateral on any location that is not then listed on the Schedules and/or establish any business location at any location that is not then listed on the Schedules.

(f) Credit Parties shall not adjust, settle or compromise the amount or payment of any Account, or release wholly or partly any Account Debtor, or allow any credit or discount thereon (other than adjustments, settlements, compromises, credits and discounts in the Ordinary Course of Business, made

while no Default exists and in amounts which are not material, taking into consideration all Accounts, with respect to the Account without the prior written consent of ABL Agent (or, following the payoff and termination of the ABL Agreement, Agent). Without limiting the generality of this Agreement or any other provisions of any of the Financing Documents relating to the rights of Agent after

the occurrence and during the continuance of an Event of Default, subject to the ABL Intercreditor Agreement, Agent shall have the right at any time after the occurrence and during the continuance of an Event of Default to: (i) exercise the rights of Credit Parties with respect to the obligation of any Account Debtor to make payment or otherwise render performance to Credit Parties and with respect to any property that secures the obligations of any Account Debtor or any other Person obligated on the Collateral, and (ii) adjust, settle or compromise the amount or payment of such Accounts.

(g) Without limiting the generality of Sections 9.2(c) and 9.2(e) and in each case subject to the ABL Intercreditor Agreement:

(i) Credit Parties shall deliver to ABL Agent or the Term Agent all tangible Chattel Paper and all Instruments and documents owned by any Credit Party and constituting part of the Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Agent. Credit Parties shall provide ABL Agent or the Term Agent with “control” (as defined in Article 9 of the UCC) of all electronic Chattel Paper owned by any Credit Party and constituting part of the Collateral by having Agent identified as the assignee on the records pertaining to the single authoritative copy thereof and otherwise complying with the applicable elements of control set forth in the UCC. Credit Parties also shall deliver to ABL Agent or the Term Agent all security agreements securing any such Chattel Paper and securing any such Instruments. Credit Parties will mark conspicuously all such Chattel Paper and all such Instruments and documents with a legend, in form and substance satisfactory to ABL Agent or the Term Agent, indicating that such Chattel Paper and such instruments and documents are subject to the security interests and Liens in favor of Agent created pursuant to this Agreement and the Security Documents. Credit Parties shall comply with all the provisions of Section 5.14 with respect to the Deposit Accounts and Securities Accounts of Credit Parties.

(ii) Credit Parties shall deliver to ABL Agent all letters of credit on which any Credit Party is the beneficiary and which give rise to letter of credit rights owned by such Credit Party which constitute part of the Collateral in each case duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to ABL Agent. Credit Parties shall take any and all actions as may be necessary or desirable, or that ABL Agent may request, from time to time, to cause Agent or the Term Agent to obtain exclusive “control” (as defined in Article 9 of the UCC) of any such letter of credit rights in a manner acceptable to ABL Agent.

(iii) Credit Parties shall promptly advise ABL Agent upon any Credit Party becoming aware that it has any interests in any commercial tort claim that constitutes part of the Collateral, which such notice shall include descriptions of the events and circumstances giving rise to such commercial tort claim and the dates such events and circumstances occurred, the potential defendants with respect such commercial tort claim and any court proceedings that have been instituted with respect to such commercial tort claims, and Credit Parties shall, with respect to any

such commercial tort claim, execute and deliver to ABL Agent or the Term Agent such documents as ABL Agent shall request to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to any such commercial tort claim.

(iv) [reserved].

(v) Each Credit Party acknowledges and agrees that the ABL Agent and the Term Agent act as bailee for purposes of perfection on Collateral for which perfection is obtained and maintained by control (as defined in the UCC) for and on behalf of the Agent and the Lenders.

(vi) Each Credit Party hereby authorizes Agent to file without the signature of such Credit Party one or more UCC financing statements relating to liens on personal property relating to all or any part of the Collateral, which financing statements may list Agent as the “secured party” and such Credit Party as the “debtor” and which describe and indicate the collateral covered thereby as all or any part of the Collateral under the Financing Documents (including an indication of the collateral covered by any such financing statement as “all assets” of such Credit Party now owned or hereafter acquired), in such jurisdictions as Agent from time to time determines are appropriate, and to file without the signature of such Credit Party any continuations of or corrective amendments to any such financing statements, in any such case in order for Agent to perfect, preserve or protect the Liens, rights and remedies of Agent with respect to the Collateral. Each Credit Party also ratifies its authorization for Agent to have filed in any jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(vii) After the Closing Date, Credit Parties shall promptly notify Agent in writing upon creation or acquisition by any Credit Party of, any Collateral which constitutes a claim against any Governmental Authority, including, without limitation, the federal government of the United States or any instrumentality or agency thereof, the assignment of which claim is restricted by any applicable Law, including, without limitation, the federal Assignment of Claims Act and any other comparable Law.

(viii) Credit Parties shall furnish to Agent from time to time any statements and schedules further identifying or describing the Collateral and any other information, reports or evidence concerning the Collateral as Agent may reasonably request from time to time.

ARTICLE 10 - EVENTS OF DEFAULT

Section 10.1 **Events of Default**. For purposes of the Financing Documents, the occurrence of any of the following conditions and/or events, whether voluntary or involuntary, by operation of law or otherwise, shall constitute an “Event of Default”:

(a) (i) any Credit Party shall fail to pay when due any principal, interest, premium or fee under any Financing Document or any other amount payable under any

Financing Document (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such default (other than with respect to failure to pay principal when due) shall continue uncured for three (3) Business Days, , (ii) there shall occur any default in the performance of or compliance with Section 4.2(b), Section 4.3, Section 4.4(c) or (d), Section 4.6, Article 5, Section 6.1 or Section 6.2, (iii) there shall occur any default in the performance of or compliance with Section 4.1 and such default shall continue uncured for five (5) Business Days after the earlier of notice from Agent or Required Lenders or knowledge by any Credit Party of such default;

(b) any Credit Party defaults in the performance of or compliance with any term contained in this Agreement or in any other Financing Document (other than occurrences described in other provisions of this Section 10.1 for which a different grace or cure period is specified or for which no grace or cure period is specified and thereby constitute immediate Events of Default) and such default is not remedied by the Credit Party or waived by Agent within fifteen (15) days after the earlier of (i) receipt by Borrower Representative of notice from Agent or Required Lenders of such default, or (ii) actual knowledge of any Borrower or any other Credit Party of such default;

(c) any representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to any Financing Document is incorrect in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality) when made (or deemed made);

(d) (i) failure of the Borrowers or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any principal, interest or other amount on the ABL Agreement, the Exit Notes, the Term Loan Agreement, the Debt in respect of the Unsecured Cash Pool, or any other Debt (excluding Debt evidenced by this Agreement) having an aggregate principal amount in excess of \$25,000,000, and such failure shall continue after the applicable grace period, if any, specified in the applicable agreement or instrument relating to such Debt, or any other default, condition, or event under any agreement or instrument relating to any such Debt, or any other event shall occur and shall continue after the applicable grace period, if any, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such Debt; or (ii) any such Debt shall be declared due and payable, or required to be prepaid, redeemed, purchased or defeased or an offer to prepay, redeem, purchase or defease such Debt shall be required to be made (other than by a regularly scheduled required prepayment), in each case, prior to the state maturity thereof;

(e) any Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, monitor, receiver, interim receiver, receiver and manager, liquidator, custodian or other similar official of it

or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

(f) an involuntary case or other proceeding shall be commenced against any Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, monitor, receiver, interim receiver, receiver and manager, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of thirty (30) days; or an order for relief shall be entered against any Credit Party or any other Significant Subsidiary under applicable federal bankruptcy, insolvency or other similar law in respect of (i) bankruptcy, liquidation, winding-up, dissolution or suspension of general operations, (ii) composition, rescheduling, reorganization, arrangement or readjustment of, or other relief from, or stay of proceedings to enforce, some or all of the debts or obligations, or (iii) possession, foreclosure, seizure or retention, sale or other disposition of, or other proceedings to enforce security over, all or any substantial part of the assets of such Borrower or such Significant Subsidiary;

(g) (i) institution of any steps by any Person to terminate a Pension Plan if as a result of such termination any Credit Party or any member of the Controlled Group could be required to make a contribution to such Pension Plan, or could incur a liability or obligation to such Pension Plan, in excess of \$25,000,000, (ii) a contribution failure occurs with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA, (iii) there shall occur any withdrawal or partial withdrawal from a Multiemployer Plan and the withdrawal liability (without unaccrued interest) to Multiemployer Plans as a result of such withdrawal (including any outstanding withdrawal liability that any Credit Party or any member of the Controlled Group have incurred on the date of such withdrawal) exceeds \$25,000,000;

(h) one or more judgments or orders for the payment of money (not paid or fully covered by insurance maintained in accordance with the requirements of this Agreement and as to which the relevant insurance company has acknowledged coverage) aggregating in excess of \$25,000,000 shall be rendered against any of the Parent, the Borrowers or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) and either (i) enforcement proceedings shall have been commenced by any creditor upon any such judgments or orders, or (ii) there shall be any period of ten (10) consecutive days during which a stay of enforcement of any such judgments or orders, by reason of a pending appeal, bond or otherwise, shall not be in effect;

(i) any Lien created by any of the Security Documents shall at any time fail to constitute a valid and perfected Lien on all of the Collateral purported to be

encumbered thereby, subject to no prior or equal Lien except Permitted Liens, or any Credit Party shall so assert;

(j) [reserved];

(k) a default or event of default occurs under any Guarantee of any portion of the Obligations;

(l) any Credit Party makes any payment on account of any Debt that has been subordinated to any of the Obligations, other than payments specifically permitted by the terms of such subordination;

(m) if any Credit Party is or becomes an entity whose equity is registered with the SEC, and/or is publicly traded on and/or registered with a public securities exchange, such Credit Party's equity fails to remain registered with the SEC in good standing, and/or such equity fails to remain publicly traded on and registered with a public securities exchange;

(n) an event or development occurs which could reasonably be expected to have a Material Adverse Effect, which default shall have continued unremedied for a period of ten (10) days after written notice from Agent;

(o) any Borrower or any Significant Subsidiary is enjoined, restrained or in any way prevented by the order of any court or any Governmental Authority from conducting, or otherwise ceases to conduct for any reason whatsoever, all or any material part of its business for more than fifteen (15) days;

(p) the loss, suspension or revocation of, or failure to renew, any license or permit now held or hereafter acquired by any Borrower or any Significant Subsidiary, if such loss, suspension, revocation or failure to renew could reasonably be expected to have a Material Adverse Effect;

(q) any material damage to, or loss, theft or destruction of, any Collateral, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of any Borrower, or any Significant Subsidiary, if any such event or circumstance could reasonably be expected to have a Material Adverse Effect;

(r) the indictment, or the threatened indictment of the Parent, any Borrower, or any Significant Subsidiary under any criminal statute, or commencement or threatened commencement of criminal or civil proceedings against the Parent, any Borrower or any Significant Subsidiary, pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture to any Governmental Authority of any material portion of the property of such Person;

(s) Any Credit Party fails to make timely and full payments of any and all Taxes required by, under or in connection with the Plan of Reorganization except (i) for

those Taxes which will be treated as general unsecured claims in accordance with the Plan of Reorganization or otherwise satisfied in accordance with the Plan of Reorganization (provided, that, for the avoidance of doubt, the Credit Parties shall pay Taxes to the extent required under and in accordance with the Plan of Reorganization) and (ii) Taxes contested in good faith by proper proceedings which stay the imposition of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP; or

(t) the ABL Intercreditor Agreement ceases to be in full force and effect (other than because all other Debt subject thereto is no longer outstanding).

All cure periods provided for in this Section 10.1 shall run concurrently with any cure period provided for in any applicable Financing Documents under which the default occurred.

Section 10.2 [Reserved].

Section 10.3 UCC Remedies.

(a) Upon the occurrence of and during the continuance of an Event of Default under this Agreement or the other Financing Documents, Agent, in addition to all other rights, options, and remedies granted to Agent under this Agreement or at law or in equity, may exercise, either directly or through one or more assignees or designees, all rights and remedies granted to it under all Financing Documents and under the UCC in effect in the applicable jurisdiction(s) and under any other applicable law; including, without limitation:

(i) the right to take possession of, send notices regarding, and collect directly the Collateral, with or without judicial process;

(ii) the right to (by its own means or with judicial assistance) enter any of Credit Parties' premises and take possession of the Collateral, or render it unusable, or to render it usable or saleable, or dispose of the Collateral on such premises in compliance with subsection (iii) below and to take possession of any Credit Party's original books and records, to obtain access to such Credit Party's data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner Agent deems appropriate, without any liability for rent, storage, utilities, or other sums, and Credit Parties shall not resist or interfere with such action (if Credit Parties' books and records are prepared or maintained by an accounting service, contractor or other third party agent, Credit Parties hereby irrevocably authorize such service, contractor or other agent, upon notice by Agent to such Person that an Event of Default has occurred and

is continuing, to deliver to Agent or its designees such books and records, and to follow Agent's instructions with respect to further services to be rendered);

(iii) the right to require any Credit Party at the Credit Parties' expense to assemble all or any part of the Collateral and make it available to Agent at any place designated by Lender; and

(iv) the right to notify postal authorities to change the address for delivery of any Credit Party's mail to an address designated by Agent and to receive, open and dispose of all mail addressed to any Credit Party; and/or

(v) the right to enforce (subject to the ABL Intercreditor Agreement) any Credit Party's rights against Account Debtors and other obligors, including, without limitation, (i) the right to collect Accounts directly in Agent's own name (as agent for Lenders) and to charge the collection costs and expenses, including attorneys' fees, to a Credit Party, and (ii) the right, in the name of Agent or any designee of Agent or Credit Parties, to verify the validity, amount or any other matter relating to any Accounts by mail, telephone, telegraph or otherwise, including, without limitation, verification of Credit Parties' compliance with applicable Laws. Credit Parties shall cooperate fully with Agent in an effort to facilitate and promptly conclude such verification process. Such verification may include contacts between Agent and applicable federal, state and local regulatory authorities having jurisdiction over the Credit Parties' affairs, all of which contacts Credit Parties hereby irrevocably authorize.

(b) Each Credit Party agrees that a notice received by it at least ten (10) days before the time of any intended public sale, or the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. If permitted by applicable law, any perishable Collateral which threatens to speedily decline in value or which is sold on a recognized market may be sold immediately by Agent without prior notice to Credit Parties. At any sale or disposition of Collateral, Agent may (to the extent permitted by applicable law) purchase all or any part of the Collateral, free from any right of redemption by Credit Parties, which right is hereby waived and released. Each Credit Party covenants and agrees not to interfere with or impose any obstacle to Agent's exercise of its rights and remedies with respect to the Collateral. Agent shall have no obligation to clean-up or otherwise prepare the Collateral for sale. Agent may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. Agent may sell the Collateral without giving any warranties as to the Collateral. Agent may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral. If Agent sells any of the Collateral upon credit, Credit Parties will be credited only with payments actually made by the purchaser, received by Agent and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Agent may resell the Collateral and Credit Parties shall be credited with the proceeds of the sale. Credit Parties shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Obligations.

(c) Without restricting the generality of the foregoing and for the purposes aforesaid, each Credit Party hereby appoints and constitutes Agent its lawful attorney-in-fact with full power of substitution in the Collateral, upon the occurrence and during the continuance of an Event of Default, to (i) use unadvanced funds remaining under this Agreement or which may be reserved, escrowed or set aside for any purposes

hereunder at any time, or to advance funds in excess of the face amount of the Notes, (ii) pay, settle or compromise all existing bills and claims, which may be Liens or security interests, or to avoid such bills and claims becoming Liens against the Collateral, (iii) execute all applications and certificates in the name of such Credit Party and to prosecute and defend all actions or proceedings in connection with the Collateral, and (iv) do any and every act which such Credit Party might do in its own behalf; it being understood and agreed that this power of attorney in this subsection (c) shall be a power coupled with an interest and cannot be revoked.

(d) Agent and each Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Credit Parties' labels, mask works, rights of use of any name, any other Intellectual Property and advertising matter, and any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Agent's exercise of its rights under this Article, Credit Parties' rights under all licenses (whether as licensor or licensee) and all franchise agreements inure to Agent's and each Lender's benefit.

Section 10.4 [Reserved].

Section 10.5 Default Rate of Interest. At the election of Agent or Required Lenders, after the occurrence of an Event of Default and for so long as it continues, the Loans and other Obligations shall bear interest at the Default Rate; *provided, however*, that in the case of any Event of Default specified in Section 10.1(e) or 10.1(f) above, such Default Rate shall apply immediately and automatically without the need for any election or action of any kind on the part of Agent or any Lender.

Section 10.6 Setoff Rights. During the continuance of any Event of Default, each Lender is hereby authorized by each Credit Party at any time or from time to time, with reasonably prompt subsequent notice to such Credit Party (any prior or contemporaneous notice being hereby expressly waived) to set off and to appropriate and to apply any and all (a) balances held by such Lender or any of such Lender's Affiliates at any of its offices for the account of such Credit Party or any of its Subsidiaries (regardless of whether such balances are then due to such Credit Party or its Subsidiaries), and (b) other property at any time held or owing by such Lender to or for the credit or for the account of such Credit Party or any of its Subsidiaries, against and on account of any of the Obligations; except that no Lender shall exercise any such right without the prior written consent of Agent. Any Lender exercising a right to set off shall purchase for cash (and the other Lenders shall sell) interests in each of such other Lender's Pro Rata Share of the Obligations as would be necessary to cause all Lenders to share the amount so set off with each other Lender in accordance with their respective Pro Rata Share of the Obligations. Each Credit Party agrees, to the fullest extent permitted by law, that any Lender and any of such Lender's Affiliates may exercise its right to set off with respect to the Obligations as provided in this Section 10.6.

Section 10.7 Application of Proceeds.

(a) Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, each Credit Party irrevocably waives the right to direct the application of any and all payments

at any time or times thereafter received by Agent from or on behalf of such Credit Party or any Guarantor of all or any part of the Obligations, and, as between Credit Parties on the one hand and Agent and Lenders on the other, Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as Agent may deem advisable notwithstanding any previous application by Agent.

(b) Following the occurrence and continuance of an Event of Default, but absent the occurrence and continuance of an Acceleration Event, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in such order as Agent may from time to time elect.

(c) Notwithstanding anything to the contrary contained in this Agreement, if an Acceleration Event shall have occurred, and so long as it continues, Agent shall apply any and all payments received by Agent in respect of the Obligations, and any and all proceeds of Collateral received by Agent, in the following order: *first*, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to Agent with respect to this Agreement, the other Financing Documents or the Collateral; *second*, to all fees, costs, indemnities, liabilities, obligations and expenses incurred by or owing to any Lender with respect to this Agreement, the other Financing Documents or the Collateral; *third*, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of any applicable Debtor Relief Law, would have accrued on such amounts); *fourth*, to the principal amount of the Obligations outstanding; and *fifth* to any other indebtedness or obligations of Credit Parties owing to Agent or any Lender under the Financing Documents. Any balance remaining shall be delivered to Borrowers or to whomever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. In carrying out the foregoing, (y) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (z) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its Pro Rata Share of amounts available to be applied pursuant thereto for such category.

Section 10.8 Waivers.

(a) Except as otherwise provided for in this Agreement and to the fullest extent permitted by applicable law, each Credit Party waives: (i) presentment, demand and protest, and notice of presentment, dishonor, intent to accelerate, acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all Financing Documents, the Notes or any other notes, commercial paper, accounts, contracts, documents, Instruments, Chattel Paper and guarantees at any time held by Lenders on which any Credit Party may in any way be liable, and hereby ratifies and confirms whatever Lenders may do in this regard; (ii) all rights to notice and a hearing prior

to Agent's or any Lender's taking possession or control of, or to Agent's or any Lender's replevy, attachment or levy upon, any Collateral or any bond or security which might be required by any court prior to allowing Agent or any Lender to exercise any of its remedies; and (iii) the benefit of all valuation, appraisal and exemption Laws. Each Credit Party acknowledges that it has been advised by counsel of its choices and decisions with

respect to this Agreement, the other Financing Documents and the transactions evidenced hereby and thereby.

(b) Each Credit Party for itself and all its successors and assigns, (i) agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; (ii) consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Agent or any Lender with respect to the payment or other provisions of the Financing Documents, and to any substitution, exchange or release of the Collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any Credit Party, endorsers, guarantors, or sureties, or whether primarily or secondarily liable, without notice to any other Credit Party and without affecting its liability hereunder; (iii) agrees that its liability shall be unconditional and without regard to the liability of any other Credit Party, Agent or any Lender for any tax on the indebtedness; and (iv) to the fullest extent permitted by law, expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

(c) To the extent that Agent or any Lender may have acquiesced in any noncompliance with any requirements or conditions precedent to the closing of the Loans or to any subsequent disbursement of Loan proceeds, such acquiescence shall not be deemed to constitute a waiver by Agent or any Lender of such requirements with respect to any future disbursements of Loan proceeds and Agent may at any time after such acquiescence require Credit Parties to comply with all such requirements. Any forbearance by Agent or Lender in exercising any right or remedy under any of the Financing Documents, or otherwise afforded by applicable law, including any failure to accelerate the maturity date of the Loans, shall not be a waiver of or preclude the exercise of any right or remedy nor shall it serve as a novation of the Notes or as a reinstatement of the Loans or a waiver of such right of acceleration or the right to insist upon strict compliance of the terms of the Financing Documents. Agent's or any Lender's acceptance of payment of any sum secured by any of the Financing Documents after the due date of such payment shall not be a waiver of Agent's and such Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other Liens or charges by Agent as the result of an Event of Default shall not be a waiver of Agent's right to accelerate the maturity of the Loans, nor shall Agent's receipt of any condemnation awards, insurance proceeds, or damages under this Agreement operate to cure or waive any Credit Party's default in payment of sums secured by any of the Financing Documents.

(d) Without limiting the generality of anything contained in this Agreement or the other Financing Documents, each Credit Party agrees that if an Event of Default is continuing (i) Agent and Lenders shall not be subject to any

“one action” or “election of remedies” law or rule, and (ii) all Liens and other rights, remedies or privileges provided to Agent or Lenders shall remain in full force and effect until Agent or Lenders have exhausted all remedies against the Collateral and any other properties owned by Credit Parties and the Financing Documents and other security instruments or agreements

securing the Loans have been foreclosed, sold and/or otherwise realized upon in satisfaction of Credit Parties' obligations under the Financing Documents.

(e) Nothing contained herein or in any other Financing Document shall be construed as requiring Agent or any Lender to resort to any part of the Collateral for the satisfaction of any of Credit Parties' obligations under the Financing Documents in preference or priority to any other Collateral, and Agent may seek satisfaction out of all of the Collateral or any part thereof, in its absolute discretion in respect of Credit Parties' obligations under the Financing Documents. In addition, Agent shall have the right from time to time to partially foreclose upon any Collateral in any manner and for any amounts secured by the Financing Documents then due and payable as determined by Agent in its sole discretion, including, without limitation, the following circumstances: (i) in the event any Credit Party defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and/or interest, Agent may foreclose upon all or any part of the Collateral to recover such delinquent payments, or (ii) in the event Agent elects to accelerate less than the entire outstanding principal balance of the Loans, Agent may foreclose all or any part of the Collateral to recover so much of the principal balance of the Loans as Lender may accelerate and such other sums secured by one or more of the Financing Documents as Agent may elect. Notwithstanding one or more partial foreclosures, any unforeclosed Collateral shall remain subject to the Financing Documents to secure payment of sums secured by the Financing Documents and not previously recovered.

(f) To the fullest extent permitted by law, each Credit Party, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Collateral any equitable right otherwise available to any Credit Party which would require the separate sale of any of the Collateral or require Agent or Lenders to exhaust their remedies against any part of the Collateral before proceeding against any other part of the Collateral; and further in the event of such foreclosure each Credit Party does hereby expressly consent to and authorize, at the option of Agent, the foreclosure and sale either separately or together of each part of the Collateral.

Section 10.9 Injunctive Relief. The parties acknowledge and agree that, in the event of a breach or threatened breach of any Credit Party's obligations under any Financing Documents, Agent and Lenders may have no adequate remedy in money damages and, accordingly, shall be entitled to an injunction (including, without limitation, a temporary restraining order, preliminary injunction, writ of attachment, or order compelling an audit) against such breach or threatened breach, including, without limitation, maintaining any cash management and collection procedure described herein. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach or threatened breach of any provision of this Agreement. Each Credit Party waives, to the fullest extent permitted by law, the requirement of the posting of any bond in connection

with such injunctive relief. By joining in the Financing Documents as a Credit Party, each Credit Party specifically joins in this Section as if this Section were a part of each Financing Document executed by such Credit Party.

Section 10.10 Marshalling; Payments Set Aside. Neither Agent nor any Lender shall be under any obligation to marshal any assets in payment of any or all of the Obligations. To the extent that a Credit Party makes any payment or Agent enforces its Liens or Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such enforcement or set-off is subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid by anyone, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set-off had not occurred.

ARTICLE 11 - AGENT

Section 11.1 Appointment and Authorization. Each Lender hereby irrevocably appoints and authorizes Agent to enter into each of the Financing Documents to which it is a party (other than this Agreement) on its behalf and to take such actions as Agent on its behalf and to exercise such powers under the Financing Documents as are delegated to Agent by the terms thereof, together with all such powers as are reasonably incidental thereto, including the authority to enter into any intercreditor agreement. Subject to the terms of Section 11.16 and Article 12 and to the terms of the other Financing Documents, Agent is authorized and empowered to enter into (or acknowledge and consent to) or amend, restate, amend and restate, extend, replace, supplement, modify, or waive any provisions of this Agreement or the other Financing Documents on behalf of Lenders and any intercreditor agreement with the collateral agent or other representatives of the holders of Debt that is permitted to be secured by a Lien on the Collateral that is not prohibited (including with respect to priority) under this Agreement and, to the extent applicable, the ABL Intercreditor Agreement, and to subject the Liens on the Collateral securing the Obligations to the provisions thereof. The provisions of this Article 11 and Article 12 are solely for the benefit of Agent and Lenders and neither any Borrower nor any other Credit Party shall have any rights as a third-party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement, Agent shall act solely as agent of Lenders and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Borrower or any other Credit Party. Agent may perform any of its duties hereunder, or under the Financing Documents, by or through its agents, servicers, trustees, investment managers or employees. The Lenders irrevocably agree that (x) Agents may rely exclusively on a certificate of a Responsible Officer of the Credit Parties as to whether any such other Liens are permitted and (y) the ABL Intercreditor Agreement and any junior intercreditor agreement entered into by Agent shall be binding on the Lenders, and each Lender hereby agrees that it will take no actions contrary to the provisions of any intercreditor agreement.

Section 11.2 Agent and Affiliates. Agent shall have the same rights and powers under the Financing Documents as any other Lender and may exercise or refrain from exercising the same as though it were not Agent, and Agent and its Affiliates may lend money to, invest in and generally engage in any kind of business with each Credit Party or Affiliate of any Credit Party as if it were not Agent hereunder.

Section 11.3 Action by Agent. The duties of Agent shall be mechanical and administrative in nature. Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender. Nothing in this Agreement or any of the Financing Documents is

intended to or shall be construed to impose upon Agent any obligations in respect of this Agreement or any of the Financing Documents except as expressly set forth herein or therein.

Section 11.4 Consultation with Experts. Agent may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

Section 11.5 Liability of Agent. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be liable to any Lender for any action taken or not taken by it in connection with the Financing Documents, except that Agent shall be liable with respect to its specific duties set forth hereunder but only to the extent of its own gross negligence or willful misconduct in the discharge thereof as determined by a final non-appealable judgment of a court of competent jurisdiction. Neither Agent nor any of its directors, officers, agents, trustees, investment managers, servicers or employees shall be responsible for or have any duty to ascertain, inquire into or verify (a) any statement, warranty or representation made in connection with any Financing Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements specified in any Financing Document; (c) the satisfaction of any condition specified in any Financing Document; (d) the validity, effectiveness, sufficiency or genuineness of any Financing Document, any Lien purported to be created or perfected thereby or any other instrument or writing furnished in connection therewith; (e) the existence or non-existence of any Default or Event of Default; or (f) the financial condition of any Credit Party. Agent shall not incur any liability by acting in reliance upon any notice, consent, certificate, statement, or other writing (which may be a bank wire, facsimile or electronic transmission or similar writing) believed by it to be genuine or to be signed by the proper party or parties. Agent shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error the sole recourse of any Lender to whom payment was due but not made, shall be to recover from other Lenders any payment in excess of the amount to which they are determined to be entitled (and such other Lenders hereby agree to return to such Lender any such erroneous payments received by them).

Section 11.6 Indemnification. Each Lender shall, in accordance with its Pro Rata Share, indemnify Agent (to the extent not reimbursed by Credit Parties) upon demand against any cost, expense (including counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction) that Agent may suffer or incur in connection with the Financing Documents or any action taken or omitted by Agent hereunder or thereunder. If any indemnity furnished to Agent for any purpose shall, in the opinion of Agent, be insufficient or become impaired, Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against even if so directed by Required Lenders until such additional indemnity is furnished.

Section 11.7 Right to Request and Act on Instructions. Agent may at any time request instructions from Lenders with respect to any actions or approvals, which by the terms of this Agreement or of any of the Financing Documents, Agent is permitted or desires to take or to grant, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from

taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from any action or withholding any approval under any of the Financing Documents until it shall have received such instructions from Required Lenders or all or such other portion of the Lenders as shall be prescribed by this Agreement. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement or any of the other Financing Documents in accordance with the instructions of Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) and, notwithstanding the instructions of Required Lenders (or such other applicable portion of the Lenders), Agent shall have no obligation to take any action if it believes, in good faith, that such action would violate applicable Law or exposes Agent to any liability for which it has not received satisfactory indemnification in accordance with the provisions of Section 11.6.

Section 11.8 Credit Decision. Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking any action under the Financing Documents.

Section 11.9 Collateral Matters. Lenders irrevocably authorize Agent, at its option and in its discretion, to (a) release any Lien granted to or held by Agent under any Security Document (i) upon payment in full of all Obligations, and, to the extent required by Agent in its sole discretion, the expiration, termination or cash collateralization (to the satisfaction of Agent) of all Swap Contracts secured, in whole or in part, by any Collateral; or (ii) constituting property sold or disposed of as part of or in connection with any disposition permitted under any Financing Document (it being understood and agreed that Agent may conclusively rely without further inquiry on a certificate of a Responsible Officer as to the sale or other disposition of property being made in full compliance with the provisions of the Financing Documents); and (b) subordinate any Lien granted to or held by Agent under any Security Document to a Permitted Lien that is allowed to have priority over the Liens granted to or held by Agent pursuant to the definition of “Permitted Liens”. Upon request by Agent at any time, Lenders will confirm Agent’s authority to release and/or subordinate particular types or items of Collateral pursuant to this Section 11.9.

Section 11.10 Agency for Perfection. Agent and each Lender hereby appoint each other Lender as agent for the purpose of perfecting Agent’s security interest in assets which, in accordance with the Uniform Commercial Code in any applicable jurisdiction, can be perfected by possession or control. Should any Lender (other than Agent) obtain possession or control of any such assets, such Lender shall notify Agent thereof, and, promptly upon Agent’s request therefor, shall deliver such assets to Agent or in accordance with Agent’s instructions or transfer control to Agent in accordance with Agent’s instructions. Each Lender agrees that it will not have any right individually to enforce or

seek to enforce any Security Document or to realize upon any Collateral for the Loan unless instructed to do so by Agent (or consented to by Agent), it being understood and agreed that such rights and remedies may be exercised only by Agent.

Section 11.11 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default except with respect to defaults in the payment of principal, interest and fees required to be paid to Agent for the account of Lenders, unless Agent shall have received written notice from a Lender or a Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default”. Agent will notify each Lender of its receipt of any such notice. Agent shall take such action with respect to such Default or Event of Default as may be requested by Required Lenders (or all or such other portion of the Lenders as shall be prescribed by this Agreement) in accordance with the terms hereof. Unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interests of Lenders.

Section 11.12 Assignment by Agent; Resignation of Agent; Successor Agent.

(a) Agent may at any time assign its rights, powers, privileges and duties hereunder to (i) another Lender, or (ii) any Person to whom Agent, in its capacity as a Lender, has assigned (or will assign, in conjunction with such assignment of agency rights hereunder) 50% or more of its Loan, in each case without the consent of the Lenders or Borrowers. Following any such assignment, Agent shall give notice to the Lenders and Borrowers. An assignment by Agent pursuant to this subsection (a) shall not be deemed a resignation by Agent for purposes of subsection (b) below.

(b) Without limiting the rights of Agent to designate an assignee pursuant to subsection (a) above, Agent may at any time give notice of its resignation to the Lenders and Borrowers. Upon receipt of any such notice of resignation, Required Lenders shall have the right to appoint a successor Agent. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within ten (10) Business Days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent; *provided, however*, that if Agent shall notify Borrowers and the Lenders that no Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice from Agent that no Person has accepted such appointment and, from and following delivery of such notice, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Financing Documents, and (ii) all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time as Required Lenders appoint a successor Agent as provided for above in this paragraph.

(c) Upon (i) an assignment permitted by subsection (a) above, or (ii) the acceptance of a successor’s appointment as Agent pursuant to subsection (b) above, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the

retiring Agent shall be discharged from all of its duties and obligations hereunder and under the other Financing Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by Credit Parties to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrowers and such successor. After the retiring Agent's resignation hereunder and under the other Financing Documents, the provisions of this

Article and Section 11.12 shall continue in effect for the benefit of such retiring Agent and its sub-agents in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting or was continuing to act as Agent.

Section 11.13 Payment and Sharing of Payment.

(a) [Reserved].

(b) [Reserved].

(c) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from a Borrower and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind, together with interest accruing on a daily basis at the Federal Funds Rate.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to any Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to any Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

(d) Defaulted Lenders. The failure of any Defaulted Lender to make any payment required by it hereunder shall not relieve any other Lender of its obligations to make payment, but neither any other Lender nor Agent shall be responsible for the failure of any Defaulted Lender to make any payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Defaulted Lender shall not have any voting or consent rights under or with respect to any Financing Document or constitute a “Lender” (or be included in the calculation of “Required Lenders” hereunder) for any voting or consent rights under or with respect to any Financing Document.

(e) Sharing of Payments. If any Lender shall obtain any payment or other recovery (whether voluntary, involuntary, by application of setoff or otherwise) on account of any Loan (other than pursuant to the terms of Section 2.8(d)) in excess of its Pro Rata Share of payments entitled pursuant to the other provisions of this Section 11.13, such Lender shall purchase from the other Lenders such participations in extensions of credit made by such other Lenders (without

recourse, representation or warranty) as shall be necessary to cause such purchasing Lender to share the excess payment or other recovery ratably with each of them; *provided, however,* that if all or any portion of the excess payment or other recovery is thereafter required to be returned or otherwise recovered from such purchasing Lender, such portion of such purchase shall be rescinded

and each Lender which has sold a participation to the purchasing Lender shall repay to the purchasing Lender the purchase price to the ratable extent of such return or recovery, without interest. Each Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this clause (e) may, to the fullest extent permitted by law, exercise all its rights of payment (including pursuant to Section 10.6) with respect to such participation as fully as if such Lender were the direct creditor of Borrowers in the amount of such participation. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this clause (e) applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this clause (e) to share in the benefits of any recovery on such secured claim.

Section 11.14 Right to Perform, Preserve and Protect. If any Credit Party fails to perform any obligation hereunder or under any other Financing Document, Agent itself may, but shall not be obligated to, cause such obligation to be performed at Credit Parties' expense. Agent is further authorized by Credit Parties and the Lenders to make expenditures from time to time which Agent, in its reasonable business judgment, deems necessary or desirable to (a) preserve or protect the business conducted by Credit Parties, the Collateral, or any portion thereof, and/or (b) enhance the likelihood of, or maximize the amount of, repayment of the Loan and other Obligations. Each Borrower hereby agrees to reimburse Agent on demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14. Each Lender hereby agrees to indemnify Agent upon demand for any and all costs, liabilities and obligations incurred by Agent pursuant to this Section 11.14, in accordance with the provisions of Section 11.6.

Section 11.15 Additional Titled Agents. Except for rights and powers, if any, expressly reserved under this Agreement to any bookrunner, arranger or to any titled agent named on the cover page of this Agreement, other than Agent (collectively, the "Additional Titled Agents"), and except for obligations, liabilities, duties and responsibilities, if any, expressly assumed under this Agreement by any Additional Titled Agent, no Additional Titled Agent, in such capacity, has any rights, powers, liabilities, duties or responsibilities hereunder or under any of the other Financing Documents. Without limiting the foregoing, no Additional Titled Agent shall have nor be deemed to have a fiduciary relationship with any Lender. At any time that any Lender serving as an Additional Titled Agent shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loan, such Lender shall be deemed to have concurrently resigned as such Additional Titled Agent.

Section 11.16 Amendments and Waivers.

(a) No provision of this Agreement or any other Financing Document may be materially amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by Borrowers, the Required Lenders and any other Lender to the extent

required under Section 11.16(b); *provided, however*, that Agent shall be entitled, in its sole and absolute discretion, to provide its written consent to a proposed Swap Contract, in each case without the consent of any other Lender.

(b) In addition to the required signatures under Section 11.16(a), no provision of this Agreement or any other Financing Document may be amended, waived or otherwise modified unless such amendment, waiver or other modification is in writing and is signed or otherwise approved by the following Persons:

(i) if any amendment, waiver or other modification would increase a Lender's funding obligations in respect of any Loan, by such Lender; and/or

(ii) if the rights or duties of Agent are affected thereby, by Agent;

provided, however, that, in each of (i) and (ii) above, no such amendment, waiver or other modification shall, unless signed or otherwise approved in writing by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Loan; (B) postpone the date fixed for, or waive, any payment (other than any mandatory prepayment pursuant to Section 2.1(b)(ii)) of principal of any Loan, or of interest on any Loan (other than default interest) or any fees provided for hereunder (other than late charges) or postpone the date of termination of any commitment of any Lender hereunder; (C) change the definition of the term Required Lenders or the percentage of Lenders which shall be required for Lenders to take any action hereunder; (D) release all or substantially all of the Collateral, authorize any Borrower to sell or otherwise dispose of all or substantially all of the Collateral or release any Guarantor of all or any portion of the Obligations or its Guarantee obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be provided in this Agreement or the other Financing Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 11.16(b) or the definitions of the terms used in this Section 11.16(b) insofar as the definitions affect the substance of this Section 11.16(b); (F) consent to the assignment, delegation or other transfer by any Credit Party of any of its rights and obligations under any Financing Document or release any Borrower of its payment obligations under any Financing Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; or (G) amend any of the provisions of Section 10.7 or amend any of the definitions Pro Rata Share, Revolving Loan Commitment, Revolving Loan Commitment Amount, Revolving Loan Commitment Percentage, or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F) and (G) of the preceding sentence.

Section 11.17 Assignments and Participations.

(a) Assignments.

(i) Any Lender may at any time assign to one or more Eligible Assignees all or any portion of such Lender's Loan together with all related obligations of such Lender hereunder. Except as Agent may otherwise agree, the amount of any such assignment (determined as of the date of the applicable

Assignment Agreement or, if a “Trade Date” is specified in such Assignment Agreement, as of such Trade Date) shall be in a minimum aggregate amount equal to the Threshold Amount or, if less, the assignor’s entire interests in the outstanding Loan; *provided, however,* that, in connection with simultaneous assignments to two or more related Approved Funds, such Approved Funds shall be treated as one assignee for purposes of determining compliance with the minimum assignment size referred to above. Borrowers and Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned to an Eligible Assignee until Agent shall have received and accepted an effective Assignment Agreement executed, delivered and fully completed by the applicable parties thereto and a processing fee of \$3,500 to be paid by the assigning Lender; *provided, however,* that only one processing fee shall be payable in connection with simultaneous assignments to two or more related Approved Funds.

(ii) From and after the date on which the conditions described above have been met, (A) such Eligible Assignee shall be deemed automatically to have become a party hereto and, to the extent of the interests assigned to such Eligible Assignee pursuant to such Assignment Agreement, shall have the rights and obligations of a Lender hereunder, and (B) the assigning Lender, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, shall be released from its rights and obligations hereunder (other than those that survive termination pursuant to Section 13.1). Upon the request of the Eligible Assignee (and, as applicable, the assigning Lender) pursuant to an effective Assignment Agreement, each Borrower shall execute and deliver to Agent for delivery to the Eligible Assignee (and, as applicable, the assigning Lender) Notes in the aggregate principal amount of the Eligible Assignee’s Loan (and, as applicable, Notes in the principal amount of that portion of the principal amount of the Loan retained by the assigning Lender). Upon receipt by the assigning Lender of such Note, the assigning Lender shall return to Borrower Representative any prior Note held by it.

(iii) Agent, acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain a copy of each Assignment Agreement delivered to it and a register (the “**Register**”) for the recordation of the names and addresses of each Lender, and the commitments of, and principal amount and stated interest of the Loan owing to, such Lender pursuant to the terms hereof. The entries in such register shall be conclusive, and Borrower, Agent and Lenders may treat each Person whose name is recorded therein pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. Such register shall be available for inspection by Borrower and any Lender, at any reasonable time upon reasonable prior

notice to Agent. Each Lender that sells a participation shall, acting solely for this purpose as an agent of Borrowers maintain a register on which it enters the name and address of each participant and the principal amounts (and stated interest) of each participant's interest in the Obligations (each, a **"Participant Register"**). The entries in the Participant Registers shall be conclusive, absent manifest error. Each Participant Register shall be available for inspection by Borrowers and Agent at any reasonable

time upon reasonable prior notice to the applicable Lender; *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 Financing Document) to any Person (including Borrowers) 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) and proposed Section 1.163-5(b) of the United States Treasury Regulations (and any amended or successor versions). For the avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a participant register. This Section 11.17(a)(iii) shall be construed so that all Obligations are at all times maintained in "registered form" within the meaning of Section 163(f), 871(h)(2) and 881(c)(2) of the Code and any related U.S. Treasury Regulations (or any other relevant or successor provisions of the Code or of such U.S. Treasury Regulations).

(iv) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any of its financing sources and lenders from time to time, in each case, without the consent of any Credit Party.

(v) Notwithstanding the foregoing provisions of this Section 11.17(a) or any other provision of this Agreement, Agent has the right, but not the obligation, to effectuate assignments of Loan via an electronic settlement system acceptable to Agent as designated in writing from time to time to the Lenders by Agent (the "**Settlement Service**"). At any time when Agent elects, in its sole discretion, to implement such Settlement Service, each such assignment shall be effected by the assigning Lender and proposed assignee pursuant to the procedures then in effect under the Settlement Service, which procedures shall be consistent with the other provisions of this Section 11.17(a). Each assigning Lender and proposed Eligible Assignee shall comply with the requirements of the Settlement Service in connection with effecting any assignment of Loan pursuant to the Settlement Service. With the prior written approval of Agent, Agent's approval of such Eligible Assignee shall be deemed to have been automatically granted with respect to any transfer effected through the Settlement Service. Assignments and assumptions of the Loan shall be effected by the provisions otherwise set forth herein until Agent notifies Lenders of the Settlement Service as set forth herein.

(b) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower or Agent, sell to one or more Persons (other than any Borrower or any Borrower's Affiliates, except as otherwise contemplated pursuant to the Exar Facility) participating interests in its Loan, commitments or other interests hereunder (any such Person, a "Participant"). In the event of a sale by a Lender of a participating interest

to a Participant, (i) such Lender's obligations hereunder shall remain unchanged for all purposes, (ii) Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations hereunder, and (iii) all amounts payable by each Borrower shall be determined as if such Lender had not sold such participation and shall be paid directly to such Lender. Each Borrower agrees that if amounts outstanding under this Agreement are due and payable (as a result of acceleration or otherwise), each Participant (other than a Participant that is a Credit Party or any Affiliate of a Credit Party) shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; *provided, however*, that such right of set-off shall be subject to the obligation of each Participant to share with Lenders, and Lenders agree to share with each Participant, as provided in Section 11.5. In no event shall a Credit Party or any Affiliate of a Credit Party shall have any rights of set-off under this Agreement.

(c) [reserved]

(d) Credit Party Assignments. No Credit Party may assign, delegate or otherwise transfer any of its rights or other obligations hereunder or under any other Financing Document without the prior written consent of Agent and each Lender.

Section 11.18 [Reserved].

Section 11.19 [Reserved].

Section 11.20 Erroneous Payments.

(a) Each Lender and any other party hereto hereby severally agrees that if (i) Agent notifies (which such notice shall be conclusive absent manifest error) such Lender (or the Lender which is an Affiliate of a Lender) or any other Person that has received funds from Agent or any of its Affiliates, either for its own account or on behalf of a Lender (each such recipient, but in any event excluding the Credit Parties and their Affiliates, a "**Payment Recipient**") that 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 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 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 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 11.20(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 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 Agent for the return of any Erroneous Payments, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(b) Without limiting the immediately preceding clause (a), each Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly notify Agent in writing of such occurrence.

(c) In the case of either clause (a)(i) or (a)(ii) above, such Erroneous Payment shall at all times remain the property of Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of Agent, and upon demand from 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 one Business Day thereafter, return to 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 Agent at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by Agent for any reason, after demand therefor by 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 Agent and upon 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 with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Loans**”) to Agent or, at the option of Agent, Agent’s applicable lending affiliate (such assignee, the “**Agent Assignee**”) in an amount that is equal to the Erroneous Payment Return Deficiency (or such lesser amount as Agent may specify) (such assignment of the Loans of the Erroneous Payment Impacted Loans, 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 Agent Assignee as the assignee of such Erroneous Payment Deficiency Assignment. Without limitation of its rights hereunder, following the effectiveness of the Erroneous Payment Deficiency Assignment, Agent may make a cashless reassignment to the applicable assigning Lender of any Erroneous Payment

Deficiency Assignment at any time by written notice to the applicable assigning Lender and upon such reassignment all of the Loans assigned pursuant to such Erroneous Payment Deficiency Assignment shall be reassigned to such Lender without any requirement for payment or other consideration. 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 11.17 and (3) Agent may reflect such assignments in the Register without further consent or action by any other Person.

(e) 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, Agent (1) shall be subrogated to all the rights of such Payment Recipient and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Financing Document, or otherwise payable or distributable by Agent to such Payment Recipient from any source, against any amount due to Agent under this Section 11.20 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 Agent from the Borrower or any other Credit Party for the purpose of making for 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.

(f) Each party's obligations under this Section 11.20 shall survive the resignation or replacement of Agent or any transfer of right or obligations by, or the replacement of, a Lender, or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Financing Document.

(g) The provisions of this Section 11.20 to the contrary notwithstanding, (i) nothing in this Section 11.20 will constitute a waiver or release of any claim of any party hereunder arising from any Payment Recipient's receipt of an Erroneous Payment and (ii) there will only be deemed to be a recovery of the Erroneous Payment to the extent that Agent has received payment from the Payment Recipient in immediately available funds the Erroneous Payment Return Deficiency, whether directly from the Payment Recipient, as a result of the exercise by Agent of its rights of subrogation or set off as set forth above in clause (e) or as a result of the receipt by Agent Assignee of a payment of the outstanding principal balance of the Loans assigned to Agent Assignee pursuant to an Erroneous Payment Deficiency Assignment, but excluding any other amounts in respect thereof (it being agreed that any payments of interest, fees, expenses or other amounts (other

than principal) received by Agent Assignee in respect of the Loans assigned to Agent Assignee pursuant to an Erroneous Payment Deficiency Assignment shall be the sole property of Agent Assignee and shall not constitute a recovery of the Erroneous Payment).

Section 11.21 Definitions. As used in this Article 11, the following terms have the following meanings:

“**Approved Fund**” means any (a) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the Ordinary Course of Business, or (b) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (a) and that, with respect to each of the preceding clauses (a) and (b), is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender, or (iii) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

“**Assignment Agreement**” means an assignment agreement in form and substance acceptable to Agent substantially in the form of Exhibit A hereto.

“**Defaulted Lender**” means, so long as such failure shall remain in existence and uncured, any Lender which shall have failed to make any Loan or other credit accommodation, disbursement, settlement or reimbursement required pursuant to the terms of any Financing Document.

“**Eligible Assignee**” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by Agent and (other than in the case of any assignment by B. Riley and its Affiliates), so long as no Event of Default has occurred and is continuing, the Borrower Representative (such consent not to be unreasonably withheld or delayed); *provided, however*, that notwithstanding the foregoing and (x) “**Eligible Assignee**” shall not include any Borrower or any of a Borrower’s Affiliates.

“**Federal Funds Rate**” means, for any day, the rate of interest per annum (rounded upwards, if necessary, to the nearest whole multiple of 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, *provided, however*, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day, and (b) if no such rate is so published on such next preceding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to Agent on such day on such transactions as determined by Agent.

ARTICLE 12 - GUARANTEE

Section 12.1 [Reserved].

Section 12.2 Guarantee; Limitation of Liability.

(a) Each Guarantor, jointly and severally, hereby absolutely, unconditionally and irrevocably guarantees the punctual payment when due, whether at scheduled maturity or on any date of a required prepayment or by acceleration, demand or otherwise, of all Obligations of each other Credit Party now or hereafter existing under or in respect of the Financing Documents (including, without limitation, any extensions,

modifications, substitutions, amendments or renewals of any or all of the foregoing Obligations), whether for principal, interest, premiums, fees, indemnities, or reasonable and documented out-of-pocket expenses (such Obligations being the “**Guaranteed Obligations**”), including, without limitation, reasonable and documented out-

of-pocket fees and expenses of counsel incurred by Agent in enforcing any rights under the Guarantee under this Section 12 or under any other Financing Document. Without limiting the generality of the foregoing, each Guarantor's liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by any other Credit Party to Agent or any Lender under or in respect of the Financing Documents but for the fact that they are unenforceable or not allowed due to the existence of a bankruptcy, reorganization or similar proceeding involving such other Credit Party.

Section 12.3 Guarantee Absolute. Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Financing Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of Agent or any Lender with respect thereto. The liability of each Guarantor under the Guarantee under this Section 12 shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses (other than payment of the Obligations to the extent of such payment) it may now have or hereafter acquire in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any Financing Documents or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations or any other Obligations of any other Credit Party under or in respect of the Financing Documents, or any other amendment or waiver of or any consent to departure from any Financing Document, including, without limitation, any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Credit Party;

(c) any taking, exchange, release or non-perfection of any Collateral or any other collateral, or any taking, release or amendment or waiver of, or consent to departure from, any other guarantee, for all or any of the Guaranteed Obligations;

(d) any manner of application of Collateral or any other collateral, or proceeds thereof, to all or any of the Guaranteed Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Guaranteed Obligations or any other Obligations of any Credit Party under the Financing Documents or any other assets of any Credit Party;

(e) any change, restructuring or termination of the corporate structure or existence of any Credit Party;

(f) any failure of Agent or any Lender to disclose to any Credit Party any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Credit Party now or hereafter known to Agent or such Lender (each Guarantor waiving any duty on the part of Agent or Lenders to

disclose such information) provided that each Guarantor shall have any contractual defenses that the applicable Credit Party has under any Financing Document including payment in full of the Obligations;

(g) the failure of any other Person to execute or deliver any Guarantee Supplement or any other guarantee or agreement or the release or reduction of liability of any Guarantor or other guarantor or surety with respect to the Guaranteed Obligations; or

(h) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by Agent or any Lender that might otherwise constitute a defense available to, or a discharge of, any Credit Party or any other guarantor or surety other than payment in full of the Guaranteed Obligations; provided that each Guarantor shall have any contractual defenses that the applicable Credit Party has under any Financing Document.

The Guarantee under this Section 12 shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by any Lender or any other Person upon the insolvency, bankruptcy or reorganization of Borrowers or any other Credit Party or otherwise, all as though such payment had not been made.

Section 12.4 Waivers and Acknowledgments.

(a) To the extent allowed under applicable Law, each Guarantor hereby unconditionally and irrevocably waives promptness, diligence, notice of acceptance, presentment, demand for performance, notice of non-performance, default, acceleration, protest or dishonor and any other notice with respect to any of the Guaranteed Obligations and the Guarantee under this Section 12 and any requirement that Agent or any Lender protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any Credit Party or any other Person or any Collateral.

(b) Each Guarantor hereby unconditionally and irrevocably waives any right to revoke the Guarantee under this Section 12 and acknowledges that the Guarantee under this Section 12 is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

(c) Each Guarantor hereby unconditionally and irrevocably waives (i) any defense arising by reason of any claim or defense based upon an election of remedies by Agent or any Lender that in any manner impairs, reduces, releases or otherwise adversely affects the subrogation, reimbursement, exoneration, contribution or indemnification rights of such Guarantor or other rights of such Guarantor to proceed against any of the other Credit Parties, any other guarantor or any other Person or any Collateral and (ii) any defense based on any right of set-off or counterclaim against or in respect of the Guaranteed Obligations of such Guarantor hereunder.

(d) Each Guarantor acknowledges that Agent may, without notice to or demand upon such Guarantor and without affecting the liability of such Guarantor under the Guarantee under this Section 12, foreclose under any mortgage by nonjudicial sale, and

each Guarantor hereby waives any defense to the recovery by Agent and the other Lenders against such Guarantor of any deficiency after such nonjudicial sale and any defense or benefits that may be afforded by applicable Law.

(e) Each Guarantor hereby unconditionally and irrevocably waives any duty on the part of Agent or any Lender to disclose to such Guarantor any matter, fact or thing relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Credit Party now or hereafter known by Agent or such Lender.

(f) Each Guarantor acknowledges that it will receive substantial direct and indirect benefits from the financing arrangements contemplated by the Financing Documents and that the waivers set forth in Section 12.3 and this Section 12.4 are knowingly made in contemplation of such benefits.

Section 12.5 Subrogation. Each Guarantor hereby unconditionally and irrevocably agrees not to exercise any rights that it may now have or hereafter acquire against the Borrowers, any other Credit Party or any other insider guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's Obligations under or in respect of the Guarantee under this Section 12 or any other Financing Document, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent or any Lender against the Borrowers, any other Credit Party or any other insider guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from the Borrowers, any other Credit Party or any other insider guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 shall have been paid in full in cash. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the payment in full in cash of the Guaranteed Obligations (other than unasserted contingent indemnification obligations) and all other amounts payable under the Guarantee under this Section 12, such amount shall be received and held in trust for the benefit of Agent and the Lenders, shall be segregated from other property and funds of such Guarantor and shall forthwith be paid or delivered to Agent in the same form as so received (with any necessary endorsement or assignment) to be credited and applied to the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12, whether matured or unmatured, in accordance with the terms of the Financing Documents, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under the Guarantee under this Section 12 thereafter arising. If (a) any Guarantor shall make payment to Agent or any Lender of all or any part of the Guaranteed Obligations, (b) all of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 shall have been paid in full in cash and (c) the Termination Date shall have occurred, Agent or the Lenders will, at such Guarantor's request and expense, execute and deliver to such Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment made by such Guarantor pursuant to the Guarantee under this Section 12.

Section 12.6 [Reserved].

Section 12.7 Subordination. Each Guarantor hereby subordinates any and all debts, liabilities and other Obligations owed to such Guarantor by each other Credit Party, except for any

Obligations otherwise set forth hereunder (the “**Subordinated Obligations**”) to the Guaranteed Obligations to the extent and in the manner hereinafter set forth in this Section 12.7:

(a) **Prohibited Payments, Etc.** Unless Agent otherwise agrees, upon a Default or the occurrence and during the continuance of an Event of Default, no Guarantor shall demand, accept or take any action to collect any payment on account of the Subordinated Obligations.

(b) **Prior Payment of Guaranteed Obligations.** In any proceeding under Debtor Relief Laws relating to any other Credit Party, each Guarantor agrees that Agent and the Lenders shall be entitled to receive payment in full in cash of all Guaranteed Obligations before such Guarantor receives payment of any Subordinated Obligations.

(c) **Turn-Over.** After the occurrence and during the continuance of any Event of Default, each Guarantor shall, if Agent so requests, collect, enforce and receive payments on account of the Subordinated Obligations as trustee for Agent and the Lenders and deliver such payments to Agent on account of the Guaranteed Obligations, together with any necessary endorsements or other instruments of transfer.

(d) **Agent Authorization.** After the occurrence and during the continuance of any Event of Default, Agent is authorized and empowered (but without any obligation to so do), in its discretion, (i) in the name of each Guarantor, to collect and enforce, and to submit claims in respect of, the Subordinated Obligations and to apply any amounts received thereon to the Guaranteed Obligations, and (ii) to require each Guarantor (A) to collect and enforce, and to submit claims in respect of, the Subordinated Obligations, and (B) to pay any amounts received on such obligations to Agent for application to the Guaranteed Obligations.

Section 12.8 Continuing Guarantee; Assignments. The Guarantee under this Section 12 is a continuing guarantee and shall (a) remain in full force and effect until the payment in full in cash of the Guaranteed Obligations and all other amounts payable under the Guarantee under this Section 12 and termination of all other Obligations hereunder, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by Agent, the Lenders and their respective successors, transferees and assigns. No Guarantor shall have the right to assign its rights hereunder or any interest herein without the prior written consent of Agent.

ARTICLE 13 - MISCELLANEOUS

Section 13.1 Survival. All agreements, representations and warranties made herein and in every other Financing Document shall survive the execution and delivery of this Agreement and the other Financing Documents and the other Operative Documents. The provisions of Section 2.9 and Articles 11 and 12 shall survive the payment of the Obligations (both with respect to any Lender and all Lenders collectively) and any termination of this

Agreement and any judgment with respect to any Obligations, including any final foreclosure judgment with respect to any Security Document, and no unpaid or unperformed, current or future, Obligations will merge into any such judgment.

Section 13.2 No Waivers. No failure or delay by Agent or any Lender in exercising any right, power or privilege under any Financing Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise

of any other right, power or privilege. The rights and remedies herein and therein provided shall be cumulative and not exclusive of any rights or remedies provided by law. Any reference in any Financing Document to the “continuing” nature of any Event of Default shall not be construed as establishing or otherwise indicating that any Borrower or any other Credit Party has the independent right to cure any such Event of Default, but is rather presented merely for convenience should such Event of Default be waived in accordance with the terms of the applicable Financing Documents.

Section 13.3 Notices.

(a) All notices, requests and other communications to any party hereunder shall be in writing (including prepaid overnight courier, e-mail or similar writing) and shall be given to such party at its address or e-mail address set forth on the signature pages hereof (or, in the case of any such Lender who becomes a Lender after the date hereof, in an assignment agreement or in a notice delivered to Borrower Representative and Agent by the assignee Lender forthwith upon such assignment) or at such other address or e-mail address as such party may hereafter specify for the purpose by notice to Agent and Borrower Representative; *provided*, however, that notices, requests or other communications shall be permitted by electronic means only in accordance with the provisions of Section 13.3(b) and (c). Each such notice, request or other communication shall be effective (i) if given by electronic means, in accordance with the provisions of Section 13.3(b) and (c), or (ii) if given by mail, prepaid overnight courier or any other means, when received or when receipt is refused at the applicable address specified by this Section 13.3(a).

(b) Notices and other communications to the parties hereto may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved from time to time by Agent, *provided*, however, that the foregoing shall not apply to notices sent directly to any Lender if such Lender has notified Agent that it is incapable of receiving notices by electronic communication. Agent or Borrower Representative may, in their discretion, agree to accept notices and other communications to them hereunder by electronic communications pursuant to procedures approved by it, *provided, however*, that approval of such procedures may be limited to particular notices or communications.

(c) Unless 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 acknowledgment from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgment), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address

therefor, provided, however, that if any such notice or other communication is not sent or posted during normal business hours, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day.

Section 13.4 Severability. In case any provision of or obligation under this Agreement or any other Financing Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 13.5 Headings. Headings and captions used in the Financing Documents (including the Exhibits, Schedules and Annexes hereto and thereto) are included for convenience of reference only and shall not be given any substantive effect.

Section 13.6 Confidentiality.

(a) Each Credit Party agrees (i) not to transmit or disclose provisions of any Financing Document to any Person (other than to Borrowers' advisors and officers on a need-to-know basis or as otherwise may be required by Law) without Agent's prior written consent, (ii) to inform all Persons of the confidential nature of the Financing Documents and to direct them not to disclose the same to any other Person and to require each of them to be bound by these provisions.

(b) Agent and each Lender shall hold all non-public information regarding the Credit Parties and their respective businesses identified as such by Borrowers and obtained by Agent or any Lender pursuant to the requirements hereof in accordance with such Person's customary procedures for handling information of such nature, except that disclosure of such information may be made (i) to their respective agents, employees, Subsidiaries, Affiliates, attorneys, auditors, professional consultants, rating agencies, insurance industry associations and portfolio management services, (ii) to prospective transferees or purchasers of any interest in the Loans, Agent or a Lender, and to prospective contractual counterparties (or the professional advisors thereto) in Swap Contracts permitted hereby, *provided, however*, that any such Persons are bound by obligations of confidentiality, (iii) as required by Law, subpoena, judicial order or similar order and in connection with any litigation, (iv) as may be required in connection with the examination, audit or similar investigation of such Person, (v) as Agent or any Lender considers appropriate in exercising remedies under the Financing Documents or at any time an Event of Default exists hereunder, and (vi) to a Person that is a trustee, investment advisor or investment manager, collateral manager, servicer, noteholder or secured party in a Securitization (as hereinafter defined) in connection with the administration, servicing and reporting on the assets serving as collateral for such Securitization. For the purposes of this Section, "Securitization" shall mean (A) the pledge of the Loans as collateral security for loans to a Lender, or (B) a public or private offering by a Lender or any of its Affiliates or their respective successors and assigns, of securities which represent an interest in, or which are collateralized, in whole or in part, by the Loans. Confidential information shall include only such information identified as such at the time provided to Agent and shall not include information that either: (y) is in the public domain, or

becomes part of the public domain after disclosure to such Person through no fault of such Person, or (z) is disclosed to such Person by a Person other than a Credit Party, *provided, however*, Agent does not have actual knowledge that such Person is prohibited from disclosing such information. The obligations of Agent and Lenders under this Section 13.6 shall supersede and replace the obligations of Agent and Lenders under any confidentiality agreement in

respect of this financing executed and delivered by Agent or any Lender prior to the date hereof.

Section 13.7 Waiver of Consequential and Other Damages. To the fullest extent permitted by applicable law, no Borrower shall assert, and each Borrower hereby waives, any claim against any Indemnitee (as defined below), 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 Financing Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Financing Documents or the transactions contemplated hereby or thereby, except for any such damages resulting from the gross negligence or willful misconduct of such Indemnitee or any of such Indemnitee's related parties, as determined by a final nonappealable court of competent jurisdiction.

Section 13.8 GOVERNING LAW; SUBMISSION TO JURISDICTION.

(a) THIS AGREEMENT, EACH NOTE AND EACH OTHER FINANCING DOCUMENT, AND ALL DISPUTES AND OTHER MATTERS RELATING HERETO OR THERETO OR ARISING THEREFROM (WHETHER SOUNDING IN CONTRACT LAW, TORT LAW OR OTHERWISE), OR THE PERFORMANCE BY AGENT OR ANY OF ITS AFFILIATE'S OF THE SERVICES CONTEMPLATED THEREBY, SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

(b) ~~EACH CREDIT PARTY HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE COURT LOCATED WITHIN THE COUNTY OF MONTGOMERY, NEW YORK OR FEDERAL COURT LOCATED WITHIN THE STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER FINANCING DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS~~ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING HERETO MAY BE BROUGHT IN THE FEDERAL COURTS SITTING IN THE SOUTHERN DISTRICT OF NEW YORK IN THE STATE OF NEW YORK, OR IF SUCH FEDERAL COURTS DO NOT HAVE JURISDICTION, THEN TO THE COMMERCIAL DIVISION OF THE STATE COURTS RESIDING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK, OR, TO THE EXTENT THAT ANY ACTION IS NOT ELIGIBLE FOR FILING IN THE COMMERCIAL DIVISION, THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY. EACH

CREDIT PARTY EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF ~~THE AFORESAID~~SUCH COURTS AND WAIVES ANY DEFENSE OF OR OBJECTION TO THE LAYING OF VENUE IN SUCH COURTS, INCLUDING ANY DEFENSE BASED

ON FORUM NON CONVENIENS. EACH CREDIT PARTY HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON SUCH CREDIT PARTY BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH CREDIT PARTY AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

(c) Each Borrower, Agent and each Lender agree that each Loan (including those made on the Closing Date) shall be deemed to be made in, and the transactions contemplated hereunder and in any other Financing Document shall be deemed to have been performed in, the State of New York.

Section 13.9 **WAIVER OF JURY TRIAL.** EACH CREDIT PARTY, AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE FINANCING DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH CREDIT PARTY, AGENT AND EACH LENDER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH CREDIT PARTY, AGENT AND EACH LENDER WARRANTS AND REPRESENTS THAT IT HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

Section 13.10 **Publication and Advertisement.**

(a) Publication. No Credit Party will directly or indirectly publish, disclose or otherwise use in any public disclosure, advertising material, promotional material, press release or interview, any reference to the name, logo or any trademark of B. Riley or any of its Affiliates or any reference to this Agreement or the financing evidenced hereby, in any case except (i) as required by Law, subpoena or judicial or similar order, in which case the applicable Credit Party shall give Agent prior written notice of such publication or other disclosure, or (ii) with B. Riley's prior written consent.

(b) Advertisement. Each Lender and each Credit Party hereby authorizes B. Riley to publish the name of such Lender and Credit Party, the existence of the financing arrangements referenced under this Agreement, the primary purpose and/or structure of those arrangements, the amount of credit extended under each facility, the title and role of each party to this Agreement, and the total amount of the financing evidenced hereby in any "tombstone", comparable advertisement or press release which B. Riley elects to submit for publication. In

addition, each Lender and each Credit Party agrees that B. Riley may provide lending industry trade organizations with information necessary and customary for inclusion in league table measurements after the Closing Date. With respect

to any of the foregoing, B. Riley shall provide Credit Parties with an opportunity to review and confer with B. Riley regarding the contents of any such tombstone, advertisement or information, as applicable, prior to its submission for publication and, following such review period, B. Riley may, from time to time, publish such information in any media form desired by B. Riley, until such time that Credit Parties shall have requested B. Riley cease any such further publication.

Section 13.11 Counterparts; Integration. This Agreement and the other Financing Documents may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. As used herein, “**Electronic Signature**” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Agreement and the other Financing Documents constitute the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

Section 13.12 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

Section 13.13 Lender Approvals. Unless expressly provided herein to the contrary, any approval, consent, waiver or satisfaction of Agent or Lenders with respect to any matter that is the subject of this Agreement, the other Financing Documents may be granted or withheld by Agent and Lenders in their sole and absolute discretion and credit judgment.

Section 13.14 Expenses; Indemnity.

(a) Credit Parties hereby agree to promptly pay (i) all costs and expenses of Agent (including, without limitation, the fees, costs and expenses of counsel to, and independent appraisers and consultants retained by Agent) in connection with the examination, review, due diligence investigation,

documentation, negotiation, closing and syndication of the transactions contemplated by the Financing Documents, in connection with the performance by Agent of its rights and remedies under the Financing Documents

and in connection with the continued administration of the Financing Documents including (A) any amendments, modifications, consents and waivers to and/or under any and all Financing Documents, and (B) any periodic public record searches conducted by or at the request of Agent (including, without limitation, title investigations, UCC searches, fixture filing searches, judgment, pending litigation and tax lien searches and searches of applicable corporate, limited liability, partnership and related records concerning the continued existence, organization and good standing of certain Persons); (ii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with the creation, perfection and maintenance of Liens pursuant to the Financing Documents; (iii) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with (A) protecting, storing, insuring, handling, maintaining or selling any Collateral, (B) any litigation, dispute, suit or proceeding relating to any Financing Document, and (C) any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Financing Documents; (iv) without limitation of the preceding clause (i), all costs and expenses of Agent in connection with Agent's reservation of funds in anticipation of the funding of the initial Loans to be made hereunder; and (v) all costs and expenses incurred by Lenders in connection with any litigation, dispute, suit or proceeding relating to any Financing Document and in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all Financing Documents, whether or not Agent or Lenders are a party thereto. If Agent or any Lender uses in-house counsel for any of these purposes, Credit Parties further agree that the Obligations include reasonable charges for such work commensurate with the fees that would otherwise be charged by outside legal counsel selected by Agent or such Lender for the work performed.

(b) Each Credit Party hereby agrees to indemnify, pay and hold harmless Agent and Lenders and the officers, directors, employees, trustees, agents, investment advisors and investment managers, collateral managers, servicers, and counsel of Agent and Lenders (collectively called the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnatee) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnatee shall be designated a party thereto and including any such proceeding initiated by or on behalf of a Credit Party, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Agent or Lenders) asserting any right to payment for the transactions contemplated hereby, which may be imposed on, incurred by or asserted against such Indemnatee as a result of or in connection with the transactions contemplated hereby or by the other Operative Documents (including (i)(A) as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from, any property now or previously owned, leased or operated

by each Credit Party, any Subsidiary or any other Person of any Hazardous Materials, (B) arising out of or relating to the offsite disposal of any materials generated or present on any such property, or (C) arising out of or resulting from the environmental condition of any such property or the applicability of any governmental requirements relating to Hazardous Materials, whether or not occasioned wholly or in part

by any condition, accident or event caused by any act or omission of Credit Party or any Subsidiary, and (ii) proposed and actual extensions of credit under this Agreement) and the use or intended use of the proceeds of the Loans, except that Credit Party shall have no obligation hereunder to an Indemnatee with respect to any liability resulting from the gross negligence or willful misconduct of such Indemnatee or any of such Indemnatee's related parties, as determined by a final non-appealable judgment of a court of competent jurisdiction. To the extent that the undertaking set forth in the immediately preceding sentence may be unenforceable, Credit Parties shall contribute the maximum portion which it is permitted to pay and satisfy under applicable Law to the payment and satisfaction of all such indemnified liabilities incurred by the Indemnitees or any of them. This Section 13.14 shall not apply with respect to Taxes other than any Taxes that represent losses, damages, liabilities, actions, suits, judgments, obligations, penalties, fees, claims or reasonable costs and expenses arising from any non-Tax claim.

(c) Notwithstanding any contrary provision in this Agreement, the obligations of Credit Parties under this Section 13.14 shall survive the payment in full of the Obligations and the termination of this Agreement. NO INDEMNITEE SHALL BE RESPONSIBLE OR LIABLE TO THE CREDIT PARTIES OR TO ANY OTHER PARTY TO ANY FINANCING DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER THIS AGREEMENT OR ANY OTHER FINANCING DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

Section 13.15 Confession of Judgment. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT, EACH CREDIT PARTY AUTHORIZES ANY ATTORNEY ADMITTED TO PRACTICE BEFORE ANY COURT OF RECORD IN THE UNITED STATES OR THE CLERK OF SUCH COURT TO APPEAR ON BEHALF OF SUCH CREDIT PARTY IN ANY COURT IN ONE OR MORE PROCEEDINGS, OR BEFORE ANY CLERK THEREOF OR PROTHONOTARY OR OTHER COURT OFFICIAL, AND TO CONFESS JUDGMENT AGAINST CREDIT PARTY IN FAVOR OF AGENT (FOR THE BENEFIT OF ALL LENDERS) IN THE FULL AMOUNT DUE ON THIS AGREEMENT (INCLUDING PRINCIPAL, ACCRUED INTEREST AND ANY AND ALL CHARGES, FEES AND COSTS) PLUS ATTORNEYS' FEES EQUAL TO FIFTEEN PERCENT (15%) OF THE AMOUNT DUE (EXCEPT THAT AGENT SHALL NOT SEEK TO COLLECT AN AMOUNT IN EXCESS OF ITS ACTUAL ATTORNEYS' FEES), PLUS COURT COSTS, ALL WITHOUT PRIOR NOTICE OR OPPORTUNITY OF SUCH CREDIT PARTY FOR PRIOR HEARING. EACH CREDIT PARTY AGREES AND CONSENTS THAT VENUE AND JURISDICTION SHALL BE PROPER IN THE ~~CIRCUIT COURT~~SOUTHERN DISTRICT OF ~~MONTGOMERY COUNTY OF NEW YORK IN~~ THE STATE OF NEW YORK, OR IN THE ~~UNITED STATES DISTRICT~~

~~COURT FOR THE DISTRICT OF NEW~~COMMERCIAL DIVISION OF THE STATE
COURTS RESIDING IN THE COUNTY OF NEW YORK IN THE STATE OF NEW
YORK. THE AUTHORITY AND POWER TO APPEAR FOR AND ENTER JUDGMENT
AGAINST A CREDIT PARTY SHALL NOT BE EXHAUSTED BY ONE OR MORE
EXERCISES

THEREOF, OR BY ANY IMPERFECT EXERCISE THEREOF, AND SHALL NOT BE EXTINGUISHED BY ANY JUDGMENT ENTERED PURSUANT THERETO; SUCH AUTHORITY AND POWER MAY BE EXERCISED ON ONE OR MORE OCCASIONS FROM TIME TO TIME, IN THE SAME OR DIFFERENT JURISDICTIONS, AS OFTEN AS AGENT SHALL DEEM NECESSARY, CONVENIENT, OR PROPER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THIS SECTION 13.15 SHALL APPLY ONLY TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.

Section 13.16 Reinstatement. This Agreement shall remain in full force and effect and continue to be effective should any petition or other proceeding be filed by or against any Credit Party for liquidation or reorganization, should any Credit Party become insolvent or make an assignment for the benefit of any creditor or creditors or should an interim receiver, receiver, receiver and manager, monitor or trustee be appointed for all or any significant part of any Credit Party's assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a fraudulent preference reviewable transaction or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

Section 13.17 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Credit Parties and Agent and each Lender and their respective successors and permitted assigns.

Section 13.18 USA PATRIOT Act Notification. Agent (for itself and not on behalf of any Lender) and each Lender hereby notifies Credit Parties that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record certain information and documentation that identifies Credit Parties, which information includes the name and address of Credit Parties and such other information that will allow Agent or such Lender, as applicable, to identify any Credit Party in accordance with the USA PATRIOT Act.

Section 13.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Financing Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures 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 each Credit Party in respect of any such sum due from it to Agent or any Lender hereunder or under the other Financing 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 Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, 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 Agent or any Lender from any Credit Party in the Agreement Currency, such Credit Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify

Agent or such 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 Agent or any Lender in such currency, Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Credit Party (or to any other Person who may be entitled thereto under applicable Law).

Section 13.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Financing 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 Financing 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:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing 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 13.21 Parent. The parties hereto acknowledge and agree that the Parent is not a party to this Agreement or any other Financing Document and shall not be deemed a Borrower, Guarantor or other obligor with respect to the Obligations.

Section 13.22 ROFR. Prior to any assignment or sale of a participation interest in the Loans other than pursuant to the Last Out Participation Agreement, dated August 30, 2024, between Exela BR SPV LLC and BRF Finance Co., LLC, as amended, restated, supplemented or otherwise in effect from time to time) each Lender shall offer to Borrowers the option to purchase such interest at a purchase price equal to the unpaid principal amount thereunder, together with all accrued and unpaid fees, interest and other amounts. If any Borrower elects to receive by assignment or purchase a participation interest in the Loans as herein provided, then upon the effectiveness of such assignment or consummation of the

purchase of such participation interest, the Loans held by such Borrower shall be terminated or the participation interests owned by such Borrower shall be null and void and the corresponding amount of principal of the Loans outstanding shall be deemed to be repaid.

ARTICLE 14 AMENDMENT AND RESTATEMENT OF EXISTING 2L NOTE.

Section 14.1 Acknowledgment of Assignment and Assumption. Effective as of the date hereof, immediately prior to the effectiveness of this Agreement, ER3 Holdco (the “**Existing 2L Borrower**”) hereby assigned to Exela Technologies BPA LLC (“**Exela BPA**”) all of its rights and obligations under the Existing 2L Note and Exela BPA accepted the assignment of all such rights and assumed such obligations as if Exela BPA had been an original party thereto in lieu of the Existing 2L Borrower and agreed to undertake and agree to perform all obligations of the Existing 2L Borrower thereunder.

Section 14.2 Amendment and Restatement. This Agreement amends and restates in its entirety, with effect as of the date hereof and immediately after giving effect to the assignment described in Section 14.1, the Existing 2L Note. Upon the effectiveness of this Agreement, the terms and provisions of the Existing 2L Note shall, subject to this paragraph, be superseded hereby in their entirety. To the extent that any rights, benefits or provisions in favor of the parties hereto existed in the Existing 2L Note and continue to exist in this Agreement, then such rights, benefits or provisions are reaffirmed and acknowledged to be and to continue to be effective from and after the date of the Existing 2L Note. The parties hereto agree and acknowledge that any and all rights, remedies and servicing obligations under the Existing 2L Note shall continue and survive the execution and delivery of this Agreement. Upon the effectiveness of this Agreement, each reference to the Existing 2L Note in any other document, instrument or agreement shall mean and be a reference to this Agreement. Nothing contained herein, unless expressly herein stated to the contrary, is intended to amend, modify or otherwise affect any other instrument, document or agreement executed and/or delivered in connection with the Existing 2L Note.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

EXHIBIT 5.1(b)(i)
FORM OF ABL AGREEMENT LIMITED WAIVER AND SECOND AMENDMENT

(See Attached)

[Attached is the form of Limited Waiver and Second Amendment to Credit and Security Agreement, dated January 21, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), Midcap Funding IV Trust and the lenders party thereto.]

EXHIBIT 5.1(b)(ii)
FORM OF TERM LOAN AGREEMENT LIMITED WAIVER AND AMENDMENT

(See Attached)

[Attached is the First Amendment to Financing Agreement, dated January 21, 2026, by and among XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC), Ankura Trust Company, LLC and the lenders from time to time party thereto.]

**LIMITED WAIVER AND THIRD AMENDMENT TO
AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT**

This **LIMITED WAIVER AND THIRD AMENDMENT TO AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT** (this “*Amendment*”), dated as of March 6, 2026, is entered into by and among XBP Americas, LLC (*formerly known as Exela Technologies BPA, LLC*), a Delaware limited liability company (the “*Borrower*”), **BRF FINANCE CO. LLC**, a Delaware limited liability company, as administrative agent (the “*Agent*”), and the financial institutions party to the Credit Agreement referred to below as a “*Lender*”; and is acknowledged by the guarantors party to such Credit Agreement (the “*Guarantors*”).

RECITALS

WHEREAS, reference is made to that certain Amended and Restated Credit And Security Agreement, dated as of July 29, 2025, by and among the Borrower, the Guarantors, the Lenders, and the Agent (as amended by that certain First Amendment to Amended and Restated Credit Agreement, dated as of December 19, 2025, and by that certain Limited Waiver and Second Amendment to Amended and Restated Credit and Security Agreement, dated as of January 21, 2026, the “*Existing Credit Agreement*”, and as such Existing Credit Agreement is amended hereby or as may be amended, restated, amended and restated, supplemented or modified from time to time thereafter, the “*Credit Agreement*”);

WHEREAS, the Borrower has requested that the Agent consent to certain amendments to the Existing Credit Agreement, and pursuant to Section 11.16 of the Credit Agreement, the Agent and the Lenders (including the Required Lenders) have agreed to the requested modification on the terms and conditions set forth herein; and

WHEREAS, certain Specified Events of Default (as defined below) have occurred and are continuing and the Lenders under the Existing Credit Agreement are willing to waive the Specified Events of Default and make such amendments on the terms and subject to the conditions set forth in this Amendment.

NOW, THEREFORE, in consideration of the promises, covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein are used as defined in the Credit Agreement.

Section 2. Acknowledgements; Reaffirmation.

2.1 Acknowledgment of Obligations. All Obligations are unconditionally owing by the Credit Parties, all without offset, defense (other than payment in full in cash of the Obligations (excluding any contingent indemnification and expense reimbursement obligations as to which no claim has been asserted)) or counterclaim of any kind, nature or description whatsoever.

2.2 Acknowledgment of Liens. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Agent on behalf of the Lenders has and shall continue to have valid, enforceable and perfected first-priority Liens (subject to certain Permitted Liens) upon and security interests in the Collateral heretofore granted by the Credit Parties to the Agent on behalf of the Lenders pursuant to the Financing Documents.

2.3 Reaffirmation. In furtherance of the foregoing, and in connection with the execution and delivery of this Amendment, the Borrower and each other Credit Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Credit Parties grant Liens or security interests in their properties, in each case under the Financing Documents, hereby (A) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each Financing Document to which it is a party, and (B) to the extent such Credit Party granted Liens on or security interests in any of its property pursuant to any such Financing Document (including, but not limited to, the Security Documents), hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations.

Section 3. Limited Waiver.

(a) Subject to the satisfaction of the conditions precedent set forth in Section 5 hereof, and in reliance upon the representations and warranties made by the Credit Parties set forth in Section 8 hereof, the Lenders hereby waive any Default or Event of Default arising under:

(i) Section 10.1(d) of the Existing Credit Agreement solely to the extent arising prior to the Effective Date from (A) any “Specified Event of Default” identified in the Limited Waiver and Third Amendment to ABL Agreement attached hereto as Exhibit 5.1(b)(i) and (B) any “Specified Event of Default” identified in the Notice and Limited Waiver attached hereto as Exhibit 5.1(b)(ii);

(ii) Section 10.1(a)(ii) of the Existing Credit Agreement resulting from the Borrower’s failure to comply with the covenant set forth in Section 5.9 of the Existing Credit Agreement as a result of the Borrower amending or otherwise modifying the Organizational Documents of Exela Enterprise Solutions, Inc., a Delaware corporation (now known as XBP Enterprise Solutions, Inc.) on February 6, 2026 without notice to or consent of the Agent to change its legal name;

(iii) Section 10.1(b) of the Existing Credit Agreement resulting from the Borrower’s failure to comply with the covenant set forth in Section 9.2 regarding the name change of Exela Enterprise Solutions, Inc. as described in sub-clause (a)(ii) above;

(iv) Section 10.1(a)(ii) of the Existing Credit Agreement resulting from the Borrower’s failure to deliver the updated Schedule 5.14 (as required under the Existing Credit Agreement) prior to the Effective Date hereto;

(v) Section 10.1(c) of the Existing Credit Agreement resulting from any incorrect or materially incorrect representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to the Finance Documents, in any such case solely with respect to the Defaults or Events of Default set forth in this Section 3 prior to the Effective Date; and

(vi) Section 10.1(d) of the Existing Credit Agreement, solely to the extent arising from any default, condition or event under the ABL Agreement or the Term Loan Agreement resulting from the Defaults or Events of Default set forth in this Section 3 prior to the Effective Date (the Defaults and Events of Default set forth in the foregoing clauses (i) through (v), collectively, the “*Specified Events of Default*”).

(b) The waiver provided in this Section 3 is limited and (i) shall only be relied upon and used for the express purposes set forth herein and shall be limited precisely as written, (ii) shall not constitute nor be deemed to be a consent, waiver, amendment or other modification of any other term or condition of the Existing Credit Agreement, the Credit Agreement or any other Financing Document, and shall not prejudice any right or remedy which the Agent or any Lender may now have or may have in the future under or in connection with the Credit Agreement or any other Financing Document (except as expressly set forth herein with respect to the Specified Events of Default), (iii) shall not constitute nor be deemed to constitute a waiver by the Agent or any Lender of anything other than for the specific purposes set forth herein, (iv) shall not constitute a custom or course of dealing among the parties hereto and (v) does not allow for any other or further departure from the terms and conditions of the Credit Agreement or any other Financing Document, which terms and conditions shall continue in full force and effect. The Agent and the Lenders hereby reserve all of their respective rights and remedies available under the Credit Agreement, the other Financing Documents and applicable law as a result of any Defaults or Events of Default (other than the Specified Events of Default) occurring at any time. Nothing contained herein, and no delay on the part of the Agent or any Lender in exercising any such rights or remedies, shall be construed as a waiver of any such rights or remedies.

Section 4. Amendment to Credit Agreement. As of the Effective Date (as defined below), subject to the satisfaction of the conditions precedent set forth in Section 5 of this Amendment:

4.1 the Existing Credit Agreement (excluding the Annexes, Schedules and Exhibits attached thereto) as hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text), each as set forth in the pages of a conformed copy of the amended Existing Credit Agreement attached hereto as Annex I; and

4.2 Schedule 5.14 of the Existing Credit Agreement is hereby amended and restated in its entirety as set forth in Annex II attached hereto.

Section 5. Conditions Precedent. The effectiveness of this Amendment, including the waiver provided in Section 3 above and amendments provided in Section 4 above, shall become effective on the date (the “**Effective Date**”) upon which each of the following conditions precedent have been satisfied:

(a) receipt by the Agent and the Lenders of this Amendment, duly executed and delivered by the Borrower, the Lenders and the Agent and the acknowledgement page hereto duly executed and delivered by each of the Guarantors;

(b) receipt by the Agent and the Lenders of an amendment and waiver to the ABL Agreement and the Term Loan Agreement, in each case, in substantially the forms attached to this Amendment as Exhibit 5.1(b)(i) and Exhibit 5.1(b)(ii), respectively, which amendments and waivers shall be in form and substance satisfactory to the Agent; and

(c) payment of all fees and other amounts due and payable on or prior to the date hereof pursuant to the Financing Documents, and the fees and disbursements invoiced at least one (1) Business Day prior to the Effective Date of the Agent’s counsel, Duane Morris LLP.

Section 6. [Reserved].

Section 7. Release; Waiver.

7.1 Release. Each Credit Party (on behalf of itself and its Affiliates) for itself and for its successors in title, legal representatives and assignees and, to the extent the same is claimed by right of, through or under any of the Credit Parties, for its past and present employees, agents, representatives, officers, directors, shareholders, and trustees (each, a “**Releasing Party**” and collectively, the “**Releasing Parties**”), does hereby remise, release and discharge the Agent and each Lender in their respective capacities as such under the Financing Documents, and the Agent’s and each Lender’s respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals and all other persons and entities to whom the Agent and each Lender or any of their respective successors-in-title, legal representatives and assignees, past and present officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals would be liable if such persons or entities were found to be liable to any Releasing Party or any of them (collectively, hereinafter the “**Releasees**”), from any and all manner of action and actions, cause and causes of action, claims, charges, demands, counterclaims, crossclaims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, rights of setoff and recoupment, controversies, damages, judgments, expenses, executions, liens, claims of liens, claims of costs, penalties, attorneys’ fees, or any other compensation, recovery or relief on account of any liability, obligation, demand or cause of action of whatever nature, whether in law, equity or otherwise (including, without limitation, any claims relating to (i) the making or administration of the Loans, including, without limitation, any such claims and defenses based on mistake, duress, usury or misrepresentation, or any other claim based on so-called “lender liability” theories, (ii) any covenants, agreements, duties or obligations set forth in the Existing Credit Agreement, (iii) increased financing costs, interest or other carrying costs, (iv) penalties, (v) lost profits or loss of business opportunity, (vi) legal, accounting and other administrative or professional fees and



expenses and incidental, consequential and punitive damages payable to third parties, (vii) damages to business reputation or (viii) to the extent allowed by applicable Law, any claims arising under 11 U.S.C. Sections 541 to 550 or any claims for avoidance or recovery under any other federal, state or foreign law equivalent), whether known or unknown, fixed or contingent, joint and/or several, secured or unsecured, due or not due, primary or secondary, liquidated or unliquidated, contractual or tortious, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen, suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against any of the Releasees, whether held in a personal or representative capacity, and which are, in each case, based on any act, fact, event or omission or other matter, cause or thing occurring at any time prior to or on the date hereof in any way, directly or indirectly arising out of, connected with or relating to the Existing Credit Agreement or any other Financing Document and the transactions contemplated thereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing (each, a “**Claim**” and collectively, the “**Claims**”). Each Releasing Party further represents that it has not sold or assigned any Claim and stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable Law, any and all provisions, rights, and benefits conferred by any Applicable Law, any applicable foreign Law or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 7.

The Borrower and each other Credit Party understands, acknowledges and agrees that its release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. The Borrower and each other Credit Party agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered, except as set forth above in this Section 7.1, shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

7.2 Waiver. Each Credit Party, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by the Borrower or any other Credit Party pursuant to this Section 7. If a Credit Party or any of its successors, assigns or other legal representatives violates the foregoing covenant, each Credit Party, each for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

7.3 Representation by Counsel. In entering into this Amendment, each Credit Party has consulted with and been represented by counsel and expressly disclaims any reliance on any representations, acts or omissions by the Agent, the Lenders or any of the Agent’s or the Lenders’ Affiliates and hereby agrees and acknowledges that the validity and effectiveness of the releases set forth above do not depend in any way on any such representations, acts and/or omissions or the accuracy, completeness or validity thereof. The provisions of this Section 7 shall survive the termination of this Amendment and the Credit Agreement and payment in full of all amounts owing thereunder.



Section 8. Miscellaneous.

8.1 Incorporations by Reference. The provisions of Sections 11.16 (*Amendments and Waivers*), 13.1 (*Survival*), 13.2 (*No Waivers*), 13.3 (*Notices*), 13.4 (*Severability*), 13.6 (*Confidentiality*), 13.8 (*Governing Law; Submission To Jurisdiction*), 13.9 (*Waiver of Jury Trial*), 13.14 (*Expenses and Indemnity*) and 13.17 (*Successors and Assigns*) of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

8.2 Counterparts; Integration. This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Signatures by facsimile or by electronic mail delivery of an electronic version of any executed signature page shall bind the parties hereto. In furtherance of the foregoing, the words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paperbased 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. As used herein, “Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or other record. This Amendment constitutes the entire agreement and understanding among the parties hereto and supersede any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

8.3 Amendment is a “Financing Document”. This Amendment is a Financing Document and all references to a “Financing Document” in the Credit Agreement and the Financing Documents (including, without limitation, all such references in the representations and warranties in the Credit Agreement and the other Financing Documents) shall be deemed to include this Amendment.

8.4 References to the Credit Agreement. Upon the effectiveness of this Amendment, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import shall mean and be a reference to the Credit Agreement as amended hereby, and each reference to the Credit Agreement in any other document, instrument or agreement executed and/or delivered in connection with the Credit Agreement shall mean and be a reference to the Credit Agreement as amended hereby.

8.5 Representations and Warranties. The Borrower hereby represents and warrants that (a) this Amendment is the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, (b) no Default, Event of Default or, to the Borrower’s knowledge, a potential Default shall have occurred and be continuing (aside from the Specified Defaults) and (c) the representations and warranties set forth in the Credit Agreement and in the other Financing Documents are true and correct in all respects on and as of the Effective Date with the same force and effect as if made on and as of the Effective Date (except

to the extent that any such representation or warranty expressly relates to an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date).

8.6 Reaffirmation of Obligations. The Borrower and each other Credit Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations under the Financing Documents, and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge the Borrower's or such Credit Party's obligations under the Financing Documents.

8.7 Reaffirmation of Security Interests. The Borrower and each other Credit Party (a) affirms that each of the Liens granted in or pursuant to the Financing Documents is valid and subsisting, and (b) agrees that this Amendment and all documents executed in connection herewith shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Financing Documents.

8.8 No Other Changes. Except as specifically amended by this Amendment, the Credit Agreement, the other Financing Agreements and all other documents, instruments and agreements executed and/or delivered in connection therewith shall remain in full force and effect and are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

BORROWER:

XBP AMERICAS, LLC

By:	<u>/s/ Andrej Jonovic</u>	
	Name:	Andrej Jonovic
		Authorized
	Title:	signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and Security Agreement]

AGENT:

BRF FINANCE CO. LLC

By:	<u>/s/ Bryant Riley</u>	
	Name:	Bryant Riley
		Authorized
	Title:	Signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

LENDERS:

BRF FINANCE CO. LLC,
as Lender

By:	<u>/s/ Bryant Riley</u>	
	Name:	Bryant Riley
		Authorized
	Title:	Signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

**ACKNOWLEDGMENT TO LIMITED WAIVER AND SECOND AMENDMENT TO
AMENDED AND RESTATED CREDIT AGREEMENT**

Each of the undersigned Credit Parties hereby (a) acknowledges and consents to all of the terms and conditions of the Amendment to which this Acknowledgment is attached and the Credit Agreement, and the transactions contemplated hereby and thereby, (b) affirms and confirms all of its obligations under the Financing Documents to which it is a party, including as provided in the Amendment, (c) agrees to be bound by the terms and agreements set forth in the Amendment applicable to such Credit Party, including, without limitations, the acknowledgments set forth in Section 2 and the release and confirmations made in Sections 7 and 8 of the Amendment, and (d) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge its obligations under the Financing Documents to which it is a party or affect the Liens and the priority of such Liens granted by such Credit Party to the Agent on behalf of the Lenders pursuant to the Financing Documents.

[Guarantor Signature Pages Follow]

[Signature Page to Acknowledgement Page to Limited Waiver and Third Amendment to Amended and
Restated Credit and Security Agreement]

GUARANTORS:

EXELA INTERMEDIATE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

EXELA FINANCE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SOURCEHOV HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SOURCEHOV LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

CORPSOURCE HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

SOURCECORP, INCORPORATED

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SOURCECORP BPS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

DELIVEREX, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

UNITED INFORMATION SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

ECONOMIC RESEARCH SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SOURCECORP LEGAL INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

RUST CONSULTING, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SOURCEHOV HEALTHCARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

KINSELLA MEDIA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

HOV SERVICES, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

HOV ENTERPRISE SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

MERIDIAN CONSULTING GROUP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

RUSTIC CANYON III, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

HOV SERVICES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

CHARTER LASON, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

LASON INTERNATIONAL, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SOURCECORP MANAGEMENT, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

PANGAEA ACQUISITIONS INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

BANCTEC GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

BANCTEC, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

BANCTEC (PUERTO RICO), INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

DOCUDATA SOLUTIONS, L.C.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

BTC VENTURES, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

RECOGNITION MEXICO HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

BANCTEC INTERMEDIATE HOLDING, INC.

By: /s/ Andrej Jonovic

Name:	Andrej Jonovic
	Authorized
Title:	signatory

RC4 CAPITAL, LLC

By: /s/ Andrej Jonovic

Name:	Andrej Jonovic
	Authorized
Title:	signatory

DFG2 HOLDINGS, LLC

By: _____

Name:	Andrej Jonovic
Title:	Authorized signatory

DFG2, LLC

By: /s/ Andrej Jonovic

Name:	Andrej Jonovic
	Authorized
Title:	signatory

PLEXUS GLOBAL FINANCE, LLC

By: /s/ Andrej Jonovic

Name: Andrej Jonovic

Authorized

Title: signatory

HOVG, LLC

By: /s/ Andrej Jonovic

Name:	Andrej Jonovic
	Authorized
Title:	signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and Security Agreement]

TRAC HOLDINGS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

MANAGED CARE PROFESSIONALS, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

FTS PARENT INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

TRANSCENTRA, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

J & B SOFTWARE, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

REGULUS HOLDING INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

REGULUS GROUP LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

REGULUS GROUP II LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

REGULUS AMERICA LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

**REGULUS INTERGRATED SOLUTIONS
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

EXELA RE LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

REGULUS WEST LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

NOVITEX HOLDINGS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

NOVITEX INTERMEDIATE, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

**NOVITEX GOVERNMENT SOLUTIONS,
LLC**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

EXELA XBP, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

EXELA RECEIVABLES 3 HOLDCO, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

EXELA RECEIVABLES 3, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

AFFILIATED GUARANTORS:

XCV-EMEA, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

NEON ACQUISITION, LLC

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

XBP ENTERPRISE SOLUTIONS, INC.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

SERVICES INTEGRATION GROUP, L.P.

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

**SIG - GP L.L.C., A LIMITED LIABILITY
COMPANY**

By: /s/ Andrej Jonovic
Name: Andrej Jonovic
Authorized
Title: signatory

[Signature Page to Limited Waiver and Third Amendment to Amended and Restated Credit and
Security Agreement]

ANNEX I

CONFORMED CREDIT AGREEMENT (CHANGED PAGES ONLY)

the Lenders, as any or all of the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Senior Secured Leverage Calculation Date” has the meaning assigned in the “Senior Secured Leverage Ratio” definition.

“Senior Secured Leverage Ratio” means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Subsidiaries constituting Obligations hereunder, Obligations (as defined in the ABL Agreement), Notes Obligations (as defined in the Exit Notes Indenture), Obligations (as defined in the Term Loan Agreement), in each case as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents in excess of any Restricted Cash that would be stated on the balance sheet of such Person and its Subsidiaries and held by such Person and its Subsidiaries as of such date of determination to (ii) EBITDA of such Person for the four full fiscal quarters for which financial statements have been delivered to Agent immediately preceding such date on which such additional Debt is incurred. In the event that the Borrowers or any Subsidiary incurs, repays, repurchases or redeems any Debt subsequent to the commencement of the period for which the Senior Secured Leverage Ratio is being calculated but prior to the event for which the calculation of the Senior Secured Leverage Ratio is made (the **“Senior Secured Leverage Calculation Date”**), then the Senior Secured Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of customary disqualified equity interests or preferred stock as if the same had occurred at the beginning of the applicable four-quarter period.

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

(b) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Credit Party and each Subsidiary is in compliance with the applicable provisions of ERISA and the provision of the Code relating to ERISA Plans and the regulations and published interpretations therein. During the thirty-six (36) month period prior to the [Closing Date](#) (i) no steps have been taken to terminate any Pension Plan, and (ii) no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which could result in the incurrence by any Credit Party of any material liability, fine or penalty. No Credit Party has incurred liability to the PBGC (other than for current premiums) with respect to any employee Pension Plan. All contributions (if any) have been made on a timely basis to any Multiemployer Plan that are required to be made by any Credit Party or any other member of the Controlled Group under the terms of the plan or of any collective bargaining agreement or by applicable Law; no Credit Party nor any member of the Controlled Group has withdrawn or partially withdrawn from any Multiemployer Plan, incurred any withdrawal liability with respect to any such plan or received notice of any claim or demand for withdrawal liability or partial withdrawal liability from any such plan, and no condition has occurred which, if continued, could result in a withdrawal or partial withdrawal from any such plan, and no Credit Party nor any member of the Controlled Group has received any notice that any Multiemployer Plan is in reorganization, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of any excise tax, that any such plan is or has been funded at a rate less than that required under Section 412 of the Code, that any such plan is or may be terminated, or that any such plan is or may become insolvent.

Section 3.15 Consummation of Operative Documents; Brokers. Except for fees payable to Agent and/or Lenders, no broker, finder or other intermediary has brought about the obtaining, making or closing of the transactions contemplated by the Operative Documents, and no Credit Party has or will have any obligation to any Person in respect of any finder's or brokerage fees, commissions or other expenses in connection herewith or therewith.

Section 3.16 Related Transactions. All transactions contemplated by the Operative Documents to be consummated on or prior to the date hereof have been so consummated (including, without limitation, the disbursement and transfer of all funds in connection therewith) in all material respects pursuant to the provisions of the applicable Operative Documents, true and complete copies of which have been delivered to Agent, and in compliance with all applicable Law, except for such Laws the noncompliance with which would not reasonably be expected to have a Material Adverse Effect.

Section 3.17 Material Contracts. Except for the agreements set forth on Schedule 3.17(a), as of the Closing Date there are no Material Contracts. Schedule 3.17(b) sets forth, with respect to each real estate lease agreement to which any Credit Party is a party (as a lessee) as of the Closing Date, the address of the subject property and the annual rental (or, where applicable, a general description of the method of computing the annual rental). The consummation of the transactions contemplated by the Financing Documents will not give rise to a right of termination in favor of any party to any Material Contract (other than any Credit Party),

ANNEX II

SCHEDULE 5.14

(See Attached)

EXHIBIT 5.1(b)(i)
FORM OF ABL AGREEMENT LIMITED WAIVER AND THIRD AMENDMENT

(See Attached)

EXHIBIT 5.1(b)(ii)
FORM OF TERM LOAN AGREEMENT NOTICE AND LIMITED WAIVER

(See Attached)

SUBSIDIARIES OF REGISTRANT

Subsidiary Name	Jurisdiction of Formation
Asterion Belgium N.V.	Belgium
Asterion Denmark A/S	Denmark
Asterion DM Finland A.B.	Finland
Asterion International GmbH	Germany
BancTec (Canada), Inc.	Ontario
BancTec (Philippines), Inc.	Philippines
BancTec (Puerto Rico), Inc.	Delaware
BancTec B.V.	Netherlands
BancTec Europe Limited	U.K.
BancTec Group LLC	Delaware
BancTec Holding N.V.	Netherlands
BancTec India Pvt. Ltd.	India
BancTec Intermediate Holding, Inc.	Delaware
BancTec Transaktionservice GmbH	Austria
BancTec, Inc.	Delaware
BillSmart Solutions LLC	Delaware
BTC Int'l Holdings, Inc.	Delaware
BTC Ventures, Inc.	Delaware
Charter Lason, Inc.	Delaware
CorpSource Holdings, LLC	Delaware
Dataforce Interact Holdings Ltd.	U.K.
Dataforce Interact Ltd.	U.K.
Deliverex, LLC	Delaware
DF Property Portfolio Ltd.	U.K.
DFG2 Holdings, LLC	Delaware
DFG2, LLC	Delaware
Digital Mailroom LLC	Delaware
DocuData Solutions, L.C.	Texas
Drescher Full-Service Versand GmbH	Germany
DrySign, LLC	Delaware
Economic Research Services, Inc.	Florida
Exela BR SPV, LLC	Delaware
Exela Enterprise Solutions, Inc.	Delaware
Exela Finance, Inc.	Delaware
Exela Intermediate, LLC	Delaware
Exela RE, LLC	Delaware
Exela Receivables 3 Holdco, LLC	Delaware
Exela Receivables 3, LLC	Delaware

Exela Technologies AS	Norway
Exela Technologies BV	Netherlands
Exela Technologies Iberica S.A.	Spain
Exela Technologies Payment Solutions Ltd.	Ireland
Exela Technologies RE BV	Netherlands
Exela XBP, LLC	Delaware
ExelaPay, LLC	Texas
Fedaso France SAS	France
FTS Parent Inc.	Delaware

Glo—X, Inc.	Oklahoma
GP 2XCV Holdings LLC	Delaware
GP 2XCV, LLC	Delaware
HOV Enterprise Services, Inc.	New Jersey
HOV Global Services Ltd.	U.K.
HOV Services, Inc.	Delaware
HOV Services, LLC	Nevada
HOVG, LLC	Nevada
Ibis Consulting, Inc.	Rhode Island
Imagenes Digitales S.A. de C.V.	Mexico
J & B Software, Inc.	Pennsylvania
Kinsella Media, LLC	Delaware
Lason International, Inc.	Delaware
LexiCode Healthcare, Inc.	Philippines
Managed Care Professionals, LLC	Delaware
Meridian Consulting Group, LLC	Nevada
NEON Acquisition, LLC	Delaware
Novitex Enterprise Solutions Canada, Inc.	Ontario
Novitex Government Solutions, LLC	Delaware
Novitex Intermediate, LLC	Delaware
O.T. Drescher AG	Switzerland
Orone Contract SARL	Morocco
Pacific Northwest United Information Services, LLC	Washington
Pangea Acquisitions, Inc.	Delaware
PCH Subscription Services, LLC	Delaware
Plexus Europe Ltd.	U.K.
Plexus Global Finance, LLC	Delaware
Promotora de Tecnologia, S.A. de C.V.	Mexico
RC4 Capital, LLC	Delaware
Reaktr LLC	Nevada
Recognition de Mexico S.A. de C.V.	Mexico
Recognition Mexico Holding, Inc.	Delaware
Regulus America LLC	Delaware
Regulus Group II LLC	Delaware
Regulus Group LLC	Delaware
Regulus Holding Inc.	Delaware
Regulus Integrated Solutions LLC	Delaware
Regulus West LLC	Delaware
Rust Consulting, Inc.	Minnesota
Rustic Canyon III, LLC	Delaware
S-Corp Philippines, Inc.	Philippines
SDS Application Limited	U.K.
SDS Trading Application Limited	U.K.
Services Integration Group, L.P.	Delaware
SIG—G.P., L.L.C.	Delaware
SourceCorp BPS, Inc.	Delaware

Sourcecorp de Mexico S.A. de C.V.	Mexico
SourceCorp Legal, Inc.	Delaware
SourceCorp Management, Inc.	Texas
SourceCorp, Incorporated	Delaware
SourceHOV Canada Company	Nova Scotia

SourceHOV HealthCare, Inc.	South Carolina
SourceHOV Holdings, Inc.	Delaware
XBP Asia IT Solutions Private Limited (f/k/a SourceHOV India Pvt. Ltd.)	India
SourceHOV LLC	Delaware
TRAC Holdings, LLC	Delaware
TransCentra, Inc.	Delaware
United Information Services, Inc.	Iowa
XBP Americas Holdings, LLC	Delaware
XBP Americas, LLC (f/k/a Exela Technologies BPA, LLC)	Delaware
XBP Asia Technologies Private Limited (f/k/a Exela Technologies India Private Ltd.)	India
XBP Europe AB	Sweden
XBP Europe Arista SAS	France
XBP Europe Ast AB	Sweden
XBP Europe Ast S.A.S	France
XBP Europe d.o.o. Belgrade	Serbia
XBP Europe ECM Solutions GmbH	Germany
XBP Europe GmbH	Germany
XBP Europe Holding GmbH	Germany
XBP Europe Limited	U.K.
XBP Europe Parkwest Limited	Ireland
XBP Europe S.A.	France
XBP Europe s.p. z.o.o.	Poland
XBP Europe Services SAS	France
XBP Europe, Inc.	Delaware
XCV—EMEA, LLC	Delaware
XCV—HM, LLC	Delaware



CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements of XBP Global Holdings, Inc. on Form S-3 (No. 333-284999 and No. 333-290237) and Form S-8 (No. 333-283971 and No. 333-290233) of our report dated March 31, 2026, relating to the audit of the consolidated financial statements of XBP Global Holdings, Inc. and Subsidiaries as of December 31, 2025 (Successor), and for the five-month period ended December 31, 2025 (Successor) and for the seven-month period ended July 31, 2025 (Predecessor), appearing in this Annual Report on Form 10-K.

/s/ UHY LLP

Sterling Heights, Michigan
March 31, 2026

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements of XBP Global Holdings, Inc. on Form S3 (No. 333-284999 and 333-290237) and Form S8 (No. 333-283971 and 333-290233) of our report dated July 1, 2025, except as to Note 21 and its related effects to the consolidated and combined financial statements, which is as of March 31, 2026, on our audit of the combined and consolidated financial statements of Exela Technologies BPA, LLC, Subsidiaries and Affiliates (n/k/a XBP Americas, LLC) for the year ended December 31, 2024, which report is included in XBP Global Holdings, Inc.'s Annual Report on Form 10-K to be filed on or about March 31, 2026.

/s/ EisnerAmper LLP

EISNERAMPER LLP

Iselin, New Jersey

March 31, 2026

**CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO RULE 13a-14(a) AND RULE 15d-14(a)
UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Andrej Jonovic, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2025 of XBP Global Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2026

By/s/ Andrej Jonovic

Andrej Jonovic

Chief Executive Officer

(Principal Executive Officer)

**CERTIFICATION OF THE PRINCIPAL FINANCIAL OFFICER
PURSUANT TO RULE 13a-14(a) AND RULE 15d-14(a)
UNDER THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Dejan Avramovic, certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2025 of XBP Global Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2026

By/s/ Dejan Avramovic

Dejan Avramovic

Chief Financial Officer

(Principal Financial and Accounting Officer)

**CERTIFICATION OF THE 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 Annual Report on Form 10-K of XBP Global Holdings, Inc. (the “Company”) for the year ended December 31, 2025, as filed with the Securities and Exchange Commission (the “Report”), I, Andrej Jonovic, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of and for the period covered by the Report.

Date: March 31, 2026

By: /s/ Andrej Jonovic

Andrej Jonovic

Chief Executive Officer

(Principal Executive Officer)

**CERTIFICATION OF THE PRINCIPAL 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 Annual Report on Form 10-K of XBP Global Holdings, Inc. (the “Company”) for the year ended December 31, 2025, as filed with the Securities and Exchange Commission (the “Report”), I, Dejan Avramovic, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1. the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of and for the period covered by the Report.

Date: March 31, 2026

By: /s/ Dejan Avramovic

Dejan Avramovic

Chief Financial Officer

(Principal Financial and Accounting Officer)